

Providence City Planning Commission Agenda

April 14, 2021 6:00 p.m.

Location: Providence City Office Building, 164 North Gateway Drive, Providence UT

Members of the Planning Commission may be attending this meeting electronically. This meeting will live stream on Providence City's YouTube Channel. Presenters and public may attend the meeting via a Zoom link. To request a link, email providencecityutah@gmail.com

Comments: The Planning Commission accepts comments: in-person, by email, and by text. In-person: Providence City Office Building, 164 N Gateway Drive, Providence UT
Email: providencecityutah@gmail.com
Text: 435-752-9441

Call to Order: Kathleen Alder, Chair

Roll Call of Commission Members:

Pledge of Allegiance:

Approval of the Minutes:

The Planning Commission will consider approval of the minutes for March 31, 2021.

Public Comments: Citizens may express their views on issues within the Planning Commission's jurisdiction. The Commission accepts comments: in-person, by email providencecityutah@gmail.com, and by text 435-752-9441. By law, email comments are considered public record and will be shared with all parties involved, including the Planning Commission and the applicant.

Public Hearing(s): None

Legislative – Action Item(s): None

Administrative Action Item(s): None

Training Items: The Providence Planning Commission will participate in the following training topics:

Training Topic 1. Open & Public Meetings Act

Training Topic 2. Understanding Variances (a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property).

Training Topic 3. Planning Commission's role in land use applications and approvals.

Study Items(s):

Item No. 1. Mixed-Use District: The Planning Commission will discuss Providence City Code Title 10 Chapter 4 Section 4 Mixed Use District.

Agenda posted by S Bankhead on April 9, 2021


Skarlet Bankhead
City Recorder

- If you have a disability and/or need special assistance while attending the Providence City Planning Commission meeting, please call 435-752-9441 before 5:00 p.m. on the day of the meeting.
- Public meetings will be held electronically in accordance with Utah Code Ann. §§ 52-4-207 et. seq., Open and Public Meetings Act. The Providence City Office Building, 164 N. Gateway Dr. is the anchor location; unless otherwise determined by the Chair, in accordance with UCA 52-4-207(4), an electronic meeting will be held without an anchor location.
- Providence City Council Members may be in attendance at this meeting; however, no Council action will be taken even if a Quorum exists.

1 **Providence City Planning Commission Minutes**

2 **March 31, 2021 6:00 p.m.**

3 **Location:** Providence City Office Building, 164 North Gateway Drive, Providence UT

4
5 Members of the Planning Commission may be attending this meeting electronically.

6 This meeting was live streamed on Providence City's YouTube Channel

7
8 **Call to Order:** Kathleen Alder, Chair

9 **Roll Call of Commission Members:** Kathleen Alder, Chair

10 **Member Attendance:** Kathleen Alder, Rowan Cecil, Joe Chambers (non-voting alternate), Michael Fortune, Brian
11 Marble (voting alternate), Robert Perry

12 **Excused:** Laura Banda

13 **Pledge of Allegiance:** Joe Chambers

14
15 **Approval of the Minutes:**

16 The Planning Commission will consider approval of the minutes for March 10, 2021.

17 **Motion to approve the minutes for the March 10th meeting: — R Cecil, second — R Perry**

18 **Vote:**

19 **Yea: K Alder, R Cecil, B Marble, R Perry**

20 **Nay:**

21 **Abstained: M Fortune**

22 **Excused:**

23
24 **Public Comments:** Citizens may express their views on issues within the Planning Commission's jurisdiction. The
25 Commission accepts comments: in-person, by email providencecityutah@gmail.com, and by text 435-752-9441.

26 By law, email comments are considered public record and will be shared with all parties involved, including the
27 Planning Commission and the applicant.

- 28
 - No public comments

29
30 **Public Hearing(s):** None

31 **Legislative – Action Item(s):** None

32
33 **Administrative Action Item(s):**

34 **Item No. 1. Final Plat:** The Planning Commission will consider and may vote on a request to approve a final plat for
35 Providence City-Center Subdivision, a 4-lot (with a remainder parcel) mixed use development containing 3
36 retail/commercial buildings and 7 residential buildings with a combined total of 54 multi-family dwelling units,
37 located in the general area of 95 South Gateway Drive.

- 38
 - Danny Macfarlane of the developer explained that this final plat is mostly the same as the preliminary
39 plat. Making a connection to the Macey's parking lot was discussed.
 - Potential uses for the commercial space were discussed.
 - D Macfarlane said that the fire marshal's comments will be addressed on the construction drawings.
 - Street side parking was discussed.
 - S Bankhead explained the conditions in the staff report.

44 **Motion to approve the final plat for the Providence City Center subdivision and supporting with the findings of
45 fact and the additional information that Skarlet mentioned: — R Cecil, second — M Fortune**

46 **Vote:**

47 **Yea: K Alder, R Cecil, M Fortune, B Marble, R Perry**

48 **Nay:**

49 **Abstained:**

50 **Excused:**

- 51
52
 - K Alder asked for another vote so that she could abstain. She disclosed that she has a connection to this
53 piece of property.

