

Ordinance 2016-20

SHORT TITLE:

An ordinance amending the notice requirements for certain public hearings before the Planning Commission to mirror state code and allowing amendments to the General Plan more often than twice per year.

PASSAGE BY MUNICIPAL COUNCIL

ROLL CALL

DISTRICT	NAME	MOTION	SECOND	FOR	AGAINST	OTHER	
CW 1	DAVID SEWELL			√			
CW 2	GEORGE STEWART			√			
CD 1	GARY WINTERTON		√	√			
CD 2	KIM SANTIAGO			√			
CD 3	DAVID KNECHT			√			
CD 4	KAY VAN BUREN	√		√			
CD 5	DAVID HARDING			√			
				TOTALS	7	0	0

This ordinance was passed by the Municipal Council of Provo City, on the 19th day of July, 2016, on August 3, 2016 a roll call vote as described above. Signed this _____.

Kimi Santiago

Chair

II

APPROVAL BY MAYOR

This ordinance is approved by me this August 4, 2016 _____.

Ch. R. L.

Mayor


Ordinance 2016-20

III

CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was signed and recorded in the office of the Provo City Recorder on the 8th day of August, 2016, with a short summary being published on the 23rd day of July, 2016, in The Daily Herald, a newspaper circulated in Provo, Utah. I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to Ordinance Number 2016-20.





City Recorder

ORDINANCE 2016-20

AN ORDINANCE AMENDING THE NOTICE REQUIREMENTS FOR CERTAIN PUBLIC HEARINGS BEFORE THE PLANNING COMMISSION TO MIRROR STATE CODE AND ALLOWING AMENDMENTS TO THE GENERAL PLAN MORE OFTEN THAN TWICE PER YEAR. CITY-WIDE IMPACT. (16-0007OA)

WHEREAS, it is proposed that amendments be made to Provo City Code Sections 15.17.030, 15.17.040, 2.29.040 and 14.02.020 in order to change the noticing requirements for public hearings before the Planning Commission for General Plan adoption and for General Plan amendments from 14 days to 10 days, as provided in Utah State Code, and to allow amendments to the General Plan more often than twice per year; and

WHEREAS, the General Plan amendment applications are currently limited to being heard only twice a year, and removing this restriction, while adding a requirement for a neighborhood meeting, allows the applicant to receive a quicker answer and move forward with other plans; and

WHEREAS, the current code does not force a neighborhood chair to hold a neighborhood meeting for any applications, this amendment will ensure that a meeting will be called for by the chair for all General Plan and Zone amendment applications and allow neighboring residents and businesses opportunity to provide feedback on proposed changes; and

WHEREAS, on May 25, 2016, the Planning Commission held a duly noticed public hearing to consider the proposal and after such hearing the Planning Commission recommended to the Municipal Council that the proposed amendment be approved as set forth below; and

WHEREAS, on July 19, 2016, the Municipal Council held a duly noticed public meeting and a duly noticed public hearing to ascertain the facts and receive public comment regarding this matter, which facts and comments are found in the meeting and hearing record; and

WHEREAS, all persons for and against the proposed amendment were given an opportunity to be heard during the public hearing; and

WHEREAS, after considering the Planning Commission's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) Provo City Code Sections 15.17.030, 15.17.040, 2.29.040 and 14.02.020 should be amended in order to reduce the noticing requirements for public hearing before the Planning Commission for General Plan adoption and for General Plan amendments from 14 days to 10 days, as per Utah State Code, and to allow amendments to the General Plan more often than twice per year and (ii) this action, as set forth below, reasonably furthers the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

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PART I:

Provo City Code Section 15.17.030 is hereby amended as follows:

