

ORDINANCE NO. 2008-29

AN ORDINANCE AMENDING CHAPTER 6, LARGE SCALE DEVELOPMENTS,  
SECTION ONE, GENERAL PROVISIONS, OF THE UTAH COUNTY LAND USE  
ORDINANCE

THE COUNTY LEGISLATIVE BODY OF UTAH COUNTY ORDAINS AS FOLLOWS:

**Part I:**

Chapter 6, Large Scale Developments, Section 1, "General Provisions", of the Utah County Land Use Ordinance is hereby amended to read as follows:

CHAPTER 6

LARGE SCALE DEVELOPMENTS

ENT 123733;2008 PG 1 of 10  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
2008 Nov 19 4:27 pm FEE 0.00 BY CS  
RECORDED FOR COMMUNITY DEVELOPMENT

6-1: GENERAL PROVISIONS

A. DECLARATION OF LEGISLATIVE INTENT

The intent and purposes of the large scale development section are:

1. To provide a means for the efficient and orderly residential, commercial and industrial development of the county in accordance with the county general plan.
2. To facilitate the appropriate use of water, soil, scenic vistas, recreational amenities, and natural resources.
3. To facilitate an economic arrangement of buildings, circulation systems, land use, drainage, and utilities.
4. To provide for various types of residential styles and living environments.

B. MINIMUM REQUIREMENTS

The requirements and conditions set forth in this ordinance pertaining to each type of large scale development are the minimum requirements which must be imposed in order to achieve the intent and purpose as set forth above, and are not designed to be varied. Where an applicant finds the requirements unsuited to his particular property, he may use the land for one of the other land uses permitted within the zone.

C. SCOPE

1. Essential Requirements

Any person, partnership, firm, or corporation wishing to construct a large scale development in Utah County shall file an application with the Community Development Director and shall comply with all the requirements set forth in this land use ordinance.

2. Types of Large Scale Developments

The following types of large scale developments may be constructed, but only in the zones as indicated:

Planned Unit Developments: (RR-5, TR-5)

Planned Subdivisions: (RA-5, RR-5, TR-5, CE-1, CE-2, M&G-1, NC-1, HS-1, I-1, A-40)

Mountain Home Developments: (CE-2)

Recreational Resorts: (CE-2)

#### D. PLAN COORDINATING COMMITTEE CREATED

In order to facilitate the process of plan consideration and approval, there is hereby created a Plan Coordinating Committee composed of representatives from:

1. The County Community Development Department.
2. The Utah County Health Department.
3. The Utah County Public Works Department.
4. The Utah County Fire Marshal's office.
5. The Utah County Attorney's office.
6. Any other party having pertinent information, when requested by the Community Development Director.

#### E. PROCEDURES

Any person wishing to obtain approval to construct a large scale development shall comply with the following procedure.

##### 1. Initial Conference with the Community Development Department Staff

A prospective developer shall obtain from the Community Development Department staff, information concerning the procedures, requirements, and documents relating to the approval of a large scale development.

##### 2. Developer Prepares for Preliminary Application Conference

###### a. Preliminary Application Conference as Prerequisite.

A preliminary application conference shall be held before any application for a large scale development can be filed. Said conference shall consist of a meeting between the developer or agent and the designated members of the Plan Coordinating Committee along with any other entities requested by the Community Development Director. The purpose of the conference shall be to convey to the developer or agent information pertaining to the procedure, requirements, and standards relating to approval of a large scale development and to help define the most expeditious way of obtaining approval.

Exception: No preliminary application conference with the Plan Coordinating Committee is required for a planned subdivision having 5 or fewer lots each of which is five acres or larger in area.

###### b. Plan and Other Written Documents.

After meeting with the Community Development Department staff, the developer prepares the following documents to be available at the preliminary application conference:

- i. A plan showing the location and layout of the proposed development, including the proposed lots, roads, existing structures, waterways and proposed drainage, common areas, etc.
- ii. Method of bonding for required improvements, land ownership, and water right ownership and quantity.
- iii. Potential environmental, social, and domestic impacts. which the development

might have on the land within the development and on the county as a whole.