54
55 **Motion to approve the final plat for the Providence City Center subdivision and supporting with the findings of**
56 **fact and the additional information that Skarlet mentioned: — R Cecil, second — M Fortune**

57 **Vote:**

58 **Yea: R Cecil, M Fortune, B Marble, R Perry**

59 **Nay:**

60 **Abstained: K Alder**

61 **Excused:**

62

63 **Item No. 2. Final Plat:** The Planning Commission will consider and may vote on a request to approve a final plat for
64 Sage Crest Subdivision, a 15-lot residential subdivision located in the general area of 150 N Sherwood Dr.

- 65
 - D Macfarlane spoke about why some lots in the subdivision are smaller than others.
 - S Bankhead explained the findings of fact, conclusions of law and conditions in the staff report.
 - S Bankhead noted that we need to add a final condition to the report. It is the same final condition as listed on the previous report [for Providence City Center].

69 **Motion to approve the final plat for Sage Crest subdivision, a 15-lot residential subdivision located in the general**
70 **area of 150 N Sherwood Drive subject to the findings of fact, conclusions of law and the conditions as specified in**
71 **the report, and that we include the additional item under conditions regarding the requirements of the applicant**
72 **to comply with all city requirements and ordinances: — M Fortune, second — R Cecil**

73 **Vote:**

74 **Yea: K Alder, R Cecil, M Fortune, B Marble, R Perry**

75 **Nay:**

76 **Abstained:**

77 **Excused:**

78

79 **Study Items(s):** None

80

81 **Motion to close the meeting: — R Cecil, second — M Fortune**

82 **Vote:**

83 **Yea: K Alder, R Cecil, M Fortune, B Marble, R Perry**

84 **Nay:**

85 **Abstained:**

86 **Excused:**

87 Meeting adjourned at approximately 6:30 PM

88 Minutes prepared by Jesse Bardsley

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Kathleen Alder, Chair

Skarlet Bankhead, City Recorder

- 506 (c) that offers:
- 507 (i) room and board; and
- 508 (ii) an academic education integrated with:
- 509 (A) specialized structure and supervision; or
- 510 (B) services or treatment related to a disability, an emotional development, a
- 511 behavioral development, a familial development, or a social development.

512 ~~[(69)]~~ (70) "Transferable development right" means a right to develop and use land that

513 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer

514 land use rights from a designated sending zone to a designated receiving zone.

515 ~~[(70)]~~ (71) "Unincorporated" means the area outside of the incorporated area of a city

516 or town.

517 ~~[(71)]~~ (72) "Water interest" means any right to the beneficial use of water, including:

- 518 (a) each of the rights listed in Section 73-1-11; and
- 519 (b) an ownership interest in the right to the beneficial use of water represented by:
- 520 (i) a contract; or
- 521 (ii) a share in a water company, as defined in Section 73-3-3.5.

522 ~~[(72)]~~ (73) "Zoning map" means a map, adopted as part of a land use ordinance, that

523 depicts land use zones, overlays, or districts.

524 Section 2. Section 10-9a-302 is amended to read:

525 **10-9a-302. Planning commission powers and duties -- Training requirements.**

- 526 (1) The planning commission shall review and make a recommendation to the
- 527 legislative body for:
- 528 (a) a general plan and amendments to the general plan;
- 529 (b) land use regulations, including:
- 530 (i) ordinances regarding the subdivision of land within the municipality; and
- 531 (ii) amendments to existing land use regulations;
- 532 (c) an appropriate delegation of power to at least one designated land use authority to
- 533 hear and act on a land use application;

534 (d) an appropriate delegation of power to at least one appeal authority to hear and act
535 on an appeal from a decision of the land use authority; and

536 (e) application processes that:

537 (i) may include a designation of routine land use matters that, upon application and
538 proper notice, will receive informal streamlined review and action if the application is
539 uncontested; and

540 (ii) shall protect the right of each:

541 (A) land use applicant and adversely affected party to require formal consideration of
542 any application by a land use authority;

543 (B) land use applicant or adversely affected party to appeal a land use authority's
544 decision to a separate appeal authority; and

545 (C) participant to be heard in each public hearing on a contested application.

546 (2) Before making a recommendation to a legislative body on an item described in
547 Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance
548 with Section 10-9a-404.

549 (3) A legislative body may adopt, modify, or reject a planning commission's
550 recommendation to the legislative body under this section.

551 (4) A legislative body may consider a planning commission's failure to make a timely
552 recommendation as a negative recommendation.

553 (5) Nothing in this section limits the right of a municipality to initiate or propose the
554 actions described in this section.

