

# Agenda

# GRAND COUNTY Planning Commission

**Tuesday, January 23, 2018**  
**5:30 P.M. Regular Meeting**  
Grand County Courthouse  
Council Chambers  
125 E. Center St., Moab, Utah

<b>Type of Meeting:</b>	Regular Meeting
<b>Facilitator:</b>	Gerrish Willis, Chair
<b>Attendees:</b>	Planning Commissioners, interested citizens, and staff

## 5:30 PM

Citizens to be heard	<i>Chair</i>
----------------------	--------------

Review of the Land Use Code and application procedures	<i>Staff</i>
--	--------------

Review of Land Use Code amendment for code enforcement	<i>Staff</i>
--	--------------

	<i>Staff</i>
--	--------------

	<i>Staff</i>
--	--------------

<b>Action Item</b>	Approval of January 9, 2017 Meeting Minutes	<i>Vice-chair</i>
--------------------	---	-------------------

Future Considerations –	<i>Vice-chair</i>
-------------------------	-------------------

Community Development Updates –	<i>Staff</i>
---------------------------------	--------------

County Council Update – Mary McGann/Evan Clapper	<i>Council Liaison</i>
--	------------------------

**ADJOURN**

### DEFINITIONS:

**Public hearing** = a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

**Public meeting** = a meeting required to be open to the public pursuant to the requirements of Title 52, Chapter 4, Open and Public Meetings; the public may or may not be invited to participate.

**Legislative act** = action taken by the County Council or Planning Commission; amending ordinances, adopting general plan, Annexations, zoning and rezoning; a reasonable debatable action that could promote the general welfare of the community.

**Administrative act** = action taken by the Planning Commission, County Council or staff interpreting ordinances and regulations, conditional uses, approving subdivision, site plans, issuing building permits; an administrative decision must satisfy the requirements prescribed under state law or the County Land Use Code, whichever is stricter.

Established code enforcement options via State Code:

**Already available via State statute with no changes to enforcement provisions:**

- “injunction, mandamus, abatement, or any other appropriate actions” or “proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act”
  - o only need to establish a violation for these options (UCA § 17-27a-802(1))
- enforce through denial of building permit (UCA § 17-27a-802(2)(a))

**Other options that can be added through changes to enforcement provisions:**

- Civil remedies (with the steps in order):
  - o Notice of violation, assessment of penalties (can record this as notice of amount due, not as an encumbrance) à hearing with an ALJ [or a default hearing if none is requested] à ALJ order (for payment of fines and/or requiring abatement) (can record as notice of amount due, not as an encumbrance) à (give time frame for appeal to district court) à obtain judgment from court
    - judgment à judgement lien (recorded as encumbrance)
    - judgment à writ of execution on personal property
    - judgment à writ of garnishment for wages
  - o (Tax lien without judgment) County abates and incurs costs à notice of itemized costs à record tax lien
  - o (Tax lien with judgment) County abates and incurs costs à judgment from court assessing costs à record tax lien
- Criminal remedies:
  - o Citation for Class B Misdemeanor
    - (can give power to a code enforcement administrator/enforcement official to arrest when issuing misdemeanor or administrative citation)

Proposed minimum changes to Grand County Land Use Code:

- Add a 1.8(E):
  - o A person served with notice of a violation under this Article has the right to request a code enforcement hearing. Any such request must be filed within ten calendar days from the date of service of the notice.
    - 1) the request for hearing shall be made in writing and filed with the [insert appropriate office];
    - 2) the request shall contain the case number, the address of the violation, and the signature of the responsible party;
    - 3) as soon as practicable after receiving the written notice of the request for hearing, the [insert appropriate office] shall schedule a date, time, and place for the hearing;
    - 4) written notice of the date, time, and place of the hearing shall be served on the responsible person as soon as practicable prior to the date of the hearing, in the manner provided for service of the initial notice under this Article.

Failure to request a hearing [or to attend a hearing scheduled] as provided herein shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the violation.

- Delete 1.9(A) in its entirety and replace it with:
  - o Any person, firm, entity or corporation who violates any of the provisions of this LUC or who fails to comply with any provisions hereof within Grand County shall be subject to a fine, and may also be found guilty of a Class C misdemeanor. [The fine shall begin accruing upon notice of the violation/failure to comply, as set forth in this Article, as follows: [\$100] to [\$1,000] per day in violation/failure to comply, as set forth on the County's current schedule of fines for the applicable violation.] The minimum fine for each violation/failure to comply shall be [\$100]. Upon conviction of a Class C misdemeanor, the responsible party shall be subject to imprisonment for up to 90 days.
  