3. Preliminary Application Conference
  - a. Upon the request of the developer, the Community Development Department shall schedule a preliminary application conference and shall invite the designated members of the Plan Coordinating Committee and any other needed parties to attend. The developer should attend with its project engineer or surveyor. During the conference, the developer shall make a presentation to the committee of its sketch plan and other materials; and the committee shall provide information regarding procedures, requirements, and standards that relate to the development proposed. In no way shall this conference be construed to constitute approval of the plan.
  - b. Where the developer owns or controls more land than it wishes to file a plat for immediately, the Community Development Director may require the developer to prepare a concept plan of the whole area, in which case the developer shall indicate on the plan the portion to be developed immediately and the portion to be held for future development.
  - c. The sole purpose in holding the conference is to aid the developer in the preparation of its plans and documents. Responses from members of the committee shall not be deemed to substitute for, or relieve the developer of the necessity of complying with the provisions of this ordinance.
4. Developer Prepares Application for Planning Commission Review and Recommendation  
After the preliminary application conference has been held, the developer shall complete an application using the forms furnished by the community development staff and shall prepare the maps, plats, drawings and other documents for submission to the Planning Commission for its review (the "submittal"). The submittal shall include all of the maps, plats, drawings, documents, and other information required under the applicable type of large scale development.
5. Submission to the Plan Coordinating Committee for Review  
Copies of the submittal shall be submitted by the developer to the fire marshal, health department, and public works department for review and comment. Each recipient shall review the materials submitted and issue a written statement saying whether the development complies with the standards within the purview of such party, or what deficiencies exist. Because the development cannot be approved if the County Commission finds that it is not in compliance with the standards of approval, the developer must remedy any deficiencies before proceeding.
6. Submission to Community Development Department  
The developer shall submit to the Community Development Department two (2) copies of the submittal, including the statements from the Fire Marshal, Health Department, and Public Works Department (the "submittal"), together with a review fee in the amount set by the County Commission. The submittal, and supporting documents, must be received by the Community Development Department at least forty-five (45) days prior to the regularly scheduled meeting of the Planning Commission at which the application is requested to be considered.
7. Planning Staff Review  
The submittal shall be reviewed by the Community Development Department to determine if the submittal appears to be complete. If the submittal does not appear to be complete, the matter will be postponed until the next submission deadline. If the

submittal appears to be complete, the Community Development Department shall do the following:

- a. Distribute one copy of the submittal to the County Attorney for review and comment and one copy to the files of the Community Development Department for public review.
- b. Review and coordinate recommendations pertaining to the development which have been received from the Plan Coordinating Committee members.
- c. Confer with the developer to address deficiencies in the submittal. The developer may submit corrected and/or supplemental documents until fifteen (15) days prior to the Planning Commission meeting at which the application is requested to be considered. In order for the development to be placed on the Planning Commission agenda, the Community Development Director must determine that all issues raised by the Planning Commission staff, attorney's review, and Committee Reports have been resolved, or, if not resolved, that the issues remaining should be submitted to the Planning Commission for consideration.
- d. Review and outline the staff's recommendations with respect to the development for consideration by the Planning Commission.

8. Review by County Attorney

The County Attorney shall review the submittal to determine whether the items are in proper form and in compliance with the requirements of the county ordinances. The County Attorney shall compile the results of his/her review in writing and return them to the Community Development Director for placement in the file for public review, at least twenty-five (25) days before the scheduled meeting of the Planning Commission.

9. Planning Commission Recommendation

At the meeting, the Planning Commission shall review the application, the community development department staff report, hear any presentation from the applicant, and receive any public comments. The Planning Commission may recommend approval of the application to the County Commission if it finds all requirements have been met, it may recommend approval to the Utah County Commission subject to certain conditions being identified, it may continue the applicants proposal to a date certain for additional information, or it may recommend disapproval, based on findings. A recommendation of disapproval shall be supported by findings, which findings may include any of the following:

- a. The plans, documents, or statements were incomplete, ambiguous, unclear, erroneous, or inconsistent with one another.
- b. The development proposal was found to be inconsistent with either the requirements of this land use ordinance, or other applicable requirements, regulations, codes, ordinances or statutes.
- c. The Planning Commission found that certain specific changes were needed in order to bring the design of the development into compliance with good planning practice, generally accepted principles of health and safety, or to protect the property values of neighboring properties.
- d. Other findings as determined by the Planning Commission.

