



SB174 Compliance Subdivision Ordinance Update Audit Checklist April 2023

Do we have to update our Subdivision Ordinance?

Yes, State Law changes effective May 4, 2023 but, in a sense, not a lot. Subdivisions are administrative in nature (e.g. there is no discretion – if they meet your ordinances, they get approved). Most of the changes simply reinforced the administrative nature of subdivisions. See new LUDMA [Section 604.1](#). This new law only applies to subdivisions for 1 or 2 family dwellings and townhomes, but it could be useful to generalize this for all subdivisions. All these changes need to be accomplished by **February 1, 2024**, for cities over 5,000 in population and smaller communities will have until **December 1, 2024**. Here is a link to the [bill summary](#) and FAQ's.

**Step One: Check your current ordinance to see what you may need to modify or update.
Look for these items.**

1. Review and Update your process. Designate an administrative land use authority.

Make sure you have designated in your subdivision ordinance an “administrative land use authority” for preliminary plats. This can be staff or planning commission or a subset of the Planning Commission. This is a local policy decision to make.

Some options to consider: a) preliminary plat can be reviewed by staff, b) the planning commission can review in a public meeting, or a public hearing. If you choose to hold a public hearing please consider what the hearing will add to this administrative fact based process.

Reminder: The Final plat **cannot** be reviewed by Council or Planning Commission (for small towns it could be a subset of the PC). Staff, if you have staff, could manage (and be designated in the ordinance) to be the administrative land use authority to take the process of final subdivision review through the recording process. Then the Mayor signs the final plat, which also dedicates any potential streets.

2. **Remove any mandates for a concept plan review.** In the new law concept plan review cannot be mandated. It can be optional, strongly encouraged and agreed to by the applicant. Since these are administrative approvals, they have no regulatory value. It can be incorporated into the preliminary plat as part of that process but call it something else. Again an applicant may request a pre-application meeting but it **cannot** be mandated.
3. **Define a Complete Application.** Make sure you have clearly defined what a “complete” application is with checklists for both planning and engineering. Here is one example from [Lehi, Utah](#).

Step Two. Review process timing issues.

Reminder: Under the new law, Preliminary and final plats review are the only “steps” allowed within the new subdivision process. Here are the steps to make sure your updated ordinance reflect.

1. **Initial review of preliminary plat.** To be completed within **15 business days** of receiving a **Complete Application**. As mentioned above it is important to assure you have everything required for review before it moves forward in the process.
2. **Review of final plat.** To be completed within **20 days** of receiving the complete application,
3. **Capped Review Cycle.** There is now a maximum of 4 review cycles permitted for final review only. So in between the Preliminary approval and final approval only four revisions are permitted.
4. **Agreed upon changes.** The Applicant must respond to required changes. If he/she disagrees with those issues, those must be committed in writing.
5. **Lot line adjustments.** Changes were made in HB406 and SB174. The lot line adjustment changes removed the requirement to record an amendment plat.

Step Three. Review engineering standards

1. **Codified Engineering standards.** As a reminder from prior law, every municipality needs to provide clear engineering standards and these need to be adopted by the City, Town or County with a public hearing at the Planning Commission and final adoption by the legislative body.

2. **Bonding for Private Landscaping.** In another companion bill HB406 [Section 10-9a-604.5](#) new provisions were added in regards to bonding. As of May 2023 Bonding for landscaping on private property is **not** allowed. Update your enforcement processes to include any fines, liens, and when you go to court for any unmet obligations. Update the bonding language. Under assurances can only be accomplished for public infrastructure .
3. **New road standards.** In HB406 [Section 10-9a-508. Exactions](#) new residential roadway standards were adopted. Municipalities that require road widths greater than 32' for residential roads (defined as residential use and 25 mph roads) should review those ordinances for compliance with these new standards. Wider can be allowed under certain conditions.

Step Three. Add the new appeal process

Reminder: SB 174 creates two distinct appeal processes after the four review cycles have been exhausted and 20 days have passed. You will need to add this appeal process to your subdivision ordinance.

1. For disputes relating to public improvement or engineering standards, the municipality shall assemble a three-person panel meeting within 10 days of receiving a request from the applicant.
2. For all other disputes, the municipality shall refer the question to the designated appeal authority at the applicant's request.
 - The panel of experts includes:
 - One licensed engineer designated by the municipality.
 - One licensed engineer designated by the land use applicant.
 - One licensed engineer, agreed upon, and designated by the two designated engineers.

Members appointed to the panel may not have an interest in the application in question. The applicant must pay 50% of the total cost of the panel and the municipality's published appeal fee. The municipality pays the other 50%. The panel's decision is final, unless the municipality or applicant petition for district court review within 30 days after the final written decision is issued.