

**CHAPTER 15. PLANNING****Article 15-1. In General****Article 15-2. Development Standards****Article 15-3. Constitutional Taking Guidelines and Review Procedures****Article 15-4. Townships****Article 15-1. In General****15-1-1. Zoning ordinance.****15-1-2. Copies of Ordinance.****15-1-3. Penalties.****15-1-1. Zoning ordinance.**

The Utah County Zoning Ordinance, 1992 Edition, which was passed July 15, 1992, and all subsequent amendments thereto, are hereby revoked and the Utah County Zoning Ordinance, with amendments through July 21, 1993, which is in book form, is hereby adopted and enacted instead thereof; however, the Official Utah County Zone Map is not revoked but is hereby ratified and shall continue to remain in effect. (Ord. No. 1993-06, Section 1, 7-21-93)

**15-1-2. Copies of Ordinance.**

Three (3) copies of the Utah County Zoning Ordinance, with amendments through July 21, 1993, are ordered to be filed in the office of the County Clerk for the use and examination by the public. (Ord. No. 1993-06, Section 2, 7-21-93)

**15-1-3. Penalties.**

Violations of any provision of the Utah County Zoning Ordinance shall be a Class C Misdemeanor and subject to the criminal and civil remedies stated in Sections 17-27-1002 and 17-27-1003, Utah Code Annotated and Chapter 7 of said Utah County Zoning Ordinance. (Ord. No. 1993-06, Section 3, 7-21-93)

**Article 15-2. Development Standards****15-2-1. Development Standards.****15-2-2. Adoption of Manual of Standard Specifications.****15-2-3. Violations.****15-2-4. Civil Remedies.****15-2-5. Severability.****15-2-1. Development Standards.**

(a) There is hereby established, the Utah County Development Standards of Utah County, Utah.

(b) The Utah County Development Standards are adopted in book form and by this reference made part

of this Chapter to the same extent and effect as though said Standards were copied herein in full. (Ord. No. 1992-03, Sections 1-2, 4-1-92)

**15-2-2. Adoption of Manual of Standard Specifications.**

(a) As authorized in Section 17-15-1, Utah Code Annotated, 1953, there is hereby adopted the *Manual of Standard Specifications, 1997 Edition*, published by the Utah Chapter of the American Public Works Association, as the standard requirements for installation of materials and systems in public works environments.

(b) The *Manual of Standard Specifications, 1997 Edition* is adopted in book form and by this reference made part of this Chapter to the same extent and effect as though said manual was copied herein in full.

(c) The *Manual of Standard Plans*, published by the Utah Chapter of the American Public Works Association, is hereby adopted in book form as recommended plans to be used in the installation of materials and systems in public works environments. (Ord. No. 1998-11, 05-19-98)

**15-2-3. Violations.**

Any violation of this Article shall be deemed a misdemeanor punishable by a fine not to exceed \$1,000.00 and/or a jail sentence not to exceed six months in the Utah County Jail or by both such fine and jail sentence. (Ord. No. 1992-03, Section 5, 4-1-92)

**15-2-4. Civil Remedies.**

The County Attorney may, in addition to other remedies provided by law, institute legal action for injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove any unlawful development, not meeting the standards set forth in the *Manual of Standard Specifications* adopted by this Article, or any violation of this Article or amendments thereof. (Ord. No. 1998-11, 05-19-98)

**15-2-5. Severability.**

In the event that any section, paragraph, clause, or provision of this Article is for any reason held to be invalid, unconstitutional, or unenforceable, the invalidity, unconstitutionality, or unenforceability of such section, paragraph, clause, or provision shall not affect the remaining provisions of this Article. (Ord. No. 1992-03, Section 7, 4-1-92)

### Article 15-3. Constitutional Taking Guidelines and Review Procedures

#### 15-3-1. Purpose.

#### 15-3-2. Definitions.

#### 15-3-3. Exclusion from Article.

#### 15-3-4. Guidelines advisory.

#### 15-3-5. Review of decision.

#### 15-3-6. Hearing examiners.

#### 15-3-1. Purpose.

The purpose of this Article is to establish guidelines and a procedure for review of county actions that involve a physical taking or exaction of private real property that may have constitutional taking issues. This Article is further intended and shall be construed to objectively and fairly review claims by property owners that any such county actions should require payment of just compensation, yet preserve the ability of the county to lawfully regulate real property and fulfill its other duties and obligations. (Ord. No. 1994-39, 12-28-94)

#### 15-3-2. Definitions.

(a) "County" shall mean Utah County, its officers, employees, boards, agencies and commissions.