10. Conditions and Limitations to be Placed on Plat

The Planning Commission may recommend to the County Commission certain binding conditions and limitations which are to be written on the recorded plat.

11. Effect of the Planning Commission Recommendation  
The recommendation of the Planning Commission is a recommendation only and does not constitute an approval and does not create any vested rights.
12. Community Development Department Transmits the Application and the Planning Commission's Recommendation to the County Commission  
After the recommendation of the Planning Commission has been completed, the Community Development Department shall transmit the application and recommendation from the Planning Commission to the County Commission.
13. County Commission Agenda  
Upon receipt of the application and Planning Commission recommendation from the Community Development Department, the County Commission shall place the matter on its agenda for review and action.
14. County Commission Review  
The County Commission shall review the application and Planning Commission recommendation. The County Commission may refer the matter back to the Planning Commission, or other appropriate department or official, to address issues, may state a time to bring the matter back for further review, or may take action to approve or deny the application.
15. Final Action by County Commission  
The County Commission may approve the development, approve the development subject to specified conditions and requirements which shall be placed on the plat, accept improvement bonds, accept dedication of streets, easements, and other places or rights in behalf of the public, and authorize and sign all related documents, if it finds that all requirements have been met; or it may disapprove the development. A disapproval shall be supported by findings, which findings may include any of the following:
  - a. The plans, documents, or statements were incomplete, ambiguous, unclear, erroneous, or inconsistent with one another.
  - b. The development proposal was found to be inconsistent with either the requirements of this land use ordinance, or other applicable requirements, regulations, codes, ordinances or statutes.
  - c. The County Commission found that certain specific changes were needed in order to bring the design of the development into compliance with good planning practice, generally accepted principles of health and safety, or to protect the property values of neighboring properties.
  - d. Other findings as determined by the County Commission.
16. Limited Period Of Viability
  - a. Approval of the development by the County Commission shall be valid for a period of one year, provided the plat is recorded within such one-year period.
  - b. After approval by the County Commission, the Community Development Director shall keep the signed plat and documents to be recorded until the time the applicant records them, to insure compliance with this section.
17. Assuring Construction of Required Improvements
  - a. After receiving final approval from the County Commission, the developer may either request that the final plat not be recorded for a period of time not to exceed one year, during which time it may install the improvements in the development, or it may post a bond before recording the plat, in an amount equal

to 150% of the estimated cost of the required improvements as determined by the Public Works Director to guarantee the installation and warranty of the required improvements without cost to Utah County. Said bond shall be a cash bond, surety bond, or other fixed, liquid, secure asset which does not require the sale of bond assets to obtain funds for the improvements. The final plat shall not be recorded until the developer has executed a subdivision improvement agreement, in the form approved by the County, and the improvements are either constructed or the bond is delivered to and approved by the County. The bond, however, shall not limit the liability of the developer to install improvements, for the developer shall be obligated to the full extent of the cost of installing the improvements required by this ordinance.

- b. No building permit shall be issued for any dwelling within the development until approved and operational roads, streets and street signs, traffic control signs, information signs, sewer or other approved disposal facilities, culinary water systems, and utilities have been installed and are operational.
- c. All required improvements shall be constructed in accordance with approved plans and Utah County development standards and inspected by the County Public Works Department. The developer shall pay an inspection fee to the County in the amount set by the County.

18. Duration of Bond

The duration of the bond and other assurance required under the provisions of this ordinance shall be for three (3) years from the date of bond approval by the County Commission. An extension of time may be granted by the County Commission upon application by the developers and good cause shown, provided the issuer of the bond is willing to extend the time of coverage. If an extension of time is requested, the County Commission may request an additional amount of value to be added to the bond due to inflation and due to revised estimates of the cost of improvements received from the County Public Works Director.

19. Default

In the event the developer defaults, fails, or neglects to install satisfactorily the required improvements within the period required, or to pay all cost of materials and labor therefor, Utah County may send a notice of default, take action to collect the bond, and install or cause the required improvements to be installed using the proceeds from the collection of the bond to defray the expense thereof.

20. Timing of Construction

All improvements required under the terms of the applicable type of large scale development shall be constructed by the developer within one (1) year from the date of the bond agreement. However, the County Commission may require the developer to install what it determines to be critical improvements on all or part of an approved large scale development within a time period which is less than the maximum time period specified.

