

## 2023 UPDATE

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### GROUND RULES – YOUR HANDBOOK TO UTAH LAND USE REGULATION

NOTE: This is not an exhaustive list of the changes made by the 2022 and 2023 Legislatures. For more detail, check the Utah Land Use Library at [www.utahlanduse.org](http://www.utahlanduse.org).

#### **Chapter 5 – Specific Legislative Issues and How They are Resolved.**

Throughout this chapter there are references to the parts of the state Land Use, Development, and Management Act related to public notice requirements. These were amended in 2023 to standardize and simplify noticing. (Senate Bill 43).

Generally, now there are three types of notice required –

- 1) the 24-hour notice required by the Open and Public Meetings Act (See Appendix A).
- 2) the notice required to hold a *hearing* before making a legislative decision such as amending the local ordinances or changing the zoning map. A public *hearing* requires a “Class B” notice. This typically requires more public posting of a notice in the area directly affected by the proposed change. There is also a requirement to notify owners of “directly affected property” when changing the zoning map. See Utah Code Ann. § 63G-28-102(2).
- 3) the notice generally required for public *meetings* where the legislative body or the planning commission may discuss or act upon a legislative decision such as preparing or amending the general plan, discussing amendments to the local ordinances, or discussing changes to the zoning map. This type of *meeting* requires a “Class A” notice. See Utah Code Ann. § 63G-28-102(1).

All notice types require

- 1) posting a meeting or hearing notice on the state public meetings notice website ([www.pmn.utah.gov](http://www.pmn.utah.gov)), and
- 2) posting the notice on the local government entity’s own website (if it has an annual budget of more than \$250,000), and
- 3) posting a physical notice within the generally affected area – usually on the notice board at city hall, for example.

Class “B” notices also require posting the notice within an area designated by local ordinance – so the definition of the designated area is not found in state code. There are some details on how this is to be done that must be followed carefully – check at Utah Code Ann. § 63G-28-102(1).

#### **Chapter 5, Section 3 - Annexation.**

The 2023 legislature removed the language that allowed many property owners heightened opportunity to protest a proposed annexation. Now only property owners with either 1000 or 1500 contiguous acres of ground have that enhanced right. House Bill 406.

#### **Chapter 5, Section 5 – Temporary Land Use Regulations (Moratoria).**

A temporary land use ordinance cannot be applied to further delay a land use application which was already delayed by a “pending ordinance” as that term is explained in Chapter 6, Section 1. That section explains how a “pending ordinance” can be applied to avoid approval of a land use application which complies with existing rules but does not comply with a proposed ordinance being reviewed by the local entity. Likewise, “pending ordinance” cannot be used to further delay review of a land use application which was already delayed by a temporary land use regulation. House Bill 406.

### **Chapter 6, Section 3 – Subdivision Review and Approval.**

Effective either on February 1, 2024 (larger cities and counties generally on the Wasatch Front and Back) or December 31, 2024 (other towns, cities and counties) local government entities must comply with a new state-mandated process to review single family, duplex and townhome subdivision applications. Generally, this process now includes:

1. either no public hearing or just one (if the local ordinance provides for one – its up to the jurisdiction).
2. review of the application in preliminary form by a newly designated “Administrative Land Use Authority” which can be an individual, a panel of individuals, or the planning commission. It can be staff members or appointed citizens but it cannot be the legislative body or a member of the legislative body.
3. final plat review is to be by staff or the Administrative Land Use Authority, unless that ALUA is the planning commission – the planning commission may not review the final plat.
4. new maximum time frames are also set for subdivision review.

It is to be emphasized that these changes apply only to single family, duplex, and townhome subdivisions. Multi-family, industrial, and commercial subdivisions may be reviewed in whatever manner the local jurisdiction provides by ordinance. Utah Code Ann. 10-9a-604.1 and 604.2 (municipalities); 17-27a-604.1 and 604.2 (counties). (Senate Bill 174).

### **Chapter 17 – Referenda and Initiative (Ballot Box Zoning)**

#### **Update to 2021 version of Ground Rules:**

On page 217: Also not referable is a transit area land use decision if approved by a vote of more than 2/3 of the legislative body. Refer to Utah Code Ann. §20A-7-602.8(2)(b).

On page 227: Note that there are higher signature requirements for a referendum involving approval of a transit area land use law. Refer to Utah Code Ann. §20A-7-601(5).

#### **Update to 2022 version of Ground Rules:**

On page 217: “In 2023 the statute was amended to provide that a land use decision approved unanimously by the local legislative body is not subject to referendum. Utah Code Ann. § 20A-7-602.8(2)(b)(i). This provision will likely be challenged at the Supreme Court and may or may not survive that review. Senate Bill 199.

**Chapter 18 – Due Process of Law (new chapter for 2022.)** This chapter is available at [www.utahlanduse.org](http://www.utahlanduse.org) – click the “land use library” link.

*The Office of the Property Rights Ombudsman has provided funding for this update from the 1% surcharge on all building permits in the State of Utah.*