- Delete 1.9(D) in its entirety and replace it with:
  - o Violations of this LUC may be enforced through the processes set forth in this Article, by any other method authorized by any applicable County ordinance or state statute, by the filing of civil or criminal actions, or by any other method permitted by law, in the County's full discretion. The pursuit of any one method of enforcement under this Article does not foreclose or limit the right of the County to seek other remedies or methods of enforcement.

## Section 1.8 Enforcement

- A.** The County, the County Attorney, or any owner of real estate within the county may, in addition to other remedies provided by law, institute: injunctions, mandamus, abatement, or any other appropriate actions; or proceedings to prevent, enjoin, abate, or remove the unlawful building, use or act. The County need only establish the violation to obtain the injunction.
- B.** The County may enforce the requirements of the LUC by withholding building permits. It is unlawful to erect, construct, reconstruct, alter or change the use of any building or other structure without approval of a Zoning Development Permit and a Building Permit. The County may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conforms to the provisions of this LUC.
- C.** Any person aggrieved by a violation or apparent violation of the provisions of this LUC may file a written complaint with the Zoning Administrator, who shall investigate such complaint and take the appropriate action to have the violation penalized or removed, if such violation is found to exist.
- D.** When it is determined that there has been a violation of any provision of the LUC, the Zoning Administrator shall consult with the County Administrator and the County Attorney. Written legal notice of violation shall be served in the following manner:
1. Determine and include a list of violations, refer to the section or sections of the LUC violated;
  2. Determine and specify a time for compliance with relevant LUC provisions 21 days from the service of the notice; and
  3. Serve the notice on the owner, occupant, operator, lessee, agent or other responsible party in person, provided that such notice and requirement shall be deemed to be properly served on such responsible party if a copy thereof is delivered to, posted on, or sent by registered or certified mail to his/her last known mailing address, residence or place of business.

E. A person served with notice of a violation under this Article has the right to request a code enforcement hearing. Any such request must be filed within ten calendar days from the date of service of the notice.

- 1) the request for hearing shall be made in writing and filed with the [insert appropriate office];
- 2) the request shall contain the case number, the address of the violation, and the signature of the responsible party;
- 3) as soon as practicable after receiving the written notice of the request for hearing, the [insert appropriate office] shall schedule a date, time, and place for the hearing;
- 4) written notice of the date, time, and place of the hearing shall be served on the responsible person as soon as practicable prior to the date of the hearing, in the manner provided for service of the initial notice under this Article.

Failure to request a hearing [or to attend a hearing scheduled] as provided herein shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the violation.

## Section 1.9 Penalties for Violation

~~A. Any person, firm, entity or corporation who shall violate any of the provisions of this LUC or who shall fail to comply with any provisions hereof within Grand County shall be guilty of a Class C misdemeanor and upon conviction shall be subject to a fine and imprisonment for up to 90 days. Any person violating any of the provisions of this LUC shall be fined up to \$750 upon conviction and any corporation or other entity violating any provisions of this LUC shall be fined up to \$1000. The minimum penalty for a single violation of any provision of this LUC shall be \$100, and each day that such violation continues shall be considered a separate offense.~~

Any person, firm, entity or corporation who violates any of the provisions of this LUC or who fails to comply with any provisions hereof within Grand County shall be subject to a fine, and may also be found guilty of a Class C misdemeanor. [The fine shall begin accruing upon notice of the violation/failure to comply, as set forth in this Article, as follows: (\$100) to (\$1,000) per day in violation/failure to comply, as set forth on the County's current schedule of fines for the applicable violation.] The minimum fine for each violation/failure to

comply shall be (\$100). Upon conviction of a Class C misdemeanor, the responsible party shall be subject to imprisonment for up to 90 days

B. Title 17-27-811(1)(a) of the Utah Code prohibits the county recorder from recording a subdivision plat without the approvals required by this LUC. Any subdivision plat filed or recorded without the approvals required by this LUC shall be void.

C. Any person, being the owner or agent of the owner of any land located within a subdivision, who transfers or sells, agrees to sell, or negotiates to sell any land by reference to or exhibition of or by use of a plat of a subdivision before such plat has been approved by the County Council and recorded or filed in the office of the Grand County Recorder shall be charged with a Class C misdemeanor and if convicted of such charges, shall pay a penalty of up to the County of \$1000 for each lot or parcel so transferred, or sold, or agreed or negotiated to be sold. The County Council of Grand County shall have the power to bring an action to enjoin the owner or agent of the owner from selling lots in a subdivision prior to approval of the subdivision by the County Council in accordance with the provisions of this LUC. This provision shall not be interpreted as preventing the owner or agent of the owner of land located in a proposed subdivision from exhibiting a proposed plat to a prospective buyer(s) and even negotiating with such buyer(s), provided it is made clear that any negotiations and/or commitments to sell are subject to the final approval of the proposed plat by the County.