(b) "Constitutional taking" shall mean actions by the county involving the physical taking or exaction of private real property that might require compensation to the property owner because of:

(1) the Fifth or Fourteenth Amendment to the Constitution of the United States;

(2) Article I, Section 22 of the Utah Constitution;

(3) any recent court ruling governing the physical taking or exaction of private real property by Utah County.

An action by the county involving the physical taking or exaction of private real property is not a constitutional taking if the physical taking or exaction bears an essential nexus to a legitimate government interest and is roughly proportionate and reasonably related, on an individual property basis, both in nature and extent, to the impact of the proposed development on the legitimate government interest. (Ord. No. 1994-39, 12-28-94)

#### 15-3-3. Exclusion from Article.

This Article shall not apply when the county formally exercises its powers of eminent domain or when it regulates real property or requires payment of fees where there is no physical taking or exaction of the property. (Ord. No. 1994-39, 12-28-94)

#### 15-3-4. Guidelines advisory.

The guidelines adopted and decisions rendered pursuant to the provisions of this Article are advisory and shall not be construed to expand or limit the scope of the county's liability for a constitutional taking. The Board of County Commissioners shall not be required to make any determination under this Article except pursuant to Section 15-3-5. (Ord. No. 1994-39, 12-28-94)

#### 15-3-5. Review of decision.

Any owner of private real property who claims that there has been a constitutional taking by the county of the owner's real property shall request review of the final decision constituting the alleged constitutional taking. The following are the specific requirements established for such a review:

(a) the person requesting the review must have obtained a final decision from which the review is being requested;

(b) within 30 days from the date of the final decision, the person requesting the review shall file in writing in the office of the County Commission, an application for review of that decision. A copy of the application shall also be filed with the County Attorney's Office.

(c) in addition to the written request for review, the applicant must submit the following before the application shall be considered as submitted and complete:

(1) name of the applicant requesting review;

(2) name and business address of current owner of the property, form of ownership, whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture or other, and if owned by a privately held corporation, partnership, or joint venture, name and address of all principal shareholders or partners;

(3) a detailed description of the grounds for the claim that there has been a constitutional taking including any legal authority which supports the claim;

(4) a legal description of the property alleged to have been taken;

(5) evidence and documentation as to the value of the property alleged to have been taken, including the date of acquisition and the cost of acquisition. This should include any evidence of the value of that same property before and after the alleged constitutional taking, the name of the party from whom purchased, including the relationship, if any, between the person requesting a review and the party from whom the property was acquired;

(6) nature of the interest claimed to be affected, such as, but not limited to, fee simple ownership, leasehold interest;

(7) terms (including sale price) of any previous purchase or sale of a full or partial interest in the property within the three years prior to the date of the application;

(8) all appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within three years prior to the date of the application;

(9) the assessed value of and ad valorem taxes on the property for the previous three years;

(10) all information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance and term of the loan and other significant provisions, including but not limited to, right of purchasers to assume the loan;

(11) all listing of the property for sale or rent, price asked and offers received, if any, within the previous three years;

(12) all studies commissioned by the petitioner or agents of the petitioner within the previous three years concerning feasibility of development or utilization of the property;

(13) for income producing property, itemized income and expense statements from the property for the previous three years;

(14) information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and

(15) the County Commission may request additional information reasonably necessary, in its opinion, to arrive at a conclusion concerning whether there has been a constitutional taking.

(d) upon written notice by the County Commission that the application is complete, it shall be considered as submitted. The County Commission shall then set a time to review the decision that gave rise to the constitutional takings claim. The County Commission shall promptly notify an applicant when the application is incomplete.

(e) the County Commission shall hear all the evidence related to and submitted by the applicant, the County, or any other interested party.

(f) a final decision on the application shall be rendered within 14 days from the date the complete application for review has been received by the County Commission. The decision of the County Commission shall be given in writing to the applicant and the officer, employee, board, or commission that rendered the final decision that gave rise to the constitutional takings claim. (Ord. No. 1994-39, 12-28-94)

#### **15-3-6. Hearing examiners.**

The Board of County Commissioners may appoint one or more hearing examiners to review and hear

applications filed under this Article and make recommendations to the County Commission and to any other officer, employee, board or commission that made the decision that gave rise to the constitutional takings claim. (Ord. No. 1994-39, 12-28-94)

### **Article 15-4. Townships.**

#### **Division 15-4-1. Establishment of Townships**

#### **Division 15-4-2. Township Planning Commission**

#### **Division 15-4-1. Establishment of Townships**

##### **15-4-1-1. Definitions.**

##### **15-4-1-2. Establishment of Rural Manila Township.**

##### **15-4-1-3. Establishment of other townships.**

##### **15-4-1-4. Review.**

##### **15-4-1-1. Definitions.**

As used in this Article:

(a) "Township" means a contiguous, geographically defined portion of the unincorporated area of Utah County, established pursuant to Title 17, Chapter 27, or reconstituted or reinstated under Subsection 17-27-200.5(2)(e), Utah Code Annotated, 1953, as amended, with planning and zoning functions as exercised through the township planning commission, as provided in Title 17, Chapter 27, but with no legal or political identity separate from the county and no taxing authority.

