

# 2017 Land Use Legislative Update:

## Panel:

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April 6, 2017

# 2017 Session: Land Use Legislation

## HB 232 Land Use Amendments

- ▣ “Stricter requirements” may not contradict state law
- ▣ Legislative/Administrative (regulation vs. application)
- ▣ Plain language vs. ambiguity
- ▣ Judicial deference to land use regulations
- ▣ Judicial scrutiny of application of regulations
- ▣ Land Use Regulations include subdivision/engineering standards
- ▣ Yet another reminder to update outdated codes

# HB 232 Clarifies How Land Use Codes are Interpreted

1. Land use regulations are “strictly construed” to preserve an applicant’s common law right to otherwise unrestricted use of property.
2. Land use regulations that are expressed in “plain language” will be enforced
3. Ambiguous land use regulations do not restrict an applicant’s proposed use and ultimately will not be enforced.
4. A land use regulation is ambiguous if it can be understood by reasonably well-informed persons to have different meanings (Is it ambiguous if it must be “interpreted”?)

# Conditional Use Example

Pre-2005 LUDMA revisions—

  
“**May** approve, deny or  
approve with conditions”

Since 2005

**Must approve** if conditions can  
**substantially mitigate** detrimental  
effects to **comply with applicable**  
**standards.**

# 2017 Non-LUTF Land Use Legislation

## 1. **2SB 241 Local Government Plan Review Amendments**

- ▣ Construction project initial plan review deadline—
  - ▣ 14 business days: single family or duplex
  - ▣ 21 business days: IBC residential
  - ▣ N/A to “Lodging establishment”/Commercial/Industrial
- ▣ Consequence of missing deadline on stamped plans
- ▣ One year sunset

## 2. **2S HB 355 Unified Commercial Development Amendments**

- ▣ UDOT permit waiver required for new common area commercial signs located in the outdoor advertising corridor

## 3. **2HB 253 Short-Term Rental Amendments**

- ▣ Enacts Federal Communications Decency Act Restrictions
- ▣ Cannot prohibit the sole act of advertising a STR on a short-term rental website
- ▣ Bill does not limit local authority to regulate or prohibit a STR

# 2017 Session: Impact Fee Legislation

## HB 279 Impact Fee Amendments

- ▣ Instructions for implementing the 6 year duty to spend/encumber
- ▣ Individualized notice to “original owner” of right to refund
- ▣ “Original owner” is the record owner of a lot at the time the impact fee was originally paid
- ▣ Claimant: Original owner; person providing notice w/30 days of valid legal claim to refund
- ▣ Process for resolving refund of disputed or unclaimed fees
- ▣ Process to spend unclaimed refund fees

# Action items:

1. Ensure adequate building permit review staffing
2. Track building permit applications through issuance
3. Participate in plan review interim study process
4. Revise building permit application process to accept only complete applications, free of planning/infrastructure issues
5. Ensure engineering standards/fees are enacted as land use regulations
6. Notice “claimants” to unspent/unencumbered Impact Fees
7. Continue land use code update process – triage method