

ORDINANCE NO. 24-02

AN ORDINANCE AMENDING WASATCH COUNTY CODE CHAPTERS 4.09.02 AND 16.29. ADDING CHAPTER 2.02.23. THESE CODES ALLOW FOR APPLICATION FEES, AN INDUSTRIAL PROTECTION ADVISORY BOARD, A PROCESS FOR DESIGNATING PROPERTY AS AN INDUSTRIAL PROTECTION AREA AND ESTABLISHES CRITERIA FOR INDUSTRIAL PROTECTION AREAS.

RECITALS

WHEREAS, the Utah State Code allows for industrial protection areas as allowed in Utah Code 17-41-201; and

WHEREAS, Wasatch county is a rapidly developing and urbanizing county; and

WHEREAS, development adjacent to industrial uses can cause issues with residential uses adjacent to industrial uses; and

WHEREAS, the County Legislative Body wants to support and maintain uses that existed prior to encroachment of residential development that may not be compatible with residential uses; and

WHEREAS, the state code allows for other protections if a property is considered to be in an industrial protection area; and

WHEREAS, the County is not required to enact an industrial protection area ordinance; and

WHEREAS, the legislative body desires to limit and further define some aspects of Utah Code 17-41-101 et seq. through this ordinance to ensure the purposes of the Wasatch County Land Use and Development Code are not undermined; and

WHEREAS, the ordinance includes those areas that are zoned industrial and PF (Public Facilities); and

WHEREAS, Utah Code 17-27a-502 requires Wasatch County to give notice of public hearing as provided in Utah Code 17-27a-205(1)(a), and to hold a public hearing; and

WHEREAS, Wasatch County gave notice of all public meetings and public hearings related to this ordinance as required, and the planning commission held a public hearing as required; and

WHEREAS, the County Legislative Body, having considered all of the evidence provided to be in the best interest of the health, general welfare, and safety of the inhabitants of Wasatch County;

NOW THEREFORE, the County Legislative Body of Wasatch County ordains that the Wasatch County Code be amended as follows:

SECTION I: **Enactment.** The following amendments, additions, and deletions to the Wasatch County Code, are hereby enacted: *See attached Exhibit A.*

SECTION II: **Repealer.** If any provisions of the County Code heretofore adopted are wholly inconsistent with this ordinance, they are hereby repealed.

SECTION III: **Amendment of Conflicting Ordinances.** To the extent that any ordinances, resolutions, or policies of Wasatch County partially conflict with this ordinance, they are hereby amended to comply with the provisions hereof.

SECTION IV: **Effective Date.** This Ordinance shall become effective immediately upon execution by the Chair of the County Council and the completion of public notice requirements imposed by state statute.

SECTION V: **Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

SECTION VI: **Public Notice.** The Wasatch County Clerk, and ex officio Clerk of the Wasatch County Council, is hereby ordered, in accordance with the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, to do as follows:

- a. Enter at length this ordinance in the ordinance book;
- b. Deposit a copy of this ordinance in the office of the County Clerk;
- c. Publish a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance, for at least one publication in a newspaper published in and having general circulation in the county; or post a complete copy of this ordinance in nine (9) public places within the County.

APPROVED and **PASSED** this 21 day of February, 2024.

Attest:


 Joey Granger
 Wasatch County Clerk / Auditor



WASATCH COUNTY COUNCIL:


 Spencer Park, Chair
 Wasatch County Council

VOTE

Spencer Park, Chairman	<u>Y</u>
Karl McMillan, Vice Chair	<u>Y</u>
Mark Nelson	<u>Y</u>
Luke Searle	<u>N</u>
Erik Rowland	<u>Y</u>
Kendall Crittenden	<u>Y</u>
Steve Farrell	<u>Y</u>

ADOPTION OF ORDINANCE AFFIDAVIT

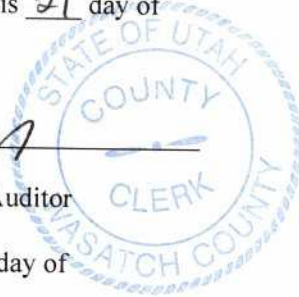
STATE OF UTAH)
) : ss.
COUNTY OF WASATCH)

I, the undersigned, the duly qualified and acting County Clerk of Wasatch County, Utah, and ex officio Clerk of the Wasatch County Council do hereby further certify, according to the records of said Council in my official possession, and upon my own knowledge and belief, that I have fulfilled the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, by:

- [✓] (a) Causing this ordinance to be entered at length in the ordinance book;
- [✓] (b) Causing three (3) copies of this ordinance to be deposited in the office of the County Clerk;
- [✓] (c) Causing a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance to be published for at least one publication in *The Wasatch Wave*, a newspaper of general circulation within the geographical jurisdiction of Wasatch County; or posting a complete copy of this ordinance in nine (9) public places within the County.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of the County Council of Wasatch County, Utah, this 21 day of February, 2024.

