

## TITLE 1. GENERAL PROVISIONS

- Chapter 1.01. Recodification of the Provo City Code.
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### Chapter 1.01. Recodification Of The Provo City Code.

- 1.01.010. Title - Effect on Prior Legislation.
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#### 1.01.010. Title - Effect on Prior Legislation.

(1) This 2011 edition is a compilation of codified municipal ordinances, entitled "Provo City Code, 2011 edition," and is adopted by Provo City, Utah, pursuant to the provisions of Title 10, Chapter 3, Part 7 of the Utah Code.

(2) This 2011 edition supersedes any previously codified ordinance.

(3) This 2011 edition shall not supersede any uncoded ordinance of a private, local, or temporary nature, including, but not limited to, ordinances authorizing the execution and issuance of deeds, bonds, or contracts, the creation of special improvement districts, the amendment of zoning maps, and the vacation of streets.

(4) The sections in this 2011 edition are affected and superseded by any ordinance adopted by the Provo City Municipal Council after the adoption of this 2011 edition. (Am 2006-14, Am 2007-25, Am 2008-10, Am 2009-18, 2010-02)

#### 1.01.020. Citation.

This volume shall be known and may be cited as "Provo City Code, 2011 edition." (2006-14, Am 2007-25, Am 2008-10, Am 2009-18)

### Chapter 1.02. Interpretation.

- 1.02.010. Effect of Adoption and Recodification of Ordinances.
- 1.02.020. Construction.
- 1.02.030. Definitions.
- 1.02.040. Severability.
- 1.02.050. Applicable Law.
- 1.02.060. Citation Form for Provisions of State Law Adopted as City Ordinances.
- 1.02.070. State Rules, Specifications, Standards or Requirements Adopted.

#### 1.02.010. Effect of Adoption and Recodification of Ordinances.

The adoption and recodification of the Provo City Code shall not affect or impair any right which has accrued, any duty which was imposed, or any penalty which has or may be applied, under previous ordinances.

#### 1.02.020. Construction.

In the construction or interpretation of any Section within the Provo City Code the following rules of construction shall be observed when necessary or applicable.

- (1) The singular number includes the plural and the plural includes the singular.
- (2) Words used in the present tense include the future.
- (3) Words in the masculine gender include the feminine and neuter.

(4) When any time is specified in the Provo City Code, it shall mean standard time, as distinguished from solar time, and the words "midnight" or "noon" shall be taken to mean midnight or noon standard time.

(5) Words prohibiting anything being done except in accordance with a license or permit or authority from a City employee, board, or officer, shall be construed as giving such employee, board, or officer power to license or permit or authorize such thing to be done.

#### 1.02.030. Definitions.

As used in the Provo City Code and amendments thereto, the following terms shall have the meanings indicated, according to the context in which they are used.

"**Bribe**" signifies any money, goods, right in action, property, thing of value, or advantage, present or prospective, or any promise or undertaking to give any, asked, given, or accepted, with a corrupt intent to influence unlawfully the person to whom it is given in any action, vote, or opinion by such person in any public or official capacity.

"**City**" means Provo City, Utah.

"**Corruptly**" imports a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act, established either by proof or by presumption of law.

"**Knowingly**" imports only a knowledge that the facts exist which bring the act or omission within the provisions of these ordinances. It does not require any knowledge of the unlawfulness of such act or omission.

"**Land**," "**Real estate**," and "**Real property**" include lands, tenements, hereditaments, water rights, possessory rights and claims.

"**Law**" means any of the constitutions, statutes, regulations, or court decisions of the United States of America or the State of Utah or ordinances of Provo City, Utah.

"**Month**" means a calendar month unless otherwise expressed, and the word "year" or the abbreviation "A.D." is equivalent to the expression "year of our Lord."

"**Neglect**," "**Negligence**," "**Negligent**," and "**Negligently**" import a want of such attention to the nature or probable consequences of the act or omission as a prudent person ordinarily bestows in acting in one's own concern.

"**Oath**" includes affirmation, and the word "swear" includes the word "affirm." Every mode of oral statement under oath or affirmation is embraced in the term "testify," and every written one in the word "depose."

