

## **CHAPTER VI PROCEDURE**

Section 614 Amendment to subdivision ordinance.

This subdivision ordinance may be amended in accordance with the provisions set forth in UCA § 17-27-802 and § 17-27-803.

### 1. Amendments.

The County Commission may amend the provision of the subdivision ordinance if the proposed amendment was proposed by or submitted to the Planning Commission for its approval, disapproval, or suggestions.

The County Commission and the Planning Commission shall comply with the procedures contained in Section 17-27-802, Utah Code, in adopting an amendment to the subdivision ordinance.

### 2. Preparation.

A. The Planning Commission shall:

- (1) Prepare and recommend a proposed subdivision ordinance to the County Commission body that regulates the subdivision of land in the County;
- (2) Hold a public hearing on the proposed subdivision ordinance before making its final recommendation to the County Commission; and
- (3) Provide reasonable notice of the public hearing at least 14 days before the date of the hearing.

B. The County Commission shall:

- (1) Hold a public hearing on the proposed subdivision ordinance recommended to it by the Planning Commission; and
- (2) Provide reasonable notice of the public hearing at least 14 days before the date of the hearing.

C. After the public hearing, the County Commission may:

- (1) Adopt the subdivision ordinance as proposed;
- (2) Amend the subdivision ordinance and adopt or reject it as amended; or
- (3) Reject the ordinance.

### 3. Vacating or Changing a Subdivision Plat.

A. The County Commission body may, with a petition or without a petition, if proposed by the County Commission or Zoning and Planning Board, consider any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley contained in a subdivision plat at a public hearing.

B. If a petition is filed, the County Commission body shall hold the public hearing within 45 days after it is filed.

C. Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted as provided in the part may, in writing, petition the County Commission to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this section.

D. A petition to vacate, alter, or amend an entire plat, a portion of a plat, or

a street or lot contained in a plat shall include:

- (1) the name and address of all owners of record of the land contained in the entire plat;
- (2) the name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended; and
- (3) the signature of each of these owners who consents to the petition.

E. Petitions that lack the consent of all owners referred to in Subsection (D) may not be scheduled for consideration at a public hearing before the County Commission until the notice required by this part is given.

(1) The petitioner shall pay the cost of the notice.

F. When the County Commission proposed to vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat, they shall consider the issue at a public hearing after giving the notice required by this part.

#### 4. Notice of Hearing for Plat Change.

A. The County Commission shall give notice of the date, place, and time of a hearing before them to consider a vacation, alteration, or amendment without a petition or to consider any petition that does not include the consent of all land owners as required by Subsection 3, by mailing the notice of hearing to all owners referred to in Subsection 4, addressed to their mailing addresses appearing on the rolls of the County Assessor of the county in which the land is located, and posting notices in three public places in the county for three consecutive weeks before the hearing and recording notice of the petition in the County Recorder's rolls.

B. If the proposed change involves the vacation, alteration, or amendment of a street, the legislative body shall give notice of the date, place, and time of the hearing by:

(1) mailing notice as required in Subsection A; and

(2) either:

(a) publishing the notice once a week for four consecutive weeks before the hearing in a newspaper of general circulation in the county in which the land subject to the petition is located; or

(b) if there is no newspaper of general circulation in the county, post the notice for four consecutive weeks before the hearing in three public places in that county.

#### 5. Grounds for Vacating or Changing a Plat.

A. Within 30 days after the public hearing required by this part, the County Commission shall consider the petition.

B. If the County Commission is satisfied that neither the public nor any person will be materially injured by the proposed vacation, alteration, or amendment, and that there is good cause for the vacation, alteration, or amendment, the County Commission, by ordinance, may vacate, alter, or amend the plat, any portion of the plat, or any street or lot.

C. The County Commission shall ensure that the vacation, alteration, or amendment is recorded in the office of the County Recorder in which the land is located.

An aggrieved party may appeal the County Commissions decision to District Court as provided in Subsection 6.

#### 6. Appeals and Enforcement.

1. Appeals. No person may challenge in District Court a county's land use decisions made under this section or under the regulation made under authority of this section until they have exhausted their administrative remedies.

Any person adversely affected by any decision made in the exercise of the provisions of this section may file a petition for review of the decision with the District Court within 30 days after the local decision is rendered.

The courts shall:

- (a) presume that land use decisions and regulations are valid; and
- (b) determine only whether or not the decision is arbitrary, capricious, or illegal.

#### 7. Enforcement.

A. The County, County attorney, or any owner of real estate within the county in which violations of this ordinance occur or are about to occur may, in addition to other remedies provided by law, institute:

- (1) injunctions, mandamus, abatement, or any other appropriate actions; or
- (2) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

B. A county need only establish the violation to obtain the injunction.

C. The county may enforce the ordinance by withholding building permits.

D. It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within the county without approval of a building permit.

E. The county may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

#### 8. Penalties.

Violation of any of the provisions of this section or of any ordinances adopted under the authority of this subsection are punishable as a class C misdemeanor upon conviction.

#### 9. Fees and Notices.

No petition to vacate, alter or amend a subdivision plat may be filed until the following fees have been paid:

A. Administrative fee of fifty dollars (\$50.00).

B. A deposit of two hundred dollars (\$200.00) to cover the actual cost of posting, mailing, and publication of notices and the costs of recording any notices or documents. Any unused portion of the deposit shall be returned to petitioner upon final disposition of the petition. Any costs incurred in excess of the deposit must be paid before the amended, vacated or altered plat may be recorded.

Petitioner must at his own expense provide to the County Commission the following:

- A. stamped envelopes addressed to each person or entity entitled to notice.
- B. enough legible typewritten notices complying with the provisions of this ordinance and in a form acceptable to the County Commission, to provide due copy to each person entitled to notice plus an additional 10 copies for the use of the Commissioners.