21. Construction to be in Accordance with Plats, Plans and Documents

All individual large scale developments shall be constructed in accordance with the approved final plats, plans, and documents, and all final plats, plans, and documents shall be binding on the developer, his successors, grantees, and assigns and shall limit the use of the land and structures in the development as set forth in the approved plans and the

recorded plats, and documents. In the event that the developer or his successor or assigns performs construction or uses the land in a way which is not in accordance with approved final plats, plans or documents, or fails to perform according to the agreements or covenants required by chapter 6 of this land use ordinance for plat approval, compliance may be obtained through the use of the funds of the improvement bond, and /or through legal action.

22. Plan and Documents to be Recorded

The Community Development Director shall verify that the developer has recorded the plat and documents with the County Recorder in the form in which such were approved. No lot or building (or interest therein) shall be sold, no building permit shall be issued, and no occupancy permits shall be issued for any buildings within a large scale development until the final plans and documents have been approved and recorded as set forth in this ordinance.

23. Final Disposition and Release

The developer shall be responsible for the installation of all required improvements and for the quality of all labor, materials, and workmanship used therein. At the completion of the work, the County Public Works Director shall make a inspection of the improvements and shall submit a report to the County Commission, setting forth the condition of such facilities. If all improvements have been constructed in strict conformance with the approved plans and Utah County development standards, and to a quality and standard not less than generally accepted construction standards, no liens have been filed, all costs of labor and materials have been paid, lien releases have been provided and all other requirements have been satisfactorily completed, the County Commission shall formally accept the improvements and authorize the commencement of the warranty period, which warranty period shall be for one year after final acceptance of the improvement or warranty work; or two years after final acceptance of the improvement or warranty work, if the County:

- a. determines for good cause that a lesser period would be inadequate to protect the public health, safety, and welfare; and
- b. has substantial evidence of:
  - i. prior poor performance of the developer;
  - ii. unstable soil conditions within the subdivision or development area; or
  - iii. extreme fluctuations in climatic conditions that would render impracticable the discovery of substandard or defective performance within a one-year period.

Exception: Partial releases of the bond may be made when a portion of the required improvements have been satisfactorily installed, but only if the amount of the bond which is retained is equal to or greater than forty percent (40%) of the initial bond amount, plus one-hundred twenty percent (120%) of the cost of installing the uncompleted improvements. Any such partial release shall be made after inspection by the County Public Works Director, the Public Works Director's report to the County Commission, and authorization by the County Commission. If at the end of the one-year construction period, the required improvements are not complete, or if the condition of the improvements at the end of the warranty period shows defects, unusual depreciation or does not comply with the applicable standards, or if any outstanding costs or liens are not paid, Utah County may send a notice of default and take action to collect the bond and/or action against the developer to remedy the deficiency.

24. Continuing Obligation

It shall be the obligation and duty of the developer and its successors and assigns to carry out the conditions made applicable to the development. In case of failure or neglect to comply with any and all of the conditions and regulations as herein established, and as made applicable to a specific large scale development, the Zoning Administrator shall not issue a certificate of zoning compliance therefor. Such failure or neglect to comply with the requirements or to maintain the buildings and premises in accordance with the conditions of approval of the plans and documents shall also be deemed to be a violation of this ordinance and a breach of contract between the developer (and its successors and assigns) and Utah County.

25. Amendments to Large Scale Development Plats

a. Unrecorded Plats

If the applicant desires to make changes to an unrecorded large scale development plat that has received a recommendation from the Utah County Planning Commission and/or approval by the Utah County Commission, the applicant must file a new application which complies with the procedures and requirements for a new application, and which application must contain all of the elements required for a new application, provided, however, that the Community Development Director can waive any procedures or application elements which the Community Development Director determines to be inapplicable to the amended application, or contained in the original application and not requiring amendment or a new submission. The application must then be submitted to the Planning Commission for a new recommendation and to the Utah County Commission for approval or denial.

b. Recorded Conforming Plats

Amendments to approved recorded plats of large scale developments which are not nonconforming uses under this Land Use Ordinance shall comply with the procedures and requirements contained in the Utah Code for plat amendments. In addition, the applicant shall comply with the procedures and requirements for a new large scale development application, and which application must contain all of the elements required for a new application, provided, however, that the Community Development Director can waive any procedures or application elements which the Community Development Director determines to be inapplicable to the plat amendment application, except for those procedures and requirements contained in the Utah Code for plat amendments. The application must then be submitted to the Planning Commission for a recommendation and to the Utah County Commission for approval or denial.

