

Public Notice for Land Use Issues

The Land Use Development and Management Act requires giving notice of public hearings and meetings to consider land use decisions. A city or town may, by ordinance, require greater notice than required by the Act. If your city or town does have an ordinance that spells out more stringent notice requirement than the Act, you must comply with your own ordinance. If your ordinance has less stringent requirements, then the requirements of the Act must be complied with.

Whenever any land use application of any kind is being considered by a public body (city council, planning commission, appeal board etc.), the city or town must notify the applicant of the date, time, and place of each public hearing and public meeting. This is intended to be an actual notice of some type. You cannot just rely on seeing the published notice in the paper or in the posted agenda. This actual notice is in addition to any required notice to the public. The intention behind this requirement is to prevent a city or town from considering a land use application without the applicant knowing that his or her application is on the agenda.

There is very specific notice requirement for the adoption of an amendment of a general plan for a city or town in a first or second class county. These are counties that have more than 125,000 in population. Before preparing a proposed general plan or a plan amendment, a city or town in a county of the first or second class must provide at least ten calendar days notice of the intention to adopt or amend the general plan to what are called affected entities (affected entities are defined in the Act to include the county, independent special service districts, school districts, and other governmental entities whose services are going to be affected by the general plan, have requested notice or are within one mile of the city or town) and the Automated Geographic Reference Center created by state law; the association of governments of which your city or town is a member; and the Utah State Planning Coordinator. The notice of intention must state that the city or town intends to prepare a general plan or a plan amendment and describe or provide a map of the geographic area that will be affected by the general plan or amendment.

The notice can be sent by mail, e-mail, or other effective means. The notice must invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning the impact that the use of land proposed in the proposed general plan or amendment may have on the affected entity and include the address of an Internet website, if the municipality has one, and the name and telephone number of a person where more information can be obtained concerning the city's or town's proposed general plan or amendment.

The above required notice of intention only applies to cities and towns in counties of the first and second class. Every city or town that is adopting or amending a general plan must give notice of the date, time, and place of the first public hearing to consider the

original adoption or any modification of all or any portion of a general plan, and all cities and towns must give appropriate notice of each public meeting that is held on the subject.

The notice of the public hearing on the adoption or amendment of a general plan must be given at least ten calendar days before the public hearing, and must be published in a newspaper of general circulation in the area must be mailed to each affected entity and must be posted in at least three public locations within the municipality, or on the municipality's official website.

A notice of a public meeting must be given at least 24 hours before the meeting, submitted to a newspaper of general circulation in the area, and posted in at least three public locations within the municipality, or on the municipality's official website. This notice of a public meeting does not have to be published in the newspaper. It only has to be given to the newspaper. This is so the news media can attend and report on the meeting if they desire. This notice is similar to the notice of any meeting required by the Utah Open and Public Meetings Act with the exception of the posting in three public places. The Open and Public Meetings Act only requires posting at the place of the meeting.

A zoning ordinance or other land use control or regulation can only be adopted after appropriate notice and public hearing. Every city or town adopting what could be construed as a land use ordinance must give notice of the date, time, and place of the first public hearing to consider the adoption or any modification of the land use ordinance and notice of each public meeting on the subject.

Each notice of a public hearing concerning the adoption or amendment of a land use ordinance must be mailed to each affected entity at least 10 calendar days before the public hearing, posted in at least three public locations within the city or town or on the municipality's official website, and published in a newspaper of general circulation in the area at least ten calendar days before the public hearing. An alternative to the 10 days posting notice is to instead mail it at least three days before the public hearing to each property owner whose land is directly affected by the land use ordinance change, and each adjacent property owner within the parameters specified by municipal ordinance. If you do not have an ordinance that specifies this type of neighbor notice, then this option is not open to your city or town. Once again, a notice of any public meeting concerning a land use ordinance must be given at least 24 hours before the meeting and posted in at least three public locations within the municipality or on the municipality's official website.

Many cities and towns have ordinances that require the city or town to give notice in some form to owners of property that is near or adjacent to the property being considered for a land use decision. If a municipality requires notice to adjacent property owners, the municipality must mail notice to the record owner of each parcel within parameters specified by municipal ordinance or post notice on the property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by. If a municipality mails notice to third party property owners under a city or

town ordinance, it must also mail equivalent notice to property owners within an adjacent jurisdiction that meet the same criteria. For example, if your ordinance requires notice to every property owner within 1000 feet of the property, and the 1000 feet extends into the county or a neighboring city or town, you must give notice to the non-residents as well.

Subdivision and commercial development approvals require a different type of notice. Every proposed new subdivision, or an amendment to a subdivision, now must have a public hearing. Each city or town must provide notice of the date, time, and place of a public hearing that is mailed not less than three calendar days before the hearing and addressed to the record owner of each parcel within specified parameters of that property or posted not less than three calendar days before the public hearing on the property proposed for subdivision, in a visible location with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by. In addition the city or town must mail notice to each affected entity of any public hearing to consider a preliminary plat describing a multiple-unit residential development or a commercial or industrial development. There is no definition in the Act for multiple unit residential development or commercial or industrial development.

For any proposal to vacate, alter, or amend a platted street, the city or town must hold a public hearing. They shall give notice of the date, place, and time of the hearing by mailing notice to property owners the city and town affected entities. The city or town must publish a notice once a week for four consecutive weeks before the hearing, in a newspaper of general circulation in the municipality in which the land subject to the petition is located or, if there is no newspaper of general circulation, in the municipality by posting the property and posting notice in three public places for four consecutive weeks before the hearing.

Once any notice is given for a public hearing or a public meeting and the notice is not challenged within 30 days after the meeting or the action for which notice is given, the notice is considered adequate and proper, and it is too late to challenge the sufficiency of the notice.