



**AN ORDINANCE AMENDING SECTION 3-25-F AND 3-25-G, NOTIFICATION REQUIREMENTS, AND SECTION 6-1-E-9, LARGE SCALE DEVELOPMENT, GENERAL PROVISIONS, OF THE UTAH COUNTY LAND USE ORDINANCE**

**WHEREAS**, the Utah County Planning Commission initiated a review of the Utah County Land Use Ordinance (UCLUO), dealing with amending Sections 3-25-F and 3-25-G, Notification Requirements, and Section 6-1-E-9, Large Scale Development, General Provisions, Planning Commission Recommendation; and

**WHEREAS**, the Planning Commission addressed the proposed amendment to the Utah County Land Use Ordinance during the regularly scheduled meeting of the Planning Commission, scheduled and held a public hearing regarding the proposed amendment, and made a recommendation to the Board of County Commissioners regarding the proposed amendment; and

**WHEREAS**, the Board of County Commissioners has received and carefully reviewed the recommendation from the Planning Commission regarding the proposed amendment, and the minutes from the Utah County Planning Commission meeting and public hearing regarding the proposed amendment to the Utah County Land Use Ordinance; and

**WHEREAS**, the Board of County Commissioners has received and carefully reviewed the input, documents, and testimony from the public regarding the proposed amendment to the Utah County Land Use Ordinance; and

**WHEREAS**, the Board of County Commissioners finds that the proposed amendment to the Utah County Land Use Ordinance is in the best interest of the health, safety, and welfare of the citizens of Utah County, considering all factors.

NOW, THEREFORE, THE COUNTY LEGISLATIVE BODY OF UTAH COUNTY ORDAINS AS FOLLOWS:

**Part I:**

Section 3-25-F of the Utah County Land Use Ordinance is hereby amended to read as follows:

**3-25 NOTIFICATION REQUIREMENTS**

         F. Notice for conditional use applications, large scale development applications, subdivision applications, and variance requests. Notice of the date, time, and place of a public meeting for a proposed conditional use, large scale development, subdivision, or variance, shall be provided by actual notice, or by notice as follows:

1. Mailed not less than ten calendar days before the public meeting and addressed to the owner (as found on the most recent county

- assessment roll) of each adjacent parcel (touching along a common side or so close in proximity as to be separated only by the width of a road, canal, railroad track, or similar right-of-way); or
2. Posted not less than ten calendar days before the public meeting on the property proposed for a conditional use, large scale development, or variance, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to those who pass by.

### **Part II:**

Section 3-25-G of the Utah County Land Use Ordinance is hereby amended to read as follows:

- G. Notice for amendment or vacation of large scale developments, and subdivisions -- Notice for vacation of or change to street. Notice of the date, time, and place of a public meeting for a proposed amendment or vacation of a large scale development or subdivision, and a public hearing for amendment of a subdivision that involves a vacation, alteration, or amendment of a street, shall be provided by actual notice, or by notice as follows:
  1. Mailed not less than ten calendar days before the public meeting and addressed to the owner (as found on the most recent county assessment roll) of each parcel located within the large scale development or subdivision; or
  2. Posted not less than ten calendar days before the public meeting, on the large scale development property or subdivision property, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to those who pass by
  3. For a large scale development amendment or vacation, or subdivision amendment or vacation, that involves a vacation, alteration, or amendment of a street, the county shall provide the notice required by Chapter 27A of Title 17 of the Utah Code.

### **Part III:**

Section 6-1-E-9 of the Utah County Land Use Ordinance is hereby amended to read as follows:

#### 6-1: GENERAL PROVISIONS

##### E. PROCEDURES

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 may 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.

**Part IV:**

A copy of the Utah County Land Use Ordinance, as amended herein, is hereby ordered to be filed in the office of the Utah County Clerk/Auditor.

**Part V:**

If any of the sections, sentences, clauses 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 VI:**

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 1st day of April 2014.