D. ~~The penalties provided herein shall be cumulative of other remedies provided by state law.~~

Violations of this LUC may be enforced through the processes set forth in this Article, by any other method authorized by any applicable County ordinance or state statute, by the filing of civil or criminal actions, or by any other method permitted by law, in the County's full discretion. The pursuit of any one method of enforcement under this Article does not foreclose or limit the right of the County to seek other remedies or methods of enforcement.

**GRAND COUNTY, UTAH**  
**ORDINANCE NO. \_\_\_\_\_, SERIES 2018**

**AMENDING SECTION 1.8 ENFORCEMENT AND  
SECTION 1.9 PENALTIES FOR VIOLATION  
OF THE GRAND COUNTY LAND USE CODE**

**WHEREAS**, the Grand County Council (County Council) adopted the *Grand County General Plan Update* (General Plan) on February 7, 2012 with Resolution No. 2976;

**WHEREAS**, the County Council adopted the *Grand County Land Use Code* (Land Use Code) on January 4, 1999 with Ordinance No. 299 and amended February 19, 2008 with Ordinance No. 468 and amended for the purpose of regulating land use, subdivision and development in Grand County in accordance with the General Plan;

**WHEREAS**, Grand County desires to amend *Section 1.8 Enforcement and Section 1.9 Penalties for Violation* of the *Grand County Land Use Code* by addressing supplemental enforcement measures and procedures;

**WHEREAS**, the Grand County Planning Commission considered this item in a public hearing on \_\_\_\_\_; and,

**WHEREAS**, the County Council considered this item in a public hearing held on \_\_\_\_\_, 2018; and

**WHEREAS**, the County Council has heard and considered all evidence and testimony presented with respect to the amendment and has determined subsequent to said public hearing that the adoption of this ordinance is in the best interests of the citizens of Grand County, Utah.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF GRAND COUNTY, UTAH, THAT** the Land Use Code is hereby amended by the addition of Section 1.8(E), to read as follows;

**Section 1.8 Enforcement**

- E.** A person served with notice of a violation under this Article has the right to request a code enforcement hearing. Any such request must be filed within ten calendar days from the date of service of the notice.
- 1) the request for hearing shall be made in writing and filed with the Community Development Department;
  - 2) the request shall contain the case number, the address of the violation, and the signature of the responsible party;
  - 3) as soon as practicable after receiving the written notice of the request for hearing, the Community Development Department shall schedule a date, time, and place for the hearing;
  - 4) written notice of the date, time, and place of the hearing shall be served on the responsible person as soon as practicable prior to the date of the hearing, in the manner provided for service of the initial notice under this Article.

Failure to request a hearing (or to attend a hearing scheduled) as provided herein shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the violation.

**BE IT FINALLY ORDAINED BY THE COUNTY COUNCIL** that *Grand County Land Use Code Section 1.9 Penalties for Violation* is hereby amended by the repeal and re-enaction of *Sec. 1.9 (A) and (D)*, to read as follows;

- A. Any person, firm, entity or corporation who violates any of the provisions of this LUC or who fails to comply with any provisions hereof within Grand County shall be subject to a fine, and may also be found guilty of a Class C misdemeanor. [The fine shall begin accruing upon notice of the violation/failure to comply, as set forth in this Article, as follows: [\$100] to [\$1,000] per day in violation/failure to comply, as set forth on the County's current schedule of fines for the applicable violation.] The minimum fine for each violation/failure to comply shall be [\$100]. Upon conviction of a Class C misdemeanor, the responsible party shall be subject to imprisonment for up to 90 days.
  
- D. Violations of this LUC may be enforced through the processes set forth in this Article, by any other method authorized by any applicable County ordinance or state statute, by the filing of civil or criminal actions, or by any other method permitted by law, in the County's full discretion. The pursuit of any one method of enforcement under this Article does not foreclose or limit the right of the County to seek other remedies or methods of enforcement.

**PASSED, ADOPTED, AND APPROVED** by the Grand County Council in open session this \_\_\_\_ day of \_\_\_\_\_ 2018 by the following vote:

*Those voting aye:* \_\_\_\_\_

*Those voting nay:* \_\_\_\_\_

*Absent:* \_\_\_\_\_

**ATTEST:**

**Grand County Council**

\_\_\_\_\_  
Diana Carroll, Clerk/Auditor

\_\_\_\_\_  
Jaylyn Hawks, Chairman