



CACHE COUNTY ORDINANCE No. 2023-24

AN ORDINANCE AMENDING 17.02 UPDATING THE REQUIREMENTS TO SERVE ON THE PLANNING AND ZONING COMMISSION

- A) WHEREAS, Utah Code 17-27a-302 requires the county planning commission to make recommendations to the county legislative body regarding all land use decisions in the unincorporated areas of the county; and
- B) WHEREAS, members of the County Planning Commission who do not reside or otherwise own property in the unincorporated areas of the county make decisions that have little effect on their interests; and
- C) WHEREAS, the County Planning Commission should be highly representative of the population its decisions affect

NOW, THEREFORE, the County Legislative Body of Cache County ordains as follows:

SECTION 1: Section 17.02.030 of the Cache County Code is amended to read in full as follows, with a redline copy attached as Exhibit 1:

17.02.030: ESTABLISHING LAND USE AUTHORITY DUTIES, AUTHORITIES, AND POWERS:

A. Director:

- 1. The Cache County Director of Development Services is established and functions as specified in chapter 2.40 of this code and in this chapter;
- 2. The Director must be appointed by the Cache County Executive, with the advice and consent of the County Council;
- 3. The Director has the duties, authority, and powers as set forth in this chapter.
- 4. The Director must:
 - a. Adopt procedures for land use application processes;
 - b. Administer and enforce the Land Use Ordinance, the Cache County Subdivision Ordinance, and any associated policies or procedures;
 - c. Determine the mapped location of a base or overlay zoning district boundary in instances where the location may be unclear. The Director must consider the following criteria in reaching a decision:
 - (1) The policies and development standards that apply to the base or overlay zoning district; and
 - (2) Where a base or overlay zoning district map boundary is shown following a road, right-of-way line, interstate highway, public utility right-of-way, railroad line, a stream or watercourse, or a line located midway between the main track of a railroad, the base or overlay zoning district map boundary is deemed to be changed automatically whenever such centerline is changed by natural or artificial means; and



d. Interpret the use related definitions in the applicable base or overlay zoning district as contained in chapter 17.09 Schedule of Zoning Uses, of this title; and

5. Designee: The Director may assign a designee to act as the land use authority in the place of the Director. Any designee must be identified in writing by the Director prior to any land use decision by the designee.

B. Planning Commission:

1. The Cache County Planning Commission is established as required by Utah Code Annotated section 17-27a-301, and has the duties, authority, and powers as found in Utah Code Annotated section 17-27a-302, as amended, and in this chapter; and

2. The Executive must appoint a Planning Commission with the advice and majority consent of the Council; and

3. The Planning Commission must be composed of seven (7) members. All members serve a term of three (3) years; and

4. The Executive, with the advice and consent of the Council, may remove a member of the Planning Commission with or without cause; and

5. No fewer than five (5) members of the Planning Commission shall either maintain a permanent residency or own real property in an unincorporated area of the County. The Executive shall, when nominating any person to the Planning Commission, verify whether or not that person meets these requirements and shall inform the Council when presenting the name.

6. The Planning Commission must adopt bylaws and rules of procedure establishing membership, the duties of officers and their selection, and for other purposes considered necessary for the functioning of the Planning Commission. These bylaws and rules of procedure must be approved by the Council; and

7. The Planning Commission must provide land use review to the Council in the following:

a. Preparing and recommending a General Plan and amendments to the General Plan; and

b. Recommending land use ordinances and maps, and amendments to land use ordinances and maps; and

c. On other items as the Council directs.

C. Land Use Hearing Officer:

1. Procedures:

a. The land use hearing officer may administer oaths and compel the attendance of witnesses.

b. All hearings before the land use hearing officer shall comply with the requirements of Chapter 4, Title 52, Utah Code, Open and Public Meetings.

c. The land use hearing officer shall:

(1) Keep minutes of his or her proceedings; and

(2) Keep records of his or her examinations and other official actions.

d. The land use hearing officer shall file his or her records in the office of the development services division. All such records are public records.

e. Decisions of the land use hearing officer become effective at the meeting in which the decision is made, unless a different time is designated at the time the decision is made.

2. Qualifications:



a. The land use hearing officer shall be appointed by the County Executive with the advice and consent of the County Council. The Executive shall appoint more than one hearing officer, but only one hearing officer shall consider and decide upon any matter properly presented for hearing officer review.

b. A hearing officer may serve a maximum of two (2) consecutive full terms of five (5) years each. The hearing officer shall either be law trained or have significant experience with land use laws and the requirements and operations of administrative hearing processes.

3. Conflict Of Interest And Removal:

a. The hearing officer shall not participate in any appeal in which the hearing officer has a conflict of interest.

b. The hearing officer may be removed by the Executive with advice and consent of the Council for violation of this title or any policies and procedures adopted by the Development Services director following receipt by the Executive of a written complaint filed against the hearing officer.

4. Powers And Duties

a. The land use hearing officer shall:

(1) Act as the appeal authority for administrative decisions by the Development Services Director and decisions by the planning commission; and

(2) Hear and decide variances from the terms of the zoning ordinance; and

(3) Hear and decide applications for the expansion or modification of nonconforming uses.

D. County Council:

1. The Cache County Council is established as found in Utah Code Annotated section 17-52a-504 as amended, and in title 2, chapter 2.12 of this Code, and has the land use duties, authority, and powers as represented in title 2, chapter 2.12 of this Code, Utah Code Annotated section 17-53 part 2 as amended, and this chapter.

E. Authority For Land Use Actions:

1. The Land Use Authority is responsible for the land use actions as noted in the table below:

**TABLE 17.02.030
AUTHORITY FOR LAND USE ACTIONS**

Land Use Authority	Land Use Action
Director	Zoning clearance
	Floodplain permit
	Variance for maximum structure height or minimum setback distances
Planning Commission	Subdivision
	Subdivision amendment
	Conditional use permit
Land Use Hearing Officer	Variance (except as listed under Director)



	Appeal
Council	Ordinance or ordinance amendment
	Rezone
	General Plan or General Plan amendment
	Annexation/disconnection

(Ord. 2018-02, 3-27-2018, eff. 4-12-2018; amd. Ord. 2020-02, - -2020; Ord. 2023-13, 5-9-2023)

SECTION 2:

This ordinance takes effect 15 days following its passage and approval by the County Council.


PASSED AND APPROVED BY THE COUNTY COUNCIL OF CACHE COUNTY, UTAH THIS 11 DAY OF July 2023.

	In Favor	Against	Abstained	Absent
Sandi Goodlander	X			
David Erickson	X			
Nolan Gunnell	X			
Barbara Tidwell	X			
Karl Ward	X			
Mark Hurd	X			
Kathryn Beus	X			
Total	7	0	0	0

CACHE COUNTY:

By: 
David Erickson, Chair

ATTEST:

By: 
David Benson, County Clerk / Auditor

ACTION OF COUNTY EXECUTIVE:



 3 Approve
 Disapprove (written statement of objection attached)

By: David Zook
David Zook, County Executive

7/11/23
Date



EXHIBIT 1

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