Joey Grainger
Joey Grainger
Wasatch County Clerk / Auditor



SUBSCRIBED AND SWORN to me, a Notary Public, this 21 day of February, 2024.

Wendy McKnight
Notary Public

Residing in: Wasatch
My commission expires: 09/10/2026

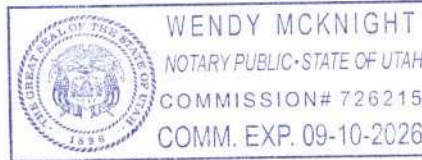


EXHIBIT A – PROPOSED AMENDMENT

2.02.19: WASATCH AGRICULTURAL PROTECTION AREA ADVISORY BOARD AND INDUSTRIAL PROTECTION AREA ADVISORY BOARD

A. Establishment and Membership: Pursuant to Utah Code 17-41-201, the Wasatch County legislative body hereby creates the Wasatch County Agriculture Protection Area Advisory Board and the Industrial Protection Area Board.

1. Membership: The Agriculture Protection Area Advisory Board and Industrial Protection Area Board shall consist of five (5) members comprised of the following:

- a. Five (5) members who are also serving on a Wasatch County Soil Conservation Board.
- b. Board members shall serve on a volunteer basis, without salary, and shall advise the county legislative body and perform the functions required by law.
- c. Board Members shall serve a term of two years.
- d. Members shall be appointed by the county manager, with the advice and consent of the county legislative body.

2. Voting Members of the above mentioned Boards shall constitute the official Governing Boards of the Agriculture Protection Area Advisory Board and the Industrial Protection Area Board and shall have all the rights, powers, duties and responsibilities delegated to the Board as set forth herein. Action may be taken by a simple majority of all the Board Members. The Wasatch County Planning Department is the administrator of the Agriculture Protection Area Advisory Board and the Industrial Protection Area Board. At least three of the Board members must be present to take any official action. Board Member's votes are not weighted in any manner.

3. Powers And Duties: The Agriculture Protection Area Advisory Board and the Industrial Protection Area Board shall have all power, authority and responsibility necessary to direct and conduct the business of the Wasatch Agriculture Protection Area Advisory Board and the Industrial Protection Area Board as allowed by law. The Boards may prepare policies, procedures, by-laws and resolutions necessary to carry out the work of the Boards in a proper and businesslike manner.

- 4. The Boards will hold meetings as necessary.
- 5. The Boards shall comply with the Open Public Meetings Act.

4.09.02: WASATCH COUNTY FEES

C.	Fees Of The Wasatch County Planning And Zoning Department:	
	2.	Other fees:

	Agriculture Protection Area or <u>Industrial Protection Area or amend an existing Agriculture Protection Area or Industrial Protection Area.</u>	\$500.00 plus actual costs.
--	--	-----------------------------

37

38 **CHAPTER 16.29: AGRICULTURE PROTECTION AND INDUSTRIAL PROTECTION**
 39 **AREAS**

40 **16.29.01: DEFINITIONS**

41 For the purposes of this Chapter, the following words and phrases shall have the meanings
 42 respectively ascribed to them below:

- 43 A. "Advisory Board" means the Wasatch County Agriculture Protection Area Advisory
 44 Board or the Industrial Protection Advisory Board.
- 45 B. "Agriculture production" means production for commercial purposes of crops,
 46 livestock, and livestock products.
- 47 1. "Agriculture production" includes the processing or retail marketing of any crops,
 48 livestock, and livestock products when more than 50% of the processed or
 49 merchandised products are produced by the farm operator.
- 50 C. "Agriculture protection area" means a geographic area within the unincorporated part of
 51 Wasatch County created under the authority of Utah Code Chapter 41, Title 17, and of
 52 this Chapter, that is granted the specific legal protection contained in Utah Code Chapter
 53 41, Title 17.
- 54 D. "Applicable legislative body" means:
- 55 1. the Wasatch County legislative body if the land included in or proposed to be
 56 included in an agriculture protection area is within the unincorporated part of
 57 Wasatch County; or
- 58 2. the legislative body of the city or town if the land included in or proposed to be
 59 included in an agriculture protection area is within the boundaries of a city or
 60 town.
- 61 E. "Contiguous" means touching along a common side or so close in proximity as to be
 62 separated only by the width of a road, canal, railroad track, easement, or similar right-of-
 63 way.
- 64 F. "Crops, livestock, and livestock products" includes:
- 65 1. Land devoted to the raising of useful plants and animals with a reasonable
 66 expectation of profit, including:
- 67 2. Forages and sod crops;
- 68 3. Grains and feed crops;
- 69 4. Livestock as defined in Utah Code 59-2-102(19)(d);
- 70 5. Trees and fruits; or
- 71 6. Vegetables, nursery, floral and ornamental stock; or
- 72 7. Land devoted to and meeting the requirements and qualifications for payments or
 73 other compensation under a crop-land retirement program with an agency of the
 74 state or federal government.

