

Meeting Body: City of Kearns
Planning Commission

Meeting Date: September 9, 2024

File Number: OAM2023-001246

Subject: Proposed amendment to the Kearns Subdivision Ordinance, Title 18 of the Kearns Municipal Code, to comply with review timeframes, review cycle limits, land use authority designations and other amendments mandated by HB 476. P (Public Hearing)

Applicant: Kearns City Council

Planner: Brian Tucker, Planning Manager

Project Type:

Subdivision Ordinance Text
Amendment

Areas Affected: All of the City of Kearns

Recommendation: Motion to recommend approval of the proposed amendments to Title 18 Subdivisions to comply with enrolled House Bill 476 of the 2024 General Session of the Utah State Legislature.



GREATER SALT LAKE
**Municipal Services
District**

SUMMARY & BACKGROUND

The 2024 Utah State Legislature adopted House Bill 476 (HB 476), which amended various land use and development requirements for municipalities and counties, including subdivision review procedures which Kearns updated to comply with SB174 in January, 2024. The "effective date" of the amended subdivision review procedures is November 1, 2024.

ATTACHMENTS

The following attachments are included as supplementary materials to the end of this staff report:

1. Proposed revisions to Title 18, Subdivisions

STAFF ANALYSIS

Issue before the Commission:

HB 476 includes both practical and definitional changes that previously were not imposed. Many of our existing policies, procedures, and provisions are already compliant, but the City of Kearns has been advised by legal consultants, Jay Springer, attorney with Smith Hartvigsen, PLLC, that to ensure clarity, consistency, and compliance with State Code, several text amendments to Title 18 are warranted (see Attachment 1 – Proposed revisions to Title 18, Subdivisions).

Legislative Mandate:

The primary relevant effects of House Bill 476 are:

- Establishes that a subdivision improvement plan may be submitted with either a preliminary or final subdivision application but may not be required for both;
- Clarifies that a municipality may not require more than four review cycles for a subdivision improvement plan review and this applies to either the preliminary or final stage of the process depending on when the municipality requires a subdivision improvement plan be submitted;
- Updates certain provisions relating to phasing and development agreements; and
- Establishes that a municipality may not engage in a substantive review outside the review cycle.

Notice:

Notice of the public hearing before the Planning Commission has been given in accordance with Utah Code 10-9a-205 and Kearns Code 19.16.080. Notice was mailed to each affected entity. Physical notice was posted at the meeting location 10 days prior to the public hearing. Notice was posted on the Utah Public Notice Website, and Kearns' official website, kearns.utah.gov.

Review Procedure and Criteria:

The City of Kearns Council is the legislative authority for subdivision ordinance text amendments. The Council cannot amend the subdivision ordinance without first submitting the amendment to the City of Kearns Planning Commission for the Planning Commission's recommendation. The Planning Commission must hold a public hearing and review and recommend an action to the Council. The Council must then hold a public meeting at which they may adopt, adopt with revisions, or reject the proposed text amendments recommended by the Planning Commission.

A text amendment can be approved if it is reasonably debatable that the decision could promote the public welfare. It is not necessary to show that the decision actually promotes the public welfare, or is the best alternative, as long as it is reasonably debatable that the public could benefit from the decision. Similarly, a text amendment can be denied if it is reasonably debatable that the decision could detrimentally impact the public welfare.

STAFF RECOMMENDATION

Planning Staff finds that:

1. In accordance with House Bill 476, the proposed ordinance establishes that a municipality may now require a subdivision improvement plan to be submitted with a subdivision application but cannot require that the improvement plan be submitted with both the preliminary AND the final plan;
2. In accordance with House Bill 476, the proposed ordinance establishes the review cycle requirements apply to whichever subdivision plan (either preliminary or final) that the subdivision improvement plan is submitted with;
3. In accordance with House Bill 476, the proposed ordinance does not provide for substantive review to occur outside the review cycle;
4. The proposed ordinance provides for timeframes in line with those required by House Bill 476;
5. In accordance with House Bill 476, the proposed ordinance does not require a completion assurance bond for or dictate who installs or is responsible for the cost of the landscaping of residential lots or the equivalent open space surrounding single-family attached homes, whether platted as lots or common area;
6. The proposed amendment does not alter the subdivision process to any greater extent that mandated by HB 476; and
7. The proposed amendment does not affect any specific land use or property within the City, applying only to future applications to subdivide land within the City of Kearns.

Given the above findings, staff recommends the following action:

Motion to recommend approval of the proposed amendments to Title 18 Subdivisions to comply with enrolled House Bill 476 of the 2024 General Session of the Utah State Legislature and improve overall clarity of Title 18.

POTENTIAL PLANNING COMMISSION ACTIONS

The Planning Commission's role in the text amendment process is to provide a recommendation to the Kearns Council. After taking public comment, the Planning Commission could take any of the following actions, among others:

- Option 1. Recommended approval of the attached ordinance to the Kearns Council subject to staff and legal counsel's non-substantive and technical changes.
- Option 2. Recommended approval of the attached ordinance to the Kearns Council with changes subject to staff and legal counsel's non-substantive and technical changes.

Option 3. Recommend that the Council deny the proposed ordinance.