15.17.030. Plan Adoption.

- (1) The plan adoption process includes:
 - (a) After completing a proposed general plan for all or part of the area within Provo, the Planning Commission shall schedule and hold a public hearing on the proposed plan.
 - (b) The Planning Commission shall provide reasonable notice of the public hearing at least ~~fourteen (14)~~ **ten (10)** days before the date of the hearing.
 - (c) After the public hearing, the Planning Commission may make changes to the proposed general plan.
- (2) The Planning Commission shall then forward the proposed general plan to the Municipal Council.
- (3) The Municipal Council shall:
 - (a) hold a public hearing on the proposed general plan recommended to it by the Planning Commission; and
 - (b) provide reasonable notice of the public hearing at least ~~fourteen (14)~~ **ten (10)** days before the date of the hearing.
- (4) After the public hearing, the Municipal Council may make any modifications to the proposed general plan that it considers appropriate.
- (5) The Municipal Council may:
 - (a) adopt the proposed general plan without amendment;
 - (b) amend the proposed general plan and adopt or reject it as amended; or
 - (c) reject the proposed general plan
- (6) Amendments to the major street plan shall be filed and processed in accordance with procedures for adopting and amending the Provo City General Plan as set forth in this Chapter and Chapter [14.03](#), Provo City Code.
- (7) Notwithstanding any provisions of the Provo City Code or the General Plan text that may imply otherwise, the General Plan shall be deemed an advisory guide for land use decisions.

80 PART II:

81 Provo City Code Section 15.17.040 is hereby amended as follows:

82 **15.17.040. Amendment of Plan.**

83 (1) The Municipal Council may amend the General Plan by following the procedures required by
84 Section [15.17.030](#), Provo City Code.

85 (2) The Planning Commission may determine on small area General Plan amendments what
86 elements in Section [15.17.020](#), Provo City Code, should be included in the plan amendment.

87 ~~(3) Proposed amendments shall be heard on a biannual basis with a~~ **The plan shall be**
88 **comprehensively update reviewed** at least every five (5) years.

89 **(4) After payment of the application fee shown on the Consolidated Fee Schedule adopted by the**
90 **Municipal Council, General Plan amendment proposals shall be discussed at a Neighborhood**
91 **Meeting, pursuant to Provo City Code Section 2.29.040, and then considered by the Planning**
92 **Commission and Municipal Council as provided in Provo City Code Section 15.17.030.**

93 ~~(a) Hearings shall be held once in March and once in September. Citizens, developers, land~~
94 ~~owners, and others who wish to propose amendments to the plan shall file their proposals~~
95 ~~by November 30, for the March hearing, or by May 31, for the September hearing. After~~
96 ~~payment of the application fee shown on the Consolidated Fee Schedule adopted by the~~
97 ~~Municipal Council, General Plan amendment proposals shall be considered by the Planning~~
98 ~~Commission and Municipal Council as provided in Section [15.17.030](#), Provo City Code.~~

99 ~~(b) Exceptions to the bi-annual General Plan amendment process may be granted by the~~
100 ~~Community Development Director when:~~

101 ~~(i) the amendment is initiated by Provo City, meaning the Mayor, a Municipal Council~~
102 ~~member, or City staff, and not a private entity;~~

103 ~~(ii) the amendment is of compelling public interest of a City-wide or neighborhood-~~
104 ~~wide significance, and~~

105 ~~(iii) the amendment was unforeseen.~~

106 ~~(4)~~**(5)** Applicants proposing general plan amendments shall do the survey and analysis work
107 necessary to justify the proposed amendment. To ensure the Planning Commission and
108 Municipal Council have sufficient information to evaluate each proposal, an applicant shall
109 submit the following:

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PART III:

Provo City Code Section, 2.29.040 is hereby amended as follows:

2.29.040. Neighborhood Meetings.

(1) Local Issue Meetings. A Neighborhood Chair may call a Neighborhood meeting at any time to discuss issues of concern to residents of the Neighborhood.

(2) Development Proposal Meetings.

(a) Within five (5) calendar days after receiving a complete land use application for any matter subject to a public hearing, the Community Development Department shall mail notice of the application to the Neighborhood Chair of the Neighborhood where the subject property is located. If the subject property is located within one thousand (1,000) feet from an adjoining Neighborhood, the Community Development Department shall also notify the Chair of that Neighborhood.

(b) Within seven (7) calendar days after application submittal, the applicant shall contact the Neighborhood Chair of any Neighborhood entitled to notice described in subsection (a) above to discuss the application. Where the application is filed by a party other than Provo City and/or has other than City-wide impact, the Neighborhood Chair must call for a neighborhood meeting to consider the applications for a General Plan amendment or a zone change. For other application types, the Neighborhood Chair shall determine whether a Neighborhood meeting should be held.