UTAH COUNTY COMMISSION

  
GARY J. ANDERSON, CHAIR

VOTE

aye

*Doug Witney*  
DOUG WITNEY, COMMISSIONER

aye

*Larry A. Ellertson*  
LARRY A. ELLERTSON, COMMISSIONER

aye

**ATTEST:**  
**BRYAN E. THOMPSON**  
County Clerk/Auditor  
By: *Bryan E. Thompson*  
Deputy



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

Disapproved

By: *Jeffrey R. Buhman*  
Deputy

Date of Publication: Once only, as soon as possible

March 18, 2014

## UTAH COUNTY PLANNING COMMISSION STAFF REPORT

- I. APPLICATION:** (Public Hearing)
- A. APPLICANT** - Utah County Planning Commission
- B. REQUEST** - Proposed Utah County Land Use Ordinance text amendment to Sections 3-25-F, 3-25-G, and 6-1-E-9, related to notification requirements of public meetings for conditional use, large scale development, subdivision, and variance applications
- C. LOCATION** - Unincorporated Utah County

## II. ZONING ADMINISTRATOR'S REVIEW:

Staff has discovered several discrepancies with the Utah State Code in the Utah County Land Use Ordinance relative to the notification requirements for several types of land use applications. The Utah County Land Use Ordinance was amended in 2010 to be consistent with the Utah State Code relative to noticing requirements for land use applications. It appears several sections of the ordinance were overlooked during that process relating to the requirements of public hearings for certain types of land use applications. Generally, administrative applications such as subdivisions, conditional uses, variances, and certain plat amendments and vacations, no longer require a noticed, formal public hearing. These applications are still subject to the requirements of a public meeting.

The following sections of the Utah County Land Use Ordinance are proposed to be amended (additions are indicated in *bold italic type*, deletions are ~~crossed out~~):

### 3-25 NOTIFICATION REQUIREMENTS

- F. Notice for conditional use applications, large scale development applications, subdivision applications, and variance requests. Notice of the date, time, and place of a public hearing *meeting* for a proposed conditional use, large scale development, subdivision, or variance, shall be provided by actual notice, or by notice as follows:
1. Mailed not less than ten calendar days before the public hearing *meeting* and addressed to the owner (as found on the most recent county assessment roll) of each adjacent parcel (touching along a common side or

- so close in proximity as to be separated only by the width of a road, canal, railroad track, or similar right-of-way); or
2. Posted not less than ten calendar days before the public **hearing meeting** on the property proposed for a conditional use, large scale development, or variance, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to those who pass by.
- G. Notice for amendment or vacation of large scale developments, and subdivisions -
- Notice for vacation of or change to street. Notice of the date, time, and place of a public **hearing meeting** for a proposed amendment or vacation of a large scale development or subdivision, and **a public hearing** for amendment of a subdivision that involves a vacation, alteration, or amendment of a street, shall be provided by actual notice, or by notice as follows:
    1. Mailed not less than ten calendar days before the public **hearing meeting** and addressed to the owner (as found on the most recent county assessment roll) of each parcel located within the large scale development or subdivision; or
    2. Posted not less than ten calendar days before the public **hearing meeting**, on the large scale development property or subdivision property, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to those who pass by
    3. For a large scale development amendment or vacation, or subdivision amendment or vacation, that involves a vacation, alteration, or amendment of a street, the county shall provide the notice required by Chapter 27A of Title 17 of the Utah Code.

( Section 6-1-E-9)

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 **may** 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

- d. safety, or to protect the property values of neighboring properties.  
Other findings as determined by the Planning Commission.

### Applicable Ordinances and Laws

The following are ordinances and laws pertaining to this request:

1. **Section 1-2** of the Utah County Land Use Ordinance identifies the intent and purposes of the Ordinance.
2. **Section 3-25** lists the notification requirements for various land use applications.
3. **Section 6-1-E-9** lists the procedures and requirements of the Planning Commission for large scale developments.
4. **Sections 7-23-C and 7-25** establishes the criteria for Planning Commission recommendation of approval to the County Commission for any land use ordinance or zone map amendment.

### **III. STAFF FINDINGS:**

1. The application for land use ordinance amendment appears to meet the requirements of Sections 7-23-C and 7-25 of the Utah County Land Use Ordinance, which establishes the criteria for Planning Commission recommendation of approval to the County Commission for a land use ordinance amendment.
2. The application appears to be consistent with current provisions and regulations of the Utah State Code.