75 G. "Industrial" as it relates to this chapter only shall mean the uses allowed in an Industrial
76 zone or the PF (Public Facilities) zone.

77 G.H. "Planning Commission" means the Wasatch County Planning Commission, a
78 Township Planning Commission, or a planning commission of a city or town.

79 H.I. "Political subdivision" means a county, city, town, school district, local district, or
80 special service district.

81 I.J. "Proposal sponsors" means the owners of land in agricultural production who are
82 sponsoring the proposal for creating an agriculture protection area.

83 J.K. "Regulation" means a law, ordinance, or regulation.

84 K.L. "State agency" means each department, commission, board, council, agency,
85 institution, officer, corporation, fund, division, office, committee, authority, laboratory,
86 library, unit, bureau, panel, or other administrative unit of the state.

87 L.M. "Unincorporated" means not within a city or town.

88 M.N. "Zoning Regulation" means local laws, ordinances or regulations that govern how
89 real property can and cannot be used in a certain zoning designation.

90 N.O. "Zoning Designation" means the designation of zoning for land, as indicated on
91 the zoning map.

92 **16.29.02: PROPOSAL FOR CREATION OF AGRICULTURE PROTECTION AREA OR**
93 **AN INDUSTRIAL PROTECTION AREA.**

- 94 A. A proposal to create an agriculture protection area or an industrial protection area or an
95 amendment to an existing agriculture protection area or industrial protection area within
96 the unincorporated part of the County may be filed by completing the standard forms
97 created by the County Planning Department and by filing said forms in the office of the
98 County Planning Department. The written petition shall:
- 99 1. Contain a legal description, including acreage, of the land proposed to be
100 considered as an agriculture protection area or an industrial protection area;
 - 101 2. The names of the owners of record of the land proposed to be included within the
102 agriculture protection area or the industrial protection area;
 - 103 3. for each parcel of land, or any portion thereof:
 - 104 a. the tax parcel number or account number identifying each parcel; and
 - 105 b. the number of acres of each parcel.
 - 106 4. Addressed, stamped envelopes for each owner of land within 1,000 feet of the
107 land proposed to be included in an agriculture protection area or industrial
108 protection area;
 - 109 5. Contain a notarized declaration signed by the property owner(s);
 - 110 6. Contain a description of the agricultural or industrial pursuits on the property;
 - 111 7. Contain any proposed limits on the types of agriculture production or industrial
112 production/uses to be allowed within the agriculture protection area or industrial
113 protection area;
 - 114 8. Contain a site plan showing structures, uses and acreages of agricultural or
115 industrial production on the property;
 - 116 9. Contain any other information reasonably requested by the Wasatch County DRC.
- 117 B. To be accepted for processing by the County Planning Department, a proposal under
118 Subsection (A) shall be signed by a majority number of all owners of real property and

119 the owners of a majority of the land area in agricultural production within the proposed
 120 agriculture protection area or industrial production area. For the purpose of this
 121 Subsection (B), the owners of real property shall be determined by the records of the
 122 County Recorder.

123 C. The Wasatch County Planning Department shall accept and process such forms only if
 124 they are properly completed and accompanied by the filing fee. The filing fee is set forth
 125 in the adopted Wasatch County Government Fee Schedule.

126 D. An agriculture protection area or industrial protection area may include within its
 127 boundaries land used for a roadway, dwelling site, park, or other nonagricultural use, if
 128 that land constitutes a minority of the total acreage within the agriculture protection area
 129 or industrial protection area.

130 E. Any property or parcel proposed to be included in an Agriculture Protection Area must be
 131 in the A-20 zone.

132 F.F. Any property or parcel proposed to be included in an industrial protection area
 133 must be either in a PF (Public Facilities) or Industrial zone.

134 F.G. The following land is not eligible to be included in an agriculture protection area
 135 or industrial protection areas based on their condition as of November 1, 2022:

- 136 1. Land in an area described as north of SR-113 and west of Heber City's boundary
 137 and bordered on the north and west sides by the existing transmission line, but not
 138 excluding the rectangular area 270 feet to the south and 520 feet to the east of the
 139 transmission line adjacent to the northwest corner of the previously described
 140 area,
- 141 2. Land that is within 100 feet of the centerline of SR-113, 2400 South, 1200 South,
 142 Southfield Road, Midway Lane, US 40, River Road, SR-32, 189, Main Canyon
 143 Road, the portion of the Bypass Alignment as shown on the Wasatch County
 144 General Plan Map 32 which is south of SR-113, or Road 10 (Wallsburg second
 145 access) as shown on the Wasatch County General Plan Map 21.