555 (6) (a) (i) This Subsection (6) applies to:

556 (A) a city of the first, second, third, or fourth class;

557 (B) a city of the fifth class with a population of 5,000 or more, if the city is located
558 within a county of the first, second, or third class; and

559 (C) a metro township with a population of 5,000 or more.

560 (ii) The population figures described in Subsection (6)(a)(i) shall be derived from:

561 (A) the most recent official census or census estimate of the United States Census

562 Bureau; or

563 (B) if a population figure is not available under Subsection (6)(a)(ii)(A), an estimate of
564 the Utah Population Committee.

565 (b) A municipality described in Subsection (6)(a)(i) shall ensure that each member of
566 the municipality's planning commission completes four hours of annual land use training as
567 follows:

568 (i) one hour of annual training on general powers and duties under Title 10, Chapter 9a,
569 Municipal Land Use, Development, and Management Act; and

570 (ii) three hours of annual training on land use, which may include:

571 (A) appeals and variances;

572 (B) conditional use permits;

573 (C) exactions;

574 (D) impact fees;

575 (E) vested rights;

576 (F) subdivision regulations and improvement guarantees;

577 (G) land use referenda;

578 (H) property rights;

579 (I) real estate procedures and financing;

580 (J) zoning, including use-based and form-based; and

581 (K) drafting ordinances and code that complies with statute.

582 (c) A newly appointed planning commission member may not participate in a public
583 meeting as an appointed member until the member completes the training described in
584 Subsection (6)(b)(i).

585 (d) A planning commission member may qualify for one completed hour of training
586 required under Subsection (6)(b)(ii) if the member attends, as an appointed member, 12 public
587 meetings of the planning commission within a calendar year.

588 (e) A municipality shall provide the training described in Subsection (6)(b) through:

589 (i) municipal staff;

- 590 (ii) the Utah League of Cities and Towns; or
591 (iii) a list of training courses selected by:
592 (A) the Utah League of Cities and Towns; or
593 (B) the Division of Real Estate created in Section [61-2-201](#).
594 (f) A municipality shall, for each planning commission member:
595 (i) monitor compliance with the training requirements in Subsection (6)(b); and
596 (ii) maintain a record of training completion at the end of each calendar year.

597 Section 3. Section **10-9a-507** is amended to read:

598 **10-9a-507. Conditional uses.**

599 (1) (a) A municipality may adopt a land use ordinance that includes conditional uses
600 and provisions for conditional uses that require compliance with objective standards set forth in
601 an applicable ordinance.

602 (b) A municipality may not impose a requirement or standard on a conditional use that
603 conflicts with a provision of this chapter or other state or federal law.

604 (2) (a) (i) A land use authority shall approve a conditional use if reasonable conditions
605 are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of
606 the proposed use in accordance with applicable standards.

607 (ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate
608 anticipated detrimental effects of the proposed conditional use does not require elimination of
609 the detrimental effects.

610 (b) If a land use authority proposes reasonable conditions on a proposed conditional
611 use, the land use authority shall ensure that the conditions are stated on the record and
612 reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

613 (c) If the reasonably anticipated detrimental effects of a proposed conditional use
614 cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to
615 achieve compliance with applicable standards, the land use authority may deny the conditional
616 use.

617 (3) A land use authority's decision to approve or deny conditional use is an

Chapter 4 Open and Public Meetings Act

Part 1 General Provisions

52-4-101 Title.

This chapter is known as the "Open and Public Meetings Act."

Enacted by Chapter 14, 2006 General Session

52-4-102 Declaration of public policy.

- (1) The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.
- (2) It is the intent of the Legislature that the state, its agencies, and its political subdivisions:
 - (a) take their actions openly; and
 - (b) conduct their deliberations openly.

Renumbered and Amended by Chapter 14, 2006 General Session

52-4-103 Definitions.

As used in this chapter:

- (1) "Anchor location" means the physical location from which:
 - (a) an electronic meeting originates; or
 - (b) the participants are connected.
- (2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.
- (3)
 - (a) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.
 - (b) "Convening" does not include the initiation of a routine conversation between members of a board of trustees of a large public transit district if the members involved in the conversation do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation.
- (4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.
- (5) "Electronic message" means a communication transmitted electronically, including:
 - (a) electronic mail;
 - (b) instant messaging;
 - (c) electronic chat;
 - (d) text messaging, as that term is defined in Section 76-4-401; or
 - (e) any other method that conveys a message or facilitates communication electronically.
- (6)
 - (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or

acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

- (b) "Meeting" does not mean:
 - (i) a chance gathering or social gathering;
 - (ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405; or
 - (iii) a convening of a three-member board of trustees of a large public transit district as defined in Section 17B-2a-802 if:
 - (A) the board members do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation; or
 - (B) the conversation pertains only to day-to-day management and operation of the public transit district.
- (c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:
 - (i) no public funds are appropriated for expenditure during the time the public body is convened; and
 - (ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:
 - (A) for which no formal action by the public body is required; or
 - (B) that would not come before the public body for discussion or action.
- (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.
- (8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.
- (9)
 - (a) "Public body" means:
 - (i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:
 - (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
 - (B) consists of two or more persons;
 - (C) expends, disburses, or is supported in whole or in part by tax revenue; and
 - (D) is vested with the authority to make decisions regarding the public's business; or
 - (ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:
 - (A) consists of two or more persons;
 - (B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and
 - (C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.
 - (b) "Public body" includes:
 - (i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103;
 - (ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102; and
 - (iii) the Utah Independent Redistricting Commission.
 - (c) "Public body" does not include:
 - (i) a political party, a political group, or a political caucus;