(b) "Unincorporated" means not within a municipality. (Ord. No. 1997-19, 08-12-97)

##### **15-4-1-2. Establishment of Rural Manila Township.**

Pursuant to the provisions of Section 17-27-200.5(2)(e)(i), Utah Code Annotated, 1953, as amended, there is hereby reinstated the township known as the "Rural Manila Township" with the same boundaries as before it was dissolved under Chapter 389, Laws of Utah, 1997. Parcels of real property located within the original boundaries proposed for the township which had filed petitions for annexation into an adjoining municipality prior to February 4, 1997, shall be excluded from the township area. (Ord. No. 1997-19, 08-12-97)

##### **15-4-1-3. Establishment of other townships.**

Pursuant to the provisions of Section 17-27-200.5(2)(e)(ii), Utah Code Annotated, 1953, as amended, the Board of County Commissioners may enact an ordinance establishing as a township any

former township which was dissolved under Chapter 389, Laws of Utah, 1997, even though the former township does not qualify to be reinstated under Subsection 17-27-200.5(2)(e)(i)(A), Utah Code Annotated, 1953, as amended. (Ord. No. 1997-19, 08-12-97)

**15-4-1-4. Review.**

(a) After May 1, 2002, the Board of County Commissioners shall review any township reinstated or established under Subsection 17-27-200.5(2)(e)(I), Utah Code Annotated, 1953, as amended, and determine whether its continued existence is advisable. In conducting the review required herein, the Board of County Commissioners shall hold a public hearing with reasonable, advance, published notice of the hearing and the purpose of the hearing.

(b) Each township that has been reinstated or established under Subsection 17-27-200.5(2)(e)(I), Utah Code Annotated, 1953, as amended, shall continue in effect, unless, within 90 days after conducting the review and public hearing required herein, the Board of County Commissioners by ordinance dissolves the township and its planning commission. (Ord. No. 1997-19, 08-12-97)

**Division 15-4-2. Township Planning Commission**

**15-4-2-1. Appointment of members.**

**15-4-2-2. Election of members.**

**15-4-2-3. Vacancies on Planning Commission.**

**15-4-2-4. Powers and duties.**

**15-4-2-5. Incorporations and annexations.**

**15-4-2-6. Zoning Ordinance.**

**15-4-2-1. Appointment of members.**

(a) In accordance with the provisions of Section 17-27-201, Utah Code Annotated, 1953, as amended, and except as provided in Section 15-4-2-2, the Board of County Commissioners shall appoint seven members of each Township Planning Commission. Township Planning Commission members shall serve four year terms and until their successors are appointed and qualified.

(b) Notwithstanding the provisions of Subsection (a), and except as provided in Section 15-4-2-2, members of the first Township Planning Commission shall be appointed so that the terms of at least one member and no more than two members expire on the first Monday of January in each year.

(c) Except as provided in Subsection 15-4-2-2(d), each member of a Township Planning Commission shall be a registered voter residing within the township.

(d) Members of the Township Planning Commission shall be administered the oath of office following election or appointment, but before taking part in the consideration of any matter.

(e) After all members of the Township Planning Commission have been elected or appointed, the Commission shall meet and elect a chairman and such other officers necessary to fulfill its duties. "Roberts Rules of Order" shall be followed in the conduct of all meetings wherever applicable. The Township Planning Commission shall adopt a regular meeting schedule and shall hold its meetings at any place designated by the Commission. All meetings of the Township Planning Commission shall be open to the public and comply with the requirements of Title 52, Chapter 4, Utah Code Annotated, 1953, as amended, entitled "Open and Public Meetings." (Ord. No. 1997-19, 08-12-97)

**15-4-2-2. Election of members.**

(a) Pursuant to the provisions of Section 17-27-201(3)(e)(i), Utah Code Annotated, 1953, as amended, in townships reinstated or established under Subsection 17-27-200.5(2)(e)(I), Utah Code Annotated, 1953, as amended, three members of the Township Planning Commission shall be elected.

(b) Members of the Township Planning Commission in townships reinstated or established under Subsection 17-27-200.5(2)(e)(I), Utah Code Annotated, 1953, as amended, shall serve for terms of four years, provided, however, that the terms of initial Planning Commission members shall be as set forth in subparagraph (c) below.