(i) A neighborhood meeting held under this section shall be scheduled for a date within 45 days of the notice described in subsection (a).

(ii) Failure to hold a meeting required under this paragraph shall not invalidate consideration of an application by the Planning Commission or Municipal Council, notwithstanding any language to the contrary in this Section or Provo City Code Section 15.17.040(4), once the 45 day period for holding the neighborhood meeting has expired.

(c) Where waiver of a neighborhood meeting is permitted under subsection (b), Within fourteen (14) calendar days after the Community Development Department mails notice of the application to a Neighborhood Chair, the Chair shall notify the Municipal Council Executive Director in writing that the Neighborhood:

- 145 (i) Will organize a meeting to review and comment on the application; or
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147 (ii) Waives the right to hold a Neighborhood meeting.
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149 (iii) If, within the fourteen (14) day period set forth above, the Executive Director
150 does not receive notice from the Neighborhood Chair, the Neighborhood meeting
151 requirement shall be waived.

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154 PART IV:

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156 Provo City Code Section and 14.02.020 is hereby amended as follows:

157 14.02.020. Amendments - Procedure.

158 (1) This Planning and Zoning Title, including the Map, may be amended by the Provo [Municipal](#)
159 [Council](#) after said amendments shall have first been submitted for recommendation to
160 the [Planning Commission](#). For the purpose of establishing and maintaining sound, stable, and
161 desirable [development](#) within the [City](#), it is declared to be the [public](#) policy that amendments
162 shall not be made to the Planning and Zoning Title and Map except to promote more fully the
163 objectives and purposes of this Title and the Provo [City](#) General Plan or to correct manifest
164 errors. Any [person](#) seeking an amendment to the Planning and Zoning Title or Map shall submit
165 to the [Planning Commission](#) a written petition containing the following information:

166 (a) Submit to the Planning Commission a written petition containing the following
167 information:

168 ~~(a)~~(i) Designation of the specific [zone](#) change or Title amendment desired.

169 ~~(b)~~(ii) The reason and justification for such [zone](#) change or Title amendment, and a
170 statement setting forth the manner in which a proposed amendment or [zone](#) would further
171 promote the objectives and purposes of this Title and the Provo [City](#) General Plan.

172 ~~(c)~~(iii) A complete and accurate legal description of the [area](#) proposed to be
173 rezoned, or a draft of the proposed Title amendment.

174 ~~(d)~~(iv) The filing fee as shown on the Consolidated Fee Schedule adopted by
175 the [Municipal Council](#).

176 ~~(e)~~(v) If a map amendment is proposed, the following shall also be submitted:

- 177 ~~(i)~~(1) An accurate plan, drawn to scale, showing all [areas](#) to be included
178 within the proposed rezoning, designating the present zoning of
179 the [property](#) subject of the petition, and properties immediately adjacent
180 thereto.
181 ~~(ii)~~(2) A preliminary project plan meets the requirements of
182 Section [15.03.300](#), Provo [City](#) Code.
183 ~~(iii)~~(3) The signature of the [property](#) owner or authorized agent or, in the
184 case of a multiple [property](#) rezoning request, the signature of a majority of
185 the [persons](#) who own [property](#) within the [area](#) proposed for the zoning
186 map amendment.

187 [\(b\) Contact the Neighborhood Chair\(s\) for the neighborhood\(s\) affected by the](#)
188 [application as provided in Provo City Code 2.29.040\(2\)\(b\).](#)

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192 PART V:

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194 A. If a provision of this ordinance conflicts with a provision of a previously adopted
195 ordinance, this ordinance shall prevail.
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197 B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be
198 severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or
199 invalid, the remainder of the ordinance shall not be affected thereby.
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201 C. The Municipal Council hereby directs that the official copy of the Provo City Code be
202 updated to reflect the provisions enacted by this ordinance.
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204 D. This ordinance shall take effect immediately after it has been posted or published in
205 accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah
206 Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

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208 END OF ORDINANCE.
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