### **IV. ZONING ADMINISTRATOR'S POSITION:**

That the Utah County Planning Commission recommend approval to the Utah County Commission of the proposed amendments to Sections 3-25-F, 3-25-G, 6-1-E-9 of the Utah County Land Use Ordinance, related to notification requirements of public meetings for conditional use, large scale development, subdivision, and variance applications, subject to the following:

1. That the application for amendment meets the criteria for approval as per Sections 7-23-C and 7-25 of the Utah County Land Use Ordinance.

**UTAH COUNTY PLANNING COMMISSION**

**UNAPPROVED**

**Minutes  
March 18, 2014**

Present: John Glen Stevens, Chair  
Eldon A Neves  
Helina Carter-Thomas  
Janice Reeb  
Carol Thorne  
Thomas Liddle

Excused: Mike Stansfield

Bryce Armstrong, Associate Director Community Development  
David Shawcroft, Deputy County Attorney  
Christina Sutton, Secretary

OTHERS PRESENT: Peggy Kelsey, Brandon Larsen, Utah County Community Development;  
Lanty Ross, Steve Alder, Utah County Environmental Health; Anne Luthy, Melvin Luthy

The meeting was called to order at 5:30 p.m. by John Glen Stevens, Chair of the Utah County Planning Commission, at 100 East Center Street in Room 1400 of the Utah County Administration Building, Provo, Utah. Commissioner Liddle led the Pledge of Allegiance.

**APPROVAL OF MINUTES**

Motion: Thomas Liddle

Second: Helina Carter-Thomas

Motion to approve the minutes as corrected of the February 18, 2014, meeting of Utah County Planning Commission. The motion passed by the following vote: 'Aye', John Glen Stevens, Eldon A Neves, Helina Carter-Thomas, Janice Reeb, Carol Thorne, Thomas Liddle; 'Nay', none.

**MELVIN J. LUTHY- proposed Utah County Land Use Ordinance text amendment to Section 6-3-C-7-e related to water quality requirements for wells in subdivisions**

Brandon Larsen stated that the current Land Use Ordinance requires the water source for a lot in a Planned Subdivision to meet water quality requirements before any treatment or filtration; it must meet primary drinking water standards. The applicant proposes that water quality requirements for Planned Subdivisions be met after appropriate treatment and filtration, if necessary. Staff has some concerns about the health and safety and long term maintenance and monitoring of filtration systems, and future notification for new property owners. There is no

**Planning Commission**  
**March 18, 2014**

water test after the building permit is obtained. Arsenic is a contaminant that staff is aware of that has affected the ability of a property owner to proceed with a subdivision application in the recent past.

Eldon A Neves commented that water quality can change over time.

Thomas Liddle inquired as to the water standards required for other counties in the State, and felt this would not be enforceable.

Dave Shawcroft stated that when a subdivision lot is purchased the expectation is that you will have useable water to consume. Cities test their community water systems.

Janice Reeb was concerned that if the water is only tested at the beginning of the building process then when the land changes ownership, a new owner will not know about the water quality. She is particularly concerned about the effect of water quality on children.

Lanty Ross stated that now we have the ability to measure small amounts of contaminants in the water, and the Utah Division of Drinking Water fought hard against the EPA to adopt a 20 parts per billion threshold for arsenic, so that small water systems could comply. In the end, Utah lost and the EPA changed the maximum contaminant level for arsenic to 10 ppb, which has negatively affected Utah more than other states since we have many very small water systems and some of them have very low levels of arsenic which exceed the MCL. Arsenic is a naturally occurring contaminant in the ground.

Helina Carter-Thomas clarified that there are no testing requirements for private wells in the county, meaning wells not connected to a subdivision. She commented that in her personal well, the water quality has changed over time.

Eldon A Neves inquired as to the procedure to have the water tested. He also wondered about the two different opinions that were expressed in letters from county health department.

Lanty Ross responded that the county only collects the water sample. It is rare for contaminants to show up – occasionally arsenic or nitrates. Bacteria is a new problem as that comes from the surface. He contacted other health departments in the State, and we are the only county that has water quality requirements for wells. One letter was from the program manager and one from the Environmental Health director.

Melvin Luthy stated that arsenic is in the ground in Utah and if arsenic is found in high levels it can be dangerous to health. He talked about the contaminant parts per billion that the EPA allows. He felt that requirements are unnecessary since there are ways to cope with the problem of contamination if it should occur, such as --- reverse osmosis, distilling, or bottled water. He

**Planning Commission**  
**March 18, 2014**

also is concerned about personal water rights and explained how he will lose his water rights if he cannot show beneficial use of the water. There is a well 1/4 mile from his property which exceeded the ppb arsenic threshold, however, that well was in service prior to the county requirements and he is concerned that his water might also be contaminated. The water rights for a well were acquired with the property.