c. Recorded Nonconforming Plats

Amendments to approved recorded plats of subdivisions and large scale developments which are nonconforming uses (plats approved as previously permitted conditional uses under the land use ordinance, but, because of one or more subsequent land use ordinance changes, do not conform to the regulations that now govern the use of the land) shall comply with the procedure and requirements contained in the Utah Code for plat amendments. In addition, the applicant shall comply with the procedures and requirements applicable to the specific development type which was originally approved (now a nonconforming use). Any amendment must comply with all of the parameters, requirements, and restrictions applicable to

the original approved development. No such plat amendment can be approved which would increase the number of dwelling units in the plat, increase the number of lots in the plat, increase the number of lots available for residential use in the plat, or add additional land to the plat. Consistent with the limitations contained herein, the Community Development Director can waive any procedures which the Community Development Director determines to be inapplicable to the plat amendment application, except for those procedures and requirements contained in the Utah Code for plat amendments. The application must then be submitted to the Planning Commission for a recommendation and to the Utah County Commission for approval or denial.

**Part II:**

The Utah County Land Use Ordinance, as amended herein, is hereby adopted in book form and a copy of said Utah County Land Use Ordinance is hereby ordered to be filed in the office of the Utah County Clerk/Auditor.

**Part III:**

If any of the sections, sentences, clause or provisions of this ordinance shall for any reason be adjudged inapplicable or invalid by a court of competent jurisdiction, such shall not affect or invalidate the remaining portion contained herein.

**Part IV:**

This ordinance shall become effective fifteen (15) days after it is passed, and upon at least one (1) publication in a newspaper published in and having general circulation in Utah County.

PASSED and ordered published this 28th day of October, 2008

**UTAH COUNTY COMMISSION**

**VOTE**

  
 \_\_\_\_\_  
**GARY J. ANDERSON, CHAIR**

Aye

  
 \_\_\_\_\_  
**LARRY A. ELLERTSON, COMMISSIONER**

Aye

  
 \_\_\_\_\_  
**STEVE WHITE, COMMISSIONER**

Aye

**ATTEST:**  
**BRYAN E. THOMPSON**  
County Clerk/Auditor

By: *Linda Striebler* Deputy

**APPROVED AS TO FORM:**  
**JEFFREY R. BUHMAN**  
County Attorney

By: *Jeffrey R. Buhman*,  
Deputy

Date of Publication: Once only, as soon as possible



2008-29

# PROOF OF PUBLICATION

from

## The Daily Herald

STATE OF UTAH }  
Utah County } SS

I, Morgan Bassett, being first duly sworn depose and say that I am the Legal Billing Clerk of the Daily Herald, a newspaper of general circulation, published seven times each week at Provo, Utah, County of Utah; that the notice attached hereto, 338108-ORDINANCE NO. 2008-29, and which is a copy, was published in said newspaper, the first publication having been made on the 1st day of February, 2009, and the last on the 1st day of February, 2009; that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication, and the same was published in the newspaper proper and not in the supplement.

**NOTICE**  
ORDINANCE NO. 2008-29 WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH, ON OCTOBER 28, 2008, AMENDING CHAPTER 6, LARGE SCALE DEVELOPMENTS, SECTION ONE, GENERAL PROVISIONS, OF THE UTAH COUNTY LAND USE ORDINANCE.  
A COMPLETE COPY OF THE ORDINANCE IS AVAILABLE AT THE COUNTY CLERK/AUDITOR'S OFFICE. COMMISSIONER GARY J. ANDERSON, COMMISSIONER LARRY A. ELBERTSON, AND COMMISSIONER STEVE WHITE VOTED IN FAVOR OF THE ORDINANCE.  
Legal Notice 338108 Published in The Daily Herald February 1, 2009.

*Morgan Bassett*

Subscribed and sworn before me this 2nd day of February, 2009.

Debbie L. Chandler Notary Public

Residence: Spanish Fork, Utah  
My commission expires 5/18/2009

FEB 12 REC'D