- (ii) a conference committee, a rules committee, or a sifting committee of the Legislature;
 - (iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;
 - (iv) a taxed interlocal entity, as that term is defined in Section 11-13-602; or
 - (v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:
 - (A) the Research and General Counsel Subcommittee;
 - (B) the Budget Subcommittee; and
 - (C) the Audit Subcommittee.
- (10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.
- (11)
- (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.
 - (b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken.
- (12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.
- (13) "Specified body":
- (a) means an administrative, advisory, executive, or legislative body that:
 - (i) is not a public body;
 - (ii) consists of three or more members; and
 - (iii) includes at least one member who is:
 - (A) a legislator; and
 - (B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and
 - (b) does not include a body listed in Subsection (9)(c)(ii) or (9)(c)(v).
- (14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Amended by Chapter 25, 2019 General Session

Amended by Chapter 246, 2019 General Session

52-4-104 Training.

- (1) The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.
- (2) The presiding officer shall ensure that any training described in Subsection (1) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Amended by Chapter 200, 2018 General Session

Part 2 Meetings

52-4-201 Meetings open to the public -- Exceptions.

- (1) A meeting is open to the public unless closed under Sections 52-4-204, 52-4-205, and 52-4-206.
- (2)
 - (a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.
 - (b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:
 - (i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;
 - (ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;
 - (iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section 52-4-207; or
 - (iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

Renumbered and Amended by Chapter 14, 2006 General Session
Amended by Chapter 263, 2006 General Session

52-4-202 Public notice of meetings -- Emergency meetings.

- (1)
 - (a)
 - (i) A public body shall give not less than 24 hours' public notice of each meeting.
 - (ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.
 - (b) The public notice required under Subsection (1)(a) shall include the meeting:
 - (i) agenda;
 - (ii) date;
 - (iii) time; and
 - (iv) place.
- (2)
 - (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.
 - (b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.
- (3)
 - (a) A public body or specified body satisfies a requirement for public notice by:
 - (i) posting written notice:
 - (A) except for an electronic meeting held without an anchor location under Subsection 52-4-207(4), at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and
 - (B) on the Utah Public Notice Website created under Section 63F-1-701; and
 - (ii) providing notice to:

- (A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or
- (B) a local media correspondent.
- (b) A public body or specified body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63F-1-701(4)(d).
- (c) A public body whose limited resources make compliance with Subsection (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in Section 63A-12-101, to provide technical assistance to help the public body in its effort to comply.
- (4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection (3).
- (5)
 - (a) The notice requirement of Subsection (1) may be disregarded if:
 - (i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and
 - (ii) the public body or specified body gives the best notice practicable of:
 - (A) the time and place of the emergency meeting; and
 - (B) the topics to be considered at the emergency meeting.
 - (b) An emergency meeting of a public body may not be held unless:
 - (i) an attempt has been made to notify all the members of the public body; and
 - (ii) a majority of the members of the public body approve the meeting.
- (6)
 - (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.
 - (b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.
 - (c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:
 - (i) listed under an agenda item as required by Subsection (6)(a); and
 - (ii) included with the advance public notice required by this section.
- (7) Except as provided in this section, this chapter does not apply to a specified body.

Amended by Chapter 1, 2020 Special Session 5

52-4-203 Written minutes of open meetings -- Public records -- Recording of meetings.

- (1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.
- (2)
 - (a) Written minutes of an open meeting shall include:
 - (i) the date, time, and place of the meeting;
 - (ii) the names of members present and absent;
 - (iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
 - (iv) a record, by individual member, of each vote taken by the public body;
 - (v) the name of each person who:

- (A) is not a member of the public body; and
- (B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;
- (vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and
- (vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.
- (b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.
- (3) A recording of an open meeting shall:
 - (a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and
 - (b) be properly labeled or identified with the date, time, and place of the meeting.
- (4)
 - (a) As used in this Subsection (4):
 - (i) "Approved minutes" means written minutes:
 - (A) of an open meeting; and
 - (B) that have been approved by the public body that held the open meeting.
 - (ii) "Electronic information" means information presented or provided in an electronic format.
 - (iii) "Pending minutes" means written minutes:
 - (A) of an open meeting; and
 - (B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.
 - (iv) "Specified local public body" means a legislative body of a county, city, town, or metro township.
 - (v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.
 - (vi) "State website" means the Utah Public Notice Website created under Section 63F-1-701.
 - (b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.
 - (c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.
 - (d) A state public body and a specified local public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.
 - (e) A state public body shall:
 - (i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;
 - (ii) within three business days after approving written minutes of an open meeting:
 - (A) post to the state website a copy of the approved minutes and any public materials distributed at the meeting;
 - (B) make the approved minutes and public materials available to the public at the public body's primary office; and