John Glen Stevens questioned if there had been a problem with water in the area.

Eldon A Neves inquired as to the water rights to drill a well.

Motion: Helina Carter-Thomas

Second: Carol Thorne

Motion to open the public hearing. The motion passed by the following vote: 'Aye', John Glen Stevens, Eldon A Neves, Helina Carter-Thomas, Janice Reeb, Carol Thorne, Thomas Liddle; 'Nay', none.

There were no public comments.

John Glen Stevens commented that monitoring would be difficult for the county. He clarified the amendment that would be voted on by the Planning Commissioners.

Helina Carter-Thomas doesn't see a way for the county to enforce water quality. She feels the individual property owner should take responsibility for their water quality.

Eldon A Neves felt that the county should not control the individual property owner.

Janice Reeb felt that the same water standards should be in place in the cities and in the rural areas. She is concerned about notification, possibly on the plat, for future owners of a property to know about the water quality. It seems that filtration would not be a continuous option.

Dave Shawcroft commented that there are many water quality standards to consider when changing this amendment.

Motion: Helina Carter-Thomas

Second: Janice Reeb

Motion that the Utah County Planning Commission recommend **denial** to the Utah County Commission of the Land Use Ordinance amendment to Subsection 6-3-C-7-e, related to water quality for wells in subdivisions. The motion passed by the following vote: 'Aye', John Glen Stevens, Helina Carter-Thomas, Janice Reeb, Carol Thorne, Thomas Liddle; 'Nay', Eldon A Neves.

**Planning Commission**  
**March 18, 2014**

*The Planning Commissioners suggested that this be a work topic for further discussion and that staff check on water requirements for the Health Department and for the subdivision process in other counties.*

**UTAH COUNTY PLANNING COMMISSION - proposed Utah County Land Use Ordinance text amendment to Sections 3-25-F, 3-25-G, and 6-1-E-9, related to notification requirements of public meetings for conditional use, large scale development, subdivision, and variance applications**

Bryce Armstrong stated that there were a few discrepancies that need to be updated to be consistent with the Utah State Code relative to noticing requirements for land use applications and the requirements of public hearings.

John Glen Stevens clarified that a public hearing is when the public voice is heard regarding a change in the law, and that in a public meeting the public may be heard.

Janice Reeb inquired as to the difference between hearing and meeting designated by State statute. She is concerned that when the public is present at a meeting that they are able to voice their views and opinions.

John Glen Stevens noted that it is at the decision of the Chair, if public comments are given at a public meeting.

Dave Shawcroft stated that noticing requirements are adopted for procedures for public comments. The State statute specifies when a public hearing must be held and the noticing and publication requirements. We have specific noticing provisions for Utah County for large scale developments that will be in place even if we make these changes to be consistent with state code.

Bryce Armstrong noted that the State statute designates when a public hearing or a public meeting should be held. Our county requirements for subdivision notification exceed the state requirements.

There were no public comments.

Motion: Janice Reeb

Second: Eldon A Neves

Motion to **continue** the proposed Utah County text amendment concerning notification of public meetings until the April 15, 2014, meeting of the Planning Commission to allow for more discussion. The motion failed due to the following vote: 'Aye', Janice Reeb, Eldon A Neves, Thomas Liddle; 'Nay', John Glen Stevens, Helina Carter-Thomas, Carol Thorne.

**Planning Commission**  
**March 18, 2014**

Motion: Helina Carter-Thomas      Second: Carol Thorne

Motion that the Utah County Planning Commission recommend **approval** to the Utah County Commission of the proposed amendments to Sections 3-25-F, 3-25-G, 6-1-E-9 of the Utah County Land Use Ordinance, related to notification requirements of public meetings for conditional use, large scale development, subdivision, and variance applications, subject to the following:

1. That the application for amendment meets the criteria for approval as per Sections 7-23-C and 7-25 of the Utah County Land Use Ordinance.