(c) The Township Planning Commission member who received the highest number of votes in the establishment election for a township which was dissolved under Chapter 389, Laws of Utah 1997, shall serve an initial term until the first Monday in January 2001. The two Township Planning Commission members who received the second and third highest number of votes shall serve initial terms until the first Monday in January 1999. Two of the four Township Planning Commission members appointed by the Board of County Commissioners pursuant to Section 15-4-2-1 shall serve initial terms until the first Monday in January 1998 and two of the four Township Planning Commission members appointed by the Board of County Commissioners pursuant to Section 15-4-2-1 shall serve initial terms until the first Monday in January 2000.

(d) Notwithstanding Subsection 15-4-2-1(c), one member of a Township Planning Commission of a township reinstated or established under Subsection 17-27-200.5(2)(e)(I), Utah Code Annotated, 1953, as amended, may be an appointed member who is a

registered voter residing outside the township if that member:

(i) is an owner of real property located within the township; and

(ii) resides within Utah County.

(e) Any appointee under Subsection (d) shall be chosen by the Township Planning Commission from a list of three persons submitted by the Board of County Commissioners. If the Township Planning Commission has not notified the Board of County Commissioners of its choice within 60 days of the Township Planning Commission's receipt of the list, the Board of County Commissioners may appoint one of the persons on the list or a registered voter residing within the township as a member of the Township Planning Commission.

(f) The election of Township Planning Commission members under this Section shall coincide with the election of other county officers during even-numbered years.

(g) Candidates for elected Township Planning Commission members shall be registered voters and residents of the township area. Candidates shall file a declaration of candidacy with the County Clerk on forms prepared by the Clerk and shall pay a \$10 filing fee. The procedures for election of Township Planning Commission members shall be in accordance with procedures established by the Utah Election Code governing municipal elections.

(h) Elections regarding the selection of Township Planning Commission members shall be subject to the requirements of the campaign finance disclosure ordinance (Article 2-5, Utah County Code). (Ord. No. 1997-19, 08-12-97)

#### **15-4-2-3. Vacancies on Planning Commission.**

(a) Whenever a vacancy occurs on the Township Planning Commission, for any reason, a replacement to serve out the unexpired term shall be appointed by the Board of County Commissioners.

(b) Whenever an elected member of the Township Planning Commission moves from the township area, that member shall be deemed to have resigned from the Commission and his unexpired term shall be filled as provided in Subsection (a). (Ord. No. 1997-19, 08-12-97)

#### **15-4-2-4. Powers and duties.**

Each Township Planning Commission shall, with respect to the township area:

(a) prepare and recommend a general plan and amendments to the general plan to the Board of County Commissioners as provided in Title 17, Chapter 27, Utah Code Annotated;

(b) recommend zoning ordinances and maps, and amendments to zoning ordinances and maps, to the

Board of County Commissioners as provided in Title 17, Chapter 27, Utah Code Annotated;

(c) administer provisions of the zoning ordinance, if specifically provided for in the zoning ordinance adopted by the Board of County Commissioners;

(d) recommend subdivision regulations and amendments to those regulations to the Board of County Commissioners as provided in Title 17, Chapter 27, Utah Code Annotated;

(e) recommend approval or denial of subdivision applications as provided in Title 17, Chapter 27, Utah Code Annotated;

(f) advise the Board of County Commissioners on matters as the Board directs;

(g) hear or decide any matters that the Board of County Commissioners designates, including the approval or denial of, or recommendations to approve or deny, conditional use permits;

(h) exercise any other powers delegated to it by the Board of County Commissioners; and

(i) exercise any other powers that are necessary to enable it to perform its functions. (Ord. No. 1997-19, 08-12-97)

#### **15-4-2-5. Incorporations and annexations.**

The Planning Commission of a township under this Article may recommend to the Board of County Commissioners:

(a) that the Board of County Commissioners support or oppose a proposed incorporation of an area located within the township, as provided in Subsection 10-2-105(4), Utah Code Annotated, 1953, as amended; or

(b) that the Board of County Commissioners file a protest to a proposed annexation of an area located within the township as provided in Subsection 10-2-407(1)(b), Utah Code Annotated, 1953, as amended. (Ord. No. 1997-19, 08-12-97)

#### **15-4-2-6. Zoning Ordinance.**

Until such time as a separate general plan, zoning ordinance, and subdivision ordinance are established for the township area, the general plan, zoning ordinance, and subdivision ordinance for Utah County shall apply to the township and the Township Planning Commission shall be subject to all provisions of the Utah County Zoning Ordinance as it now exists and as it may be amended from time to time.