

**Subdivision Ordinance Update | SB 174 (2023) | HB 476 (2024)**  
**Questionnaire for Optional Decisions for Municipalities**  
**Smith Hartvigsen, July 2024**

## **Main Policy Decisions for Subdivision Procedures**

### Completion of Subdivision Application

- Do you want to implement a time limit for determining whether a subdivision application is complete?<sup>1</sup>
- Who is responsible for determining whether an application is complete?

### Subdivision Improvement Plans

- Do you want to require the subdivision improvement plan to be submitted with a subdivision application? If yes, is it required with preliminary or final application?
- Do you want to have discretion to restart the application process for the portion substantially affected by a material change in the subdivision improvement plan?<sup>2</sup>

### Preliminary Approvals

- Who is the administrative land use authority (ALUA) for preliminary approvals?
- Do you want to consider the preliminary approval in a public meeting? (optional unless ALUA is PC)
- Do you want to hold (one) public hearing on preliminary approvals or keep preliminary approvals as an administrative function?<sup>3</sup>
- Do you want to permit concurrent review of the preliminary and final applications?<sup>4</sup>

### Final Approvals

- Who is responsible for final approval?<sup>5</sup>

### Applied to Subdivisions Specifically

- What other subdivision types (besides the required single-family, duplex, and townhome subdivisions) do you want this new process to apply to?<sup>6</sup>
- Do you want a different process for minor subdivisions? If so, determine the maximum number of lots (10 or fewer) and if you want a different land use authority.<sup>7</sup>

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<sup>1</sup> We recommend a relatively short time period because the completeness timer starts from the time you **receive** the application. This timeline can be code, policy, or informal goal. The deadline to complete the initial review **may** land before the administrative land use authority's next scheduled meeting. The city may still provide comments to the applicant through staff before the administrative land use authority makes a decision on the preliminary application. However, because any change or correction not raised at any review stage is waived, the administrative land use authority would not be able to add its own comments to the review cycle if not already covered by staff comments.

<sup>2</sup> Your time limits to review complete subdivision application shall be for: Initial review: no later than 15 days for pop. over 5,000 and no later than 30 days for pop. 5,000 or less; Final review with subdivision improvement plan: within 20 days for pop. over 5,000 and within 40 days for pop. 5,000 or less; Revised Plan: within 20 days/40 days to complete review. If revisions come in late, City or Town gets additional 20 days. [The timelines are unclear if subdivision improvement plans are submitted at initial review. Presumably it is still 15/30]. See 10-9a-604.2.

<sup>3</sup> Residential subdivision preliminary approvals can be entirely administrative.

<sup>4</sup> Not recommended, especially with 2024 clarifications.

<sup>5</sup> Options: staff, director, administrative land use authority, assuming the ALUA is not the planning commission, etc., but cannot be the city council.

<sup>6</sup> Examples: multifamily or commercial.

<sup>7</sup> The process itself still must comply with SB 174, but the requirements may be different.

## **Additional Considerations<sup>8</sup>**

### Development Agreements

- Do you want to permit a phasing sequence in a development agreement that will effectively allow you to address development issues across multiple phases at once instead of individually by phase?<sup>9</sup>
- Do you want to expand the terms that may be included in a development agreement?<sup>10</sup>
- If applicant applies for legislative or discretionary approval when developing land, do you want to require a development agreement as a condition for developing land?<sup>11</sup>

### Technical Review and Subdivision Improvements

- Do you want to withhold building permits for enforcement purposes?<sup>12</sup>
- Do you want to withhold certificates of occupancy for incomplete public sidewalks?<sup>13</sup>
- Do you plan to, at least sometimes, require additional information beyond the published checklists (preliminary and final) to ensure compliance with your ordinances and standards for public improvements?

### Document Recording Against Property

- Do you want to record any documents against the property so long as the documents do not impose development requirements, regulations, or controls on the property?<sup>14</sup>

### Other

- Do you need an overpressure (accidental explosion protection) zone ordinance?<sup>15</sup>
- Do you want to require a seller of a newly constructed residence to inform the first buyer of the municipal ordinance that requires water wise landscaping?<sup>16</sup>

### Drafting Preference

- Do you want to update your terminology to mirror State definitions or just modify your terminology to comply?<sup>17</sup>

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<sup>8</sup> Many of these topics warrant their own separate discussions, if applicable and desirable.

<sup>9</sup> This is the only viable way to address development issues across multiple phases together. Otherwise, each phase must be considered independently as if it were a complete separate application.

<sup>10</sup> Options include: a master planned development; a planned unit development; an annexation; affordable or moderate-income housing with development incentives; a public-private partnership; or a density transfer or bonus within a development project or between development projects. Utah Code Ann. Subsection 10-9a-532(1).

<sup>11</sup> The approval could relate to structure height, parking or setback exception, density transfer or bonus, development incentive, zone change, or amendment to the prior development agreement. Utah Code Ann. Subsection 10-9a-532(2)(d).

<sup>12</sup> You must meet new specific statutory limitations on private landscaping and public sidewalks.

<sup>13</sup> There are limits on this: only applies to public sidewalk in a portion of a public right-of-way and located immediately adjacent to single-family, two-family, or townhome residential structures.

<sup>14</sup> Consider recordation of: a fully executed development agreement; a document related to code enforcement, special assessment area, a local historic district boundary; or the memorialization or enforcement of an agreed upon restriction, incentive, or covenant.

<sup>15</sup> This is a narrow exception that could apply to your city or town. Utah Code Ann. 10-9a-534(3)(i)

<sup>16</sup> Optional, but it conforms with the legislature's interest in private water usage and municipal general plans.

<sup>17</sup> "Subdivision improvement plans," "subdivision infrastructure," and "subdivision plan review" were defined and used differently in HB 476. See Utah Code Ann. Subsection 10-9a-604.2(1).