- (C) if the public body provides online minutes under Subsection (2)(b), post approved minutes that comply with Subsection (2)(b) and the public materials on the public body's website; and
- (iii) within three business days after holding an open meeting, post on the state website an audio recording of the open meeting, or a link to the recording.
- (f) A specified local public body shall:
 - (i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;
 - (ii) within three business days after approving written minutes of an open meeting, post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); and
 - (iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.
- (g) A public body that is not a state public body or a specified local public body shall:
 - (i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;
 - (ii) within three business days after approving written minutes, make the approved minutes available to the public; and
 - (iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.
- (h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.
- (i) Approved minutes of an open meeting are the official record of the meeting.
- (5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.
- (6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (7) Notwithstanding Subsection (1), a recording is not required to be kept of:
 - (a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or
 - (b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

Amended by Chapter 425, 2018 General Session

52-4-204 Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.

- (1) A closed meeting may be held if:
 - (a)
 - (i) a quorum is present;
 - (ii) the meeting is an open meeting for which notice has been given under Section 52-4-202; and
 - (iii) (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

- (B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;
 - (C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or
 - (D) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section 63A-15-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or
- (b)
- (i) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";
 - (ii) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, the closed meeting is convened for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section 63A-15-602, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints"; or
 - (iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is convened for the purpose of conducting business relating to an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint."
- (2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.
 - (3) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.
 - (4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:
 - (a) the reason or reasons for holding the closed meeting;
 - (b) the location where the closed meeting will be held; and
 - (c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.
 - (5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.

Amended by Chapter 461, 2018 General Session

52-4-205 Purposes of closed meetings -- Certain issues prohibited in closed meetings.

- (1) A closed meeting described under Section 52-4-204 may only be held for:

- (a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;
- (b) strategy sessions to discuss collective bargaining;
- (c) strategy sessions to discuss pending or reasonably imminent litigation;
- (d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:
 - (i) disclose the appraisal or estimated value of the property under consideration; or
 - (ii) prevent the public body from completing the transaction on the best possible terms;
- (e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:
 - (i) public discussion of the transaction would:
 - (A) disclose the appraisal or estimated value of the property under consideration; or
 - (B) prevent the public body from completing the transaction on the best possible terms;
 - (ii) the public body previously gave public notice that the property would be offered for sale; and
 - (iii) the terms of the sale are publicly disclosed before the public body approves the sale;
- (f) discussion regarding deployment of security personnel, devices, or systems;
- (g) investigative proceedings regarding allegations of criminal misconduct;
- (h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;
- (i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);
- (j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;
- (k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;
- (l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;
- (m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:
 - (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;
 - (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or
 - (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;
- (n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;
- (o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:
 - (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and
 - (ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;
- (p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

- (i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and
 - (ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or
 - (q) a purpose for which a meeting is required to be closed under Subsection (2).
- (2) The following meetings shall be closed:
- (a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);
 - (b) a meeting of the Child Welfare Legislative Oversight Panel to:
 - (i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or
 - (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);
 - (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-13, to review and discuss an individual case, as described in Subsection 26-7-13(10); and
 - (d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law; and
 - (e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105.
- (3) In a closed meeting, a public body may not:
- (a) interview a person applying to fill an elected position;
 - (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or
 - (c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Amended by Chapter 12, 2020 General Session

Amended by Chapter 201, 2020 General Session

52-4-206 Record of closed meetings.

- (1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection 52-4-205(1), the public body:
 - (a) shall make a recording of the closed portion of the meeting; and
 - (b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.
- (2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.
- (3) The recording and any minutes of a closed meeting shall include:
 - (a) the date, time, and place of the meeting;
 - (b) the names of members present and absent; and
 - (c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.

- (4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (5) A recording, transcript, report, and written minutes of a closed meeting are protected records under Title 63G, Chapter 2, Government Records Access and Management Act, except that the records may be disclosed under a court order only as provided under Section 52-4-304.
- (6) If a public body closes a meeting exclusively for the purposes described under Subsection 52-4-205(1)(a), (1)(f), or (2):
 - (a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection 52-4-205(1)(a),(1)(f), or (2); and
 - (b) the provisions of Subsection (1) of this section do not apply.

Amended by Chapter 425, 2018 General Session

52-4-207 Electronic meetings -- Authorization -- Requirements.

- (1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.
- (2)
 - (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.
 - (b) The resolution, rule, or ordinance may:
 - (i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;
 - (ii) require a quorum of the public body to:
 - (A) be present at a single anchor location for the meeting; and
 - (B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;
 - (iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;
 - (iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or
 - (v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.
- (3) A public body that convenes or conducts an electronic meeting shall:
 - (a) give public notice of the meeting:
 - (i) in accordance with Section 52-4-202; and
 - (ii) except for an electronic meeting held without an anchor location under Subsection (4), post written notice at the anchor location;
 - (b) in addition to giving public notice required by Subsection (3)(a), provide:
 - (i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and
 - (ii) a description of how the members will be connected to the electronic meeting;
 - (c) except for an electronic meeting held without an anchor location under Subsection (4), establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;

- (d)
 - (i) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; or
 - (ii) for an electronic meeting held without an anchor location under Subsection (4), provide means by which the public may hear, or view and hear, the open portions of the meeting; and
- (e) if comments from the public will be accepted during the electronic meeting:
 - (i) provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting; or
 - (ii) for an electronic meeting held without an anchor location under Subsection (4), provide means by which members of the public may provide comments by electronic means to the public body.
- (4) A public body may convene and conduct an electronic meeting without an anchor location if the chair of the public body:
 - (a) makes a written determination that conducting the meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location;
 - (b) states in the written determination described in Subsection (4)(a) the facts upon which the determination is based;
 - (c) includes in the public notice for the meeting, and reads at the beginning of the meeting, the information described in Subsections (4)(a) and (b); and
 - (d) includes in the public notice information on how a member of the public may view or make a comment at the meeting.
- (5) A written determination described in Subsections (4)(a) and (b) expires 30 days after the day on which the chair of the public body makes the determination.
- (6) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

Amended by Chapter 1, 2020 Special Session 5

52-4-208 Chance or social meetings.

- (1) This chapter does not apply to any chance meeting or a social meeting.
- (2) A chance meeting or social meeting may not be used to circumvent the provisions of this chapter.

Enacted by Chapter 14, 2006 General Session

52-4-209 Electronic meetings for charter school board.

- (1) Notwithstanding the definitions provided in Section 52-4-103 for this chapter, as used in this section:
 - (a) "Anchor location" means a physical location where:
 - (i) the charter school board would normally meet if the charter school board were not holding an electronic meeting; and
 - (ii) space, a facility, and technology are provided to the public to monitor and, if public comment is allowed, to participate in an electronic meeting during regular business hours.
 - (b) "Charter school board" means the governing board of a school created under Title 53G, Chapter 5, Charter Schools.
 - (c) "Meeting" means the convening of a charter school board:

- (i) with a quorum who:
 - (A) monitors a website at least once during the electronic meeting; and
 - (B) casts a vote on a website, if a vote is taken; and
 - (ii) for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the charter school board has jurisdiction or advisory power.
 - (d) "Monitor" means to:
 - (i) read all the content added to a website by the public or a charter school board member; and
 - (ii) view a vote cast by a charter school board member on a website.
 - (e) "Participate" means to add content to a website.
- (2)
- (a) A charter school board may convene and conduct an electronic meeting in accordance with Section 52-4-207.
 - (b) A charter school board may convene and conduct an electronic meeting in accordance with this section that is in writing on a website if:
 - (i) the chair verifies that a quorum monitors the website;
 - (ii) the content of the website is available to the public;
 - (iii) the chair controls the times in which a charter school board member or the public participates; and
 - (iv) the chair requires a person to identify himself or herself if the person:
 - (A) participates; or
 - (B) casts a vote as a charter school board member.
- (3) A charter school that conducts an electronic meeting under this section shall:
- (a) give public notice of the electronic meeting:
 - (i) in accordance with Section 52-4-202; and
 - (ii) by posting written notice at the anchor location as required under Section 52-4-207;
 - (b) in addition to giving public notice required by Subsection (3)(a), provide:
 - (i) notice of the electronic meeting to the members of the charter school board at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present;
 - (ii) a description of how the members and the public may be connected to the electronic meeting;
 - (iii) a start and end time for the meeting, which shall be no longer than 5 days; and
 - (iv) a start and end time for when a vote will be taken in an electronic meeting, which shall be no longer than four hours; and
 - (c) provide an anchor location.
- (4) The chair shall:
- (a) not allow anyone to participate from the time the notice described in Subsection (3)(b)(iv) is given until the end time for when a vote will be taken; and
 - (b) allow a charter school board member to change a vote until the end time for when a vote will be taken.
- (5) During the time in which a vote may be taken, a charter school board member may not communicate in any way with any person regarding an issue over which the charter school board has jurisdiction.
- (6) A charter school conducting an electronic meeting under this section may not close a meeting as otherwise allowed under this part.
- (7)
- (a) Written minutes shall be kept of an electronic meeting conducted as required in Section 52-4-203.

- (b)
 - (i) Notwithstanding Section 52-4-203, a recording is not required of an electronic meeting described in Subsection (2)(b).
 - (ii) All of the content of the website shall be kept for an electronic meeting conducted under this section.
- (c) Written minutes are the official record of action taken at an electronic meeting as required in Section 52-4-203.
- (8)
 - (a) A charter school board shall ensure that the website used to conduct an electronic meeting:
 - (i) is secure; and
 - (ii) provides with reasonably certainty the identity of a charter school board member who logs on, adds content, or casts a vote on the website.
 - (b) A person is guilty of a class B misdemeanor if the person falsely identifies himself or herself as required by Subsection (2)(b)(iv).
- (9) Compliance with the provisions of this section by a charter school constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

Amended by Chapter 415, 2018 General Session

52-4-210 Electronic message transmissions.

Nothing in this chapter shall be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in an open meeting.

Enacted by Chapter 25, 2011 General Session

**Part 3
Enforcement**

52-4-301 Disruption of meetings.

This chapter does not prohibit the removal of any person from a meeting, if the person willfully disrupts the meeting to the extent that orderly conduct is seriously compromised.

Enacted by Chapter 14, 2006 General Session

52-4-302 Suit to void final action -- Limitation -- Exceptions.

- (1)
 - (a) Any final action taken in violation of Section 52-4-201, 52-4-202, 52-4-207, or 52-4-209 is voidable by a court of competent jurisdiction.
 - (b) A court may not void a final action taken by a public body for failure to comply with the posting written notice requirements under Subsection 52-4-202(3)(a)(i)(B) if:
 - (i) the posting is made for a meeting that is held before April 1, 2009; or
 - (ii)
 - (A) the public body otherwise complies with the provisions of Section 52-4-202; and

(B) the failure was a result of unforeseen Internet hosting or communication technology failure.

- (2) Except as provided under Subsection (3), a suit to void final action shall be commenced within 90 days after the date of the action.
- (3) A suit to void final action concerning the issuance of bonds, notes, or other evidences of indebtedness shall be commenced within 30 days after the date of the action.

Amended by Chapter 403, 2012 General Session

52-4-303 Enforcement of chapter -- Suit to compel compliance.

- (1) The attorney general and county attorneys of the state shall enforce this chapter.
- (2) The attorney general shall, on at least a yearly basis, provide notice to all public bodies that are subject to this chapter of any material changes to the requirements for the conduct of meetings under this chapter.
- (3) A person denied any right under this chapter may commence suit in a court of competent jurisdiction to:
 - (a) compel compliance with or enjoin violations of this chapter; or
 - (b) determine the chapter's applicability to discussions or decisions of a public body.
- (4) The court may award reasonable attorney fees and court costs to a successful plaintiff.

Renumbered and Amended by Chapter 14, 2006 General Session

Amended by Chapter 263, 2006 General Session

52-4-304 Action challenging closed meeting.

- (1) Notwithstanding the procedure established under Subsection 63G-2-202(7), in any action brought under the authority of this chapter to challenge the legality of a closed meeting held by a public body, the court shall:
 - (a) review the recording or written minutes of the closed meeting in camera; and
 - (b) decide the legality of the closed meeting.
- (2)
 - (a) If the judge determines that the public body did not violate Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall dismiss the case without disclosing or revealing any information from the recording or minutes of the closed meeting.
 - (b) If the judge determines that the public body violated Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall publicly disclose or reveal from the recording or minutes of the closed meeting all information about the portion of the meeting that was illegally closed.
- (3) Nothing in this section may be construed to affect the ability of a public body to reclassify a record, as defined in Section 63G-2-103, as provided in Section 63G-2-307.

Amended by Chapter 425, 2018 General Session

52-4-305 Criminal penalty for closed meeting violation.

In addition to any other penalty under this chapter, a member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor.

Enacted by Chapter 263, 2006 General Session

10-9a-702 Variances.

- (1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.
- (2)
 - (a) The appeal authority may grant a variance only if:
 - (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (v) the spirit of the land use ordinance is observed and substantial justice done.
 - (b)
 - (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:
 - (A) is located on or associated with the property for which the variance is sought; and
 - (B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 - (ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
 - (c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:
 - (i) relate to the hardship complained of; and
 - (ii) deprive the property of privileges granted to other properties in the same zone.
- (3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (4) Variances run with the land.
- (5) The appeal authority may not grant a use variance.
- (6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
 - (a) mitigate any harmful affects of the variance; or
 - (b) serve the purpose of the standard or requirement that is waived or modified.

Renumbered and Amended by Chapter 254, 2005 General Session

Chapter 2-1 Planning Commission[2-1-1 Planning Commission Created - Chair - Rules](#)[2-1-2 Planning Commission Duties](#)[2-1-3 Planning Commission Staff - Organization](#)[2-1-4 Planning Commission Procedures](#)

(U.C.A. 10-9-201 et seq.)

