

Chapter Two

Administration

An Advisory Document

The Provo City General Plan is an advisory document adopted under provisions of State of Utah and Provo City laws. It contains policies which guide the future growth and development of the City. The General Plan should be applied as a whole and interpreted in a way that gives effect to all parts of the Plan. Individual policies should thus be read in light of other relevant policies. Nevertheless, specific and detailed policy statements should be given more weight than policy which is only generally stated.

This General Plan was created with citizen participation. Thus, the Plan reflects citizens' current values and desires for the future growth and development of Provo City. To believe that the values and desires upon which this Plan is based will remain totally unchanged for the duration of this general planning period may, however, be unrealistic. Thus, this Plan allows for amendments as these values and desires of the community change.

Amendment Process

The General Plan and future amendments thereto must be adopted through the legal process established by the State of Utah Land Use Development and Management Act and Title 15 Land Use and Development of the Provo Municipal Code. These laws detail procedures for amending the Plan, including the frequency of amendment hearings, reviews, and updates. Proposed amendments are considered periodically as provided in Chapter 15.17 of the Provo City Code.

Proposals are heard by the Planning Commission, which recommends approval or denial to the Municipal Council. The Municipal Council then hears proposed amendments, which may be approved, modified or disapproved. Approved amendments become effective immediately.

Consistency of Zoning with General Plan

Before the Planning Commission recommends an amendment to the zoning ordinance or zoning map, it must be shown that the amendment is in the public interest and is consistent with the goals and policies of the Provo City General Plan. Recommendations made by the Planning Commission should address the following:

1. Public purpose for the change in question;
2. Confirmation that the public purpose is best served by the change in question;
3. Compatibility of the proposed change with General Plan policies, goals, and objectives;

4. Consistency of proposed change with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated;
5. Potential for hindrance or obstruction of attainment of the Plan's articulated policies by the proposed change;
6. Adverse impacts on adjacent land owners; and
7. Verification of correctness in the original zoning or general plan for the area in question. (See Section 14.02, Provo City Code)

Planning and Zoning Hearings

Public hearings play a vital role in receiving input from citizens concerning the various proposals that are heard by the Planning Commission. The following procedures help to ensure that citizens and other interested parties are informed and have an opportunity to be heard.

Notice

Adequate and timely notice of proceedings of the proposed decision-making or rule-making process is made available to interested persons. All meetings are conducted in adherence to the Open and Public Meetings Act (Title 52, Chapter 4, Utah Code). All legislative and administrative hearings involving decisions on zoning amendments, subdivisions, conditional use permits, annexations, street and plat vacations, building relocations, and project plan approvals are noticed to the public in accordance with the requirements established by City Code. Additional noticing is provided for matters involving an individual property decision as a matter of policy, rather than ordinance. Although failure to provide the additional noticing does not invalidate an action, it is the City's policy to provide public information through the following types of noticing:

1. The legal notice of public hearing is placed in a newspaper of general circulation at least fourteen days in advance of the hearing in accordance with City Code.
2. Notice to nearby entities is provided in accordance with City Code.
3. Courtesy noticing is provided, as follows, with the intent of providing information sufficient to enable potentially affected parties to be informed about a pending land use decision and participate in the hearing process:
 - a. A notice of the meeting is placed on Cable TV (Channel 17).
 - b. A notice of the meeting agenda is mailed or e-mailed to the Neighborhood Chair.
 - c. If required either by the neighborhood chair or by ordinance, the applicant for a land use proposal coordinates with the Neighborhood Chair to conduct a neighborhood meeting, to be held in advance of the public hearing for the purpose of educating the public about the proposal. The applicant provides flyers to properties within 500 feet; the Neighborhood Chair may provide additional notice beyond this distance. The Neighborhood Chairperson conducts this meeting, and the applicant presents plans to the public and answers questions. Meeting records are kept by the Neighborhood Chair and communicated to the Planning Commission.

- d. When a matter involves an individual property decision, a notice is mailed to all property owners of record within a specified distance.
- e. A sign is posted by the Planning Commission staff in the vicinity of the affected property.

Opportunity to be Heard

All persons interested in a prospective decision-making or rule-making process should be given an opportunity to be heard.

Opportunity to Ask Questions of Opposing Witnesses

When a hearing is regarded as adjudicative or quasi-judicial, all parties will be given the reasonable opportunity to ask questions of their opponents and opposing witnesses, although it is generally the policy for all comments and questions to be directed to the Board or Commission conducting the meeting or hearing.

Disclosure

An opportunity to see, hear, and know all instruments, facts and evidence that are considered by the decision-making body will be provided. Any private communications to individual decision-makers (*ex-parte contacts*) must be made known at administrative hearings.

Findings of Fact

When an administrative decision is involved, the findings or reasons for the decision are an essential aspect of due process. Explicit and careful findings of fact enable all interested persons to know exactly what has been decided.

Conflicts of Interest and the Appearance of Conflict or Impropriety

When an individual decision-maker has a direct or indirect financial interest in the decision or a close familial relationship with a participant, there may be concern about bias in the decision-making process. Rules are established for the performance of duties by members of the Council and other Commissions and Boards in order to avoid conflicts of interest that could result in personal benefit to a decision-maker or to parties closely associated with the decision-maker. In some cases, individuals may refrain from participation in the discussion and decision-making process in order to avoid an actual conflict of interest or the appearance of impropriety. The decision-maker may also explain why a relationship that may give such an appearance would not, in fact, be a conflict of interest and state his or her intent to participate in the discussion and vote.

Prompt Decisions

Adequate, timely notice, and a full, completely fair public hearing do not guarantee due process unless a decision is made promptly. The adage, "Justice delayed is justice denied" is appropriate here.

Records of Proceedings

Complete and accurate records of the proceedings must be kept. All exhibits must be preserved, and a record must be kept of all testimony heard and all statements made in accordance with applicable laws governing public records.

Ground Rules for Fair Hearings

A decision-making body cannot conduct a hearing in an orderly and efficient manner unless it provides a set of rules, which are made available to all interested persons.

Zoning Enforcement and Community Standards

Provo City is composed of agricultural, residential, public/institutional, commercial, and industrial land uses. Within the City, a variety of zoning designations are available to allow land uses that are appropriate to, and compatible with, a particular zone. In any given zoning designation, some land uses are permitted, while others are conditional. Whether the owner or a renter uses the property, each enjoys certain property rights. However, the enjoyment of property rights is accompanied by a certain degree of responsibility. Property owners do not have the right to use land in any way which is contrary to the adopted zoning ordinance. The increasing diversity of people and land uses in the city assures conflicts or violations will arise, which requires the City to enforce adopted zoning ordinances.

The existence of land use laws implies enforcement of adopted laws. In Provo City, the intent of zoning enforcement is to seek compliance with established land use laws. The Provo City Zoning Title is adopted and enacted for the purpose of promoting the health, safety, morals, prosperity, convenience, and general welfare of the present and future inhabitants of Provo City. Land use and development requirements are based on community standards of acceptability. Zoning enforcement should be based on maintaining and supporting community standards.

Zoning enforcement is not intended to harass, impugn, or otherwise punish, but is intended to seek compliance with community standards. Voluntary compliance should always be the first line of action. Then, in working to resolve the violation, if it becomes evident the individual or group is not willing to comply with community standards, the City will pursue compliance to the fullest extent the law will allow.

The bulk of zoning enforcement in Provo City results from complaints received from citizens and City departments. The City also, however, enforces zoning ordinances as code enforcement officers become aware of violations through inspections or observation during the course of their work.