146 G.H. Parcels that include property that is not eligible under this subsection may still be
 147 eligible for inclusion in an agriculture protection area or industrial protection area, though
 148 the agriculture protection area or industrial protection area will not include those parts
 149 that are not eligible.

150 **16.29.03: AREA REQUIREMENTS.**

151 In accordance with Utah Code 17-41-301 the minimum number of contiguous acres that must be
 152 included in an agriculture protection area within the unincorporated part of the County is hereby
 153 established as five (5) acres. Creation of an agriculture protection area shall not impair the ability
 154 of land within the area to obtain the benefits of Title 59, Chapter 2, Part 5, Farmland Assessment
 155 Act. The eligibility of land for the benefits of Title 59, Chapter 2, Part 5, Farmland Assessment
 156 Act, shall be determined exclusively by the provisions of that act, notwithstanding the land's
 157 location within an agriculture protection area.

158
 159 The minimum number of contiguous acres that must be included in an Industrial protection area
 160 within the unincorporated part of the County is hereby established as ten (10) acres.

161 **16.29.04: NOTICE AND PUBLIC HEARING REQUIREMENTS FOR PLANNING**
162 **COMMISSION, ADVISORY BOARDS AND COUNTY COUNCIL.**

- 163 A. The Wasatch County Planning Department shall provide notice of the proposal for an
164 agriculture protection area or industrial protection area within the unincorporated part of
165 the County by:
- 166 1. Posting notice on the Utah Public Notice Website created in Utah Code 63A-16-
167 601;
 - 168 2. Mailing written notice to each owner of land within 1,000 feet of the land;
169 proposed for inclusion within an agriculture protection area or industrial
170 protection area; and
 - 171 3. Posting notice at two public places within or near the proposed agriculture
172 protection area or industrial protection area, reasonably likely to be seen by
173 people in the area. The County legislative body hereby authorizes the Wasatch
174 County Planning Department to designate the location of these two public places
175 within or near the proposed agriculture protection area or industrial protection
176 area. The Planning Department shall periodically verify that the posted notices
177 remain in place for 15 days; and replace the notice(s) within a reasonable time
178 after discovering that the notice(s) have been removed or damaged.
- 179 B. The notice shall contain:
- 180 1. a statement that a proposal for the creation of an agriculture protection area or
181 industrial protection area has been filed with the County;
 - 182 2. a statement that the proposal will be open to public inspection in the office of the
183 County Planning Department;
 - 184 3. a statement that any person or entity affected by establishment of the area may,
185 within 15 days of the date on the notice, file with the County Planning
186 Department written objections to the proposal or a written request to modify the
187 proposal to exclude land from or add land to the proposed agriculture protection
188 area or industrial protection area;
 - 189 4. a statement that the County will submit the proposal to the Planning Commission
190 and Advisory Board for review and recommendations and the proposed dates; and
191 5. a statement that the County legislative body will hold a public hearing on a
192 specified date to discuss and hear public comment on:
 - 193 a. the proposal to create the agriculture protection area or industrial protection
194 area;
 - 195 b. the recommendations of the Advisory Board and Planning Commission;
196 and
 - 197 c. any requests for modification of the proposal and any objections to the
198 proposal.
- 199 C. Any person wishing to modify the proposal for the creation of the agriculture protection
200 area or industrial protection area shall within 15 days after the date of the notice, file a
201 written request for modification of the proposal, which identifies specifically the land that
202 should be added to or removed from the agriculture protection area or industrial
203 protection area.
- 204 D. A person wishing to object to the proposal for the creation of the agriculture protection
205 area or industrial protection area shall, within 15 days after the date of the notice, file a

206 written objection to the creation of the agriculture protection area or industrial protection
 207 area with the Wasatch County Planning Department.

208 **16.29.06: REVIEW OF PROPOSAL.**

- 209 A. After 15 days from the date of the notice, the Wasatch County Planning Department shall
 210 refer the proposal and any objections and proposed modifications to the proposal to the
 211 Planning Commission and Advisory Board for their review, comments, and
 212 recommendations.
- 213 B. Within 45 days after receipt of the proposal, the Planning Commission shall submit a
 214 report of action to the County legislative body that:
- 215 1. analyzes and evaluates the effect of the creation of the proposed area on the
 - 216 county's planning policies and objectives;
 - 217 2. analyzes and evaluates the proposal by applying the criteria contained in Section
 - 218 16.29.08;
 - 219 3. recommends any modifications to the land to be included in the proposed
 - 220 agricultural protection area;
 - 221 4. analyzes and evaluates any objections to the proposