



NORTH OGDEN CITY

SETTLED 1851

Staff Report to the North Ogden City Council

SYNOPSIS / APPLICATION INFORMATION

Application Request: Public hearing, consideration and recommendation on a legislative amendment to amend North Ogden City Code 11-3: Hearing and Publication Notice Provisions to align the requirements with Utah State Code.

Agenda Date: August 27, 2024, City Council
September 10, 2024, Planning Commission

Applicant: North Ogden City Staff

File Number: ZTA 2023-04

PUBLIC NOTICE:

Mailed Notice: N/A

City Website: August 23, 2023

STAFF INFORMATION

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APPLICABLE ORDINANCES

North Ogden Zoning Ordinance Title 11-3: Hearing and Publication Notice Provisions

LEGISLATIVE DECISION

When the City is considering a legislative matter, the Planning Commission is acting as a recommending body to the City Council. The City has wide discretion in taking legislative action. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically, the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.

BACKGROUND

The Utah State Legislature updated the Notice and Public Hearing Requirements for Municipalities. In response to these changes, the City is reviewing the Title 11-3 Hearing and Publication Notice Provisions to assure they follow Utah State Code.

The relevant sections of Utah State Code are below:

Utah State Code Title 10, Chapter 9a, Part 2 Notice.

https://le.utah.gov/xcode/Title10/Chapter9A/10-9a-P2.html?v=C10-9a-P2_1800010118000101

63G-30-102. Public notice classifications and requirements.

https://le.utah.gov/xcode/Title63G/Chapter30/63G-30-S102.html?v=C63G-30-S102_2023050320230503

ANALYSIS and DRAFT CODE LANGUAGE

Draft Code Language is below: (~~Red Text is New, Strike Through Text is recommended to be eliminated~~)

North Ogden Zoning Ordinance Title 11-3: Hearing and Publication Notice Provisions:
<https://northogden.municipalcodeonline.com/book?type=plan#name=11-3: HEARING AND PUBLICATION NOTICE PROVISIONS>

11-3: HEARING AND PUBLICATION NOTICE PROVISIONS

11-3-1: NOTICING IN GENERAL

11-3-2: PUBLIC HEARING AND PUBLIC MEETING NOTICES FOR GENERAL PLAN

11-3-3: GENERAL PUBLIC HEARINGS

11-3-1: NOTICING IN GENERAL

- A. A public meeting is a meeting that is open to the public, with public comment at the discretion of the land use authority (the reviewing body).
- B. A public hearing is a meeting that is open to the public and public comment is encouraged. The type of meeting is determined by the type of application and the reviewing body/land use authority it is before.
- C. General Public Meeting Notice.
 1. Utah State Code requires that all public bodies must:
 - a. Post their agendas 24 hours before the meeting giving the date, time and place of meeting. Public notice requirements may be satisfied by posting written notice at the building where the meeting is to be held; on the Utah Public Meeting Notice website (<http://www.utah.gov/pmn/index.html>), and on North Ogden's website.
 - b. Notify the applicant of the date, time, and place of the public meeting to consider the application; provide to each applicant a copy of any staff report and/or analysis or agency input regarding the pending application at least three business days before the public meeting; and notify the applicant of any final action on the application.

11-3-2: PUBLIC HEARING AND PUBLIC MEETING NOTICES FOR GENERAL PLAN

- A. Notice of Intent to Prepare a General Plan or to Amend a General Plan. In addition to the public meeting notice requirement above, notice of intent to prepare or adopt a General Plan or to make a General Plan amendment needs to be given to each affected entity **10 days before the scheduled hearing. Notice must be sent to the following: each affected entity, the Utah Geospatial Resource Center**, Weber County, the City website, local districts, special service districts under Utah Code Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Utah Code Title 11, Chapter 13, Interlocal Cooperation Act, specified public utilities, property owner (for specific amendments), property owners association (for specific amendments), or the Utah Department of Transportation, Automated Geographic Reference

Center; Weber Area Council of Governments (WACOG), and the Utah Public Meeting Notice website (<http://www.utah.gov/pmn/index.html>).