"**Officer**" shall include officers and boards in charge of departments and the members of such boards.

"**Ordinances**" or "**these ordinances**" means the ordinances adopted by the Provo City Municipal Council, whether codified within this volume or uncoded.

"**Owner**" applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

"**Person**" means any individual person, firm, general or limited partnership, corporation, or other association however designated.

"**Property**" includes both real and personal property.

"**Personal property**" includes every description of money, goods, chattels, effects, evidences of rights in action and all written instruments by which any pecuniary obligation, rights or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished, and every right or interest therein.

"**Resident**" shall mean any person who has been domiciled in the City of Provo, with a bona fide intent to make Provo City the person's place of permanent abode, for a period of not less than thirty (30) days.

"**Signature**" includes any name, mark or sign written with the intent to authenticate any instrument or writing.

**"Tenant"** or **"Occupant"** applied to a building or land shall include any person who occupies the whole or any part of such building or land, either alone or with others.

**"Wilfully,"** when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage.

**"Writing"** includes printing, writing and typewriting. (Am 1990-21, Am 1992-11, Am 1993-07, Am 2006-45)

#### **1.02.040. Severability.**

If any title, Section, Subsection, sentence, clause or phrase of the Provo City Code is, for any reason, held to be unconstitutional, void or unlawful, such decision shall not affect the validity of the remaining portions of the Provo City Code.

#### **1.02.050. Applicable Law.**

Offenses committed prior to the repeal of a Section of the Provo City Code or the enactment of a new Section of the Provo City Code shall be governed by the Section existing at the time of commission thereof. An offense under the Provo City Code shall be deemed to have been committed prior to the repeal of a Section or committed prior to the enactment of a new Section if any of the elements of the offense occurred prior thereto.

#### **1.02.060. Citation Form for Provisions of State Law Adopted as City Ordinances.**

Any provision of state law adopted by reference in the Provo City Code shall be cited by adding the number of the Title in these ordinances in front of the Section numbers assigned in the Utah Code. For example, Section 76-6-404 of the Utah Code adopted by reference in Title 12, Provo City Code would be known as Provo City Code Section number 12/76-6-404. (Am 1984-60)

#### **1.02.070. State Rules, Specifications, Standards or Requirements Adopted.**

Whenever a state statute is adopted as a part of the Provo City Code, and said state statute permits or requires the adoption of rules, specifications, standards or requirements by a department or agency of the State of Utah, said rules, specifications, standards or requirements are included as part of the Provo City Code. (Am 1984-59, Am 1984-59)

### **Chapter 1.03. Liabilities and Penalties.**

1.03.010. Punishment for Criminal Violations.

1.03.020. Private Civil Actions.

#### **1.03.010. Punishment for Criminal Violations.**

(1) Except as provided hereafter, if the performance of an act is declared in a section of the Provo City Code (including technical codes adopted by reference and state statutes adopted as part of the Provo City Code) to be unlawful, or is described as a misdemeanor or a class B misdemeanor, or is otherwise prohibited, the act shall be punishable by a fine in an amount not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period of time not exceeding six (6) months, or by any combination of said fine and imprisonment.

(2) If the performance of an act is declared in a section of the Provo City Code (including technical codes adopted by reference and state statutes adopted as part of the Provo City Code) to be a class C misdemeanor the act shall be punishable by a fine in an amount not exceeding five hundred dollars (\$500.00) or by imprisonment in the

county jail for a period of time not exceeding ninety (90) days, or by any combination of said fine and imprisonment.

(3) If the performance of any act is declared in a section of the Provo City Code (including technical codes adopted by reference and state statutes adopted as part of the Provo City Code) to be an infraction, the act shall be punishable by a fine in an amount not exceeding five hundred dollars (\$500.00). No imprisonment shall be imposed for an infraction.

(4) Unless otherwise expressly provided, any provision in these ordinances imposing a fine or imprisonment which is to be "as provided in this Chapter" or words of similar meaning, shall be deemed to be a reference to the punishments provided in this Section.

(5) This Section shall apply to all sections of the Provo City Code and all other Provo City ordinances, including those hereafter enacted.