The motion passed by the following vote: 'Aye', John Glen Stevens, Helina Carter-Thomas, Carol Thorne, Thomas Liddle; 'Nay', Eldon A Neves, Janice Reeb

Motion: Tom Liddle      Second: Carol Thorne

Motion to close the public hearing. The motion passed by the following vote: 'Aye', John Glen Stevens, Eldon A Neves, Helina Carter-Thomas, Janice Reeb, Carol Thorne, Thomas Liddle; 'Nay', none.

**ADJOURN**

Motion: Eldon A Neves      Second: Carol Thorne

Motion to adjourn. The motion passed by the following vote: 'Aye', John Glen Stevens, Eldon A Neves, Helina Carter-Thomas, Janice Reeb, Carol Thorne, Thomas Liddle; 'Nay', none.  
The meeting adjourned at 6:50 p.m.

Minutes respectfully submitted by:

**APPROVED BY:**

\_\_\_\_\_  
Christina Sutton, Secretary

\_\_\_\_\_  
**JOHN GLEN STEVENS, CHAIR**

A recording of this meeting is available from the Utah County Community Development Office.

4770 S. 5600 W.  
P.O. BOX 704005  
WEST VALLEY CITY, UTAH 84170  
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801-204-6910

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UTAH COUNTY AUDITOR, KENT MONSON ATTN: Tad Rasumssen 100 E CENTER ST #2400 PROVO UT 84606	9001334912	4/30/2014

ACCOUNT NAME	
UTAH COUNTY AUDITOR,	
TELEPHONE	ADORDER# / INVOICE NUMBER
8018518238	0000955068 /
SCHEDULE	
Start 04/30/2014	End 04/30/2014
CUST. REF. NO.	
P.O. #2014-807 <i>Attorney</i>	
CAPTION	
SUMMARY OF ORDINANCE ORDINANCE NO. 2014-3 WAS ADOPTED BY THE BOARD OF	
SIZE	
25 Lines	1.00 COLUMN
TIMES	RATE
2	
MISC. CHARGES	AD CHARGES
TOTAL COST	
31.25	

**SUMMARY OF ORDINANCE**  
ORDINANCE NO. 2014-3 WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH, ON APRIL 1, 2014, AMENDING SECTION 3-25-F AND 3-25-G, NOTIFICATION REQUIREMENTS, AND SECTION 6-1-E-9, LARGE SCALE DEVELOPMENT, 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. ELLERTSON, AND COMMISSIONER DOUG WITNEY VOTED IN FAVOR OF THE ORDINANCE.  
955068 UPAXLP

MAY 13 2014

AFFIDAVIT OF PUBLICATION

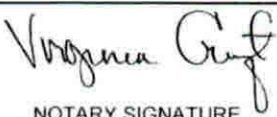
AS NEWSPAPER AGENCY COMPANY, LLC dba MEDIAONE OF UTAH LEGAL BOOKER, I CERTIFY THAT THE ATTACHED ADVERTISEMENT OF SUMMARY OF ORDINANCE ORDINANCE NO. 2014-3 WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH, ON APRIL 1, 2014, AMENDING SECTION 3-25-F AND FOR UTAH COUNTY AUDITOR, WAS PUBLISHED BY THE NEWSPAPER AGENCY COMPANY, LLC dba MEDIAONE OF UTAH, AGENT FOR THE SALT LAKE TRIBUNE AND DESERET NEWS, DAILY NEWSPAPERS PRINTED IN THE ENGLISH LANGUAGE WITH GENERAL CIRCULATION IN UTAH, AND PUBLISHED IN SALT LAKE CITY, SALT LAKE COUNTY IN THE STATE OF UTAH. NOTICE IS ALSO POSTED ON UTAHLEGALS.COM ON THE SAME DAY AS THE FIRST NEWSPAPER PUBLICATION DATE AND REMAINS ON UTAHLEGALS.COM INDEFINATELY. COMPLIES WITH UTAH DIGITAL SIGNATURE ACT UTAH CODE 46-2-101; 46-3-104.

PUBLISHED ON Start 04/30/2014 End 04/30/2014

SIGNATURE: 

DATE: 4/30/2014

**VIRGINIA CRAFT**  
NOTARY PUBLIC - STATE OF UTAH  
My Comm. Exp. 01/12/2018  
Commission # 672963

  
NOTARY SIGNATURE

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