- B. General Plan Public Hearings with the Planning Commission or City Council. A public hearing before the Planning Commission or City Council for General Plan adoption or amendments to the General Plan requires the same intent notice requirements listed above.
- C. Public Meeting Notices for General Plan Discussions. For a General Plan related public meeting, for example, a workshop, the same general public meeting notice (Utah Public Notice website and the City website) is required.
- D. Each notice under Subsection (1) shall:
 - 1. indicate that the municipality intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;
 - 2. describe or provide a map of the geographic area that will be affected by the general plan or amendment;
 - 3. be sent by mail, e-mail, or other effective means;
 - 4. invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:
 - a. impacts that the use of land proposed in the proposed general plan or amendment may have; and
 - b. uses of land within the municipality that the affected entity is considering that may conflict with the proposed general plan or amendment; and
 - 5. include the address of an Internet website, if the municipality has one, and the name and telephone number of an individual where more information can be obtained concerning the municipality's proposed general plan or amendment.
- E. A municipality shall send the newly adopted general plan and comprehensive general plan amendments to the relevant association of governments within 45 days of the date of adoption.

11-3-3: GENERAL PUBLIC HEARINGS

- 1. Most public hearings the Planning Department sets are with the Planning Commission and City Council. The City Council is the legislative body, and is the only land use authority that can impose land use ordinances and regulations, after a recommendation from the Planning Commission, see 11-1-5. Public hearings have the same requirements as General Public Meeting Notices, except the listing will be for a public hearing and needs to be posted (Utah Public Notice website and the City website) 10 days ahead of the public hearing, notice sent to affected entities, **and provided for the area directly affected by the land use ordinance change, as a class B notice under Utah State Code Section 63G-30-102, for at least 10 calendar days before the day of the public hearing.** When the Planning Department sets a date for a public hearing, 17 days is allotted for this process; 14 days is the 'ten business days with the weekend', and then three business days are added for the time it takes the paper or Utah Public meeting notice website to publish the hearing. There are some exceptions as discussed below that will require setting a date for a public hearing, because of time requirements in State Code.
- 2. Under State Code, there are no requirements for notice to adjacent property owners except for amendments to or vacating a subdivision: "For an amendment to a subdivision, each city shall provide notice of the date, time, and place of at least one public meeting, at least 10 calendar days before the public meeting." However, North Ogden City policy is that Subdivisions, Rezoning (map changes and text), and Conditional Use applications provide for courtesy notices to be

mailed to the address of owner(s) of record within the area suggested for rezoning or a map change and to each property owner within 300 feet of the subject property.

3. Courtesy notice is not given for administrative applications that are approved by the Planning Director.
4. Special Provisions for Amending Subdivisions. The courtesy notice requirement shall not be required for vacating a subdivision if all property owners have signed a petition to vacate.
5. Public hearings for vacating subdivisions, easements, roads, road rights of way, ordinances, or map amendments, have state code standards that require public hearing notice be given at least 10 business days in advance.
6. If the legal notice is not challenged within 30 days after the meeting or action for which notice is given, the notice is considered adequate and proper.

CONFORMANCE WITH THE GENERAL PLAN

Staff believes that the Planning Commission can find the proposed Code language to be in conformance with the General Plan, but also that the existing ordinance meets the intent of the General Plan. The Planning Commission should determine if the City's Notice Provisions meet the State Code requirements.

SUMMARY OF LAND USE AUTHORITY CONSIDERATIONS

There are some guiding principles that should be considered before there is a change in code standards.

- Is the request a positive change for not only a specific property but does it make sense for the entire city?
- Is there additional language that is appropriate for this ordinance?
- Is the proposal consistent with the General Plan?

RECOMMENDATION

The Planning Commission unanimously recommended that the ordinance be approved. Staff recommends that the City Council conduct a review of the proposed ordinance amendment and discuss the adoption of the ordinance amendment.

EXHIBITS

- A. PC 9-6-2023 Minutes
- B. Ordinance Draft