(6) The Justice Court shall create and maintain a schedule of all fine/bail amounts for violations of local ordinances.

(a) When a comparable state offense exists, the fine/bail amount for violation of the local ordinance shall be the same as the state offense amount shown on the Utah Uniform Fine/Bail Schedule.

(b) When a comparable state offense does not exist, the Justice Court shall assess the fine/bail schedule as set by order of the Justice Court judge(s). (Am 1986-40, Am 1986-52, Am 2006-40, Am 2007-50)

#### **1.03.020. Private Civil Actions.**

A civil action for damages or to abate or enjoin a violation of Titles 7 and 14 of the Provo City Code may be brought by any aggrieved person. The prevailing party shall be entitled to recover reasonable attorneys fees. The remedies provided for in this Section shall be cumulative and not exclusive. (Enacted 2001-41)

### **Chapter 1.04. City Seal.**

1.04.010. Description of Seal.

#### **1.04.010. Description of Seal.**

The seal provided for Provo City, circular in form, one and eleven-sixteenths (1 11/16) inches in diameter, the impression on which is a representation of a mill, with a water wheel and flume at one end thereof, with the words "Industry and Commerce" in a half circle over the building, and the inscription, "Provo City Seal, Utah County, Utah," around the outer edge, shall be, and the same is hereby established and declared to be the seal of Provo City:



## Chapter 1.05. City Flag.

1.05.010. Authorization for and Description of Flag.

### 1.05.010. Authorization for and Description of Flag.

Provo City shall have and may display a Provo City flag which shall have a white background with black letters and grey letter shadowing and a multi-color stripe of red, violet, blue, green, yellow, orange and red. The form of the lettering and the stripe shall be as follows:

The foregoing described flag is hereby established and declared to be the flag of Provo City. (Am 1985-32)



## Chapter 1.06. City Birthday.

1.06.010. Committee Established - Date of Celebrating City Birthday.

### 1.06.010. Committee Established - Date of Celebrating City Birthday.

Whereas, in the summer and fall of 1968, a committee was established at the request of the City Commission, said committee consisting of Dr. LeRoy Hafen, Ann W. Hafen, Theron H. Luke, Gustive O. Larsen, chairman; which committee was selected on the suggestion of N. LaVerl Christensen, editor of the Provo Daily Herald, and charged with the task of determining the date of Provo City's settlement and,

Whereas, the said committee has submitted a detailed and annotated report indicating the first settlers arrived on the North bank of the Provo River, April 1, 1849, and commenced construction of Fort Utah on the third day of April, 1849.

It is hereby declared by the City Commission of Provo City that the third day of April of each and every year commencing with the third of April, 1969, shall be celebrated as Provo City's Official Birthday.

The report of the committee is hereby accepted in total as an official document verifying the date of the establishment of Provo City as a pioneer settlement in Utah Valley and by this Section verified copies of the said report are ordered filed with the Recorder's Office and in the Provo City Public Library.

## Chapter 1.07. Procedural Irregularities.

1.07.010. Procedural Irregularities.

### 1.07.010. Procedural Irregularities.

(1) Notwithstanding any provision of the Provo City Code which sets forth a procedure for any matter herein, no action, inaction or recommendation regarding the matter which is the subject of the procedure shall be void or invalid or set aside by a court due to any error (including but not limited to any irregularity, informality, neglect or omission) as to any matter pertaining to a petition, application, notice, finding, record, hearing, report, recommendation or any other procedural matter whatever unless:

(a) the procedure is required by state or federal law; and  
 (b) in an examination of the entire circumstances, including the evidence of record, the court is of the opinion that the procedural error complained of was prejudicial to a substantial right of the complainant in that:

(i) had the error not occurred the decision made pursuant to the procedure would have been different, and

(ii) because of the error the complainant suffered an injury for which relief must be given.

(2) The court shall presume that action taken pursuant to a procedure was done in good faith and shall not presume that an error is prejudicial or that injury was done. The complainant shall have the burden of the proof by a preponderance of the evidence.

(3) All procedures within the Provo City Code shall be subject to this provision. (Am 2000-11)