(OM 012-2003 11/25/03) (OM 007-2004 02/10/04) (Ordinance No. 004-2007, 1/23/2007) (Ordinance No. 010-2011 11/08/2011) (Ordinance No. 019-2016 08/09/2016)

2-1-1 Planning Commission Created - Chair - Rules

- A. A Providence City Planning Commission is hereby created. Said Commission shall consist of five (5) members, each of whom shall be a resident of Providence City and each of whom shall be appointed by the City Council.
- B. The terms of office for all members of the Planning Commission shall be three (3) years and until their successors are appointed and qualified except where appointment to a shorter term is necessary to provide for staggered terms among commission members. Members may be removed with or without cause by a majority vote of the City Council. On recommendation of the Mayor and by majority vote of the Council, standing members may be appointed to serve an additional term; however, no member may serve more than two consecutive terms. (Ordinance No. 010-2011 11/08/2011)
- C. The City Council may appoint one (1) or two (2) alternate members of the Planning Commission, who shall serve in the absence of a member or members of the Planning Commission under rules established by the Planning Commission. Alternate members shall serve subject to subsection A and B of this section.
- D. Members shall be selected without respect to political affiliation and shall serve without compensation except for payment of reasonable expenses.
- E. The Planning Commission shall:
 - 1. Elect from its membership a chair who shall serve a one (1) year term;
 - 2. Pursuant to Title 2-1-4, Providence City Code, adopt reasonable policies and rules for the transaction of business; and
 - 3. Keep a public record of its proceedings.
- F. When a regularly scheduled and noticed meeting of the Planning Commission does not occur because a quorum of the Commission is not present, all action items scheduled to be heard on that date shall be continued to the next regularly scheduled meeting of the Commission. Items originally scheduled to be heard at the meeting shall be automatically continued to the next regularly scheduled meeting the following month.
- G. The Planning Commission will allow members to attend a regularly scheduled hearing/meeting or a special hearing/meeting by teleconference pursuant to the procedures outlined in the Planning Commission bylaws.

(Ordinance No. 012-2006, 10/24/2006)

2-1-2 Planning Commission Duties

- A. Except when otherwise expressly provided, the Planning Commission shall do the following:
 - 1. Perform all functions and duties permitted or required of a Planning Commission by Chapter 9a Section 302 of Title 10 of the Utah Code, as amended.

(Ordinance No. 004-2007, 01/23/2007)

2-1-3 Planning Commission Staff - Organization

A. The Planning Commission shall have the following staff:

1. Administrative Director. The Administrative Director to the Planning Commission shall be the Administrative Services Director or her/his designee.
 - a. Duties of Administrative Director. The Administrative Director shall be responsible for providing staff services to the Planning Commission as provided in Titles 2, 10 and 11 of the Providence City Code within the provision of budget authority appropriated by the Providence City Council.
2. Secretary. The Secretary to the Planning Commission shall be assigned by the Administrative Director from the City staff.
 - a. Duties of Secretary. Subject to the direction of the Administrative Director of the Planning Commission, the Secretary shall in general attend to all correspondence of the Commission; attend all hearings/meetings of the Commission (except when excused by the Administrative Director with temporary services arranged); and generally perform or supervise all clerical work of the Commission.
 - b. Under the direction of the City Recorder, send out or cause to be published all notices required; compile all required records; maintain the necessary schedules, minutes, files and indexes.

(Ordinance No. 016-2006 11/14/2006)

2-1-4 Planning Commission Procedures

Subject to applicable state law and the provisions of this Title, the Planning Commission may establish reasonable bylaws related to organization and procedure with respect to matters within its jurisdiction. Such bylaws shall be approved by the City Council before taking effect.

(Ordinance No. 004-2007, 01/23/2007)

Chapter 2-4 Land Use Authority[2-4-1 Established](#)[2-4-2 Organization](#)[2-4-3 Duties](#)[2-4-4 Electronic Meetings](#)

(Ordinance No. 004-2007)

2-4-1 Established

There is created a Land Use Authority which shall consist of the Planning Commission for all subdivisions; and a body, Administrative Land Use, to include the City Administrative Service Director, Public Works Director, and City Engineer for all other land use applications.

2-4-2 Organization

The Planning Commission shall appoint a chairperson and the Administrative Service Director shall serve as the chairperson of their respective Land Use Authorities. Public meetings and hearings of the Authority shall be held at the call of the chairperson.

2-4-3 Duties

The Land Use Authority shall be responsible to act upon land use applications as assigned above.

2-4-4 Electronic Meetings

Public meetings held electronically will be in accordance with Utah Code, Open and Public Meetings Act. Unless otherwise designated, the Providence City Office Building, 164 N. Gateway Dr. is the anchor location. At least one member of the Land Use Authority shall be present at the anchor location unless otherwise determined by the chair, in accordance with UCA 52-4-207(4), an electronic meeting may be held without an anchor location.

HISTORY

Adopted by Ord. [2020-010](#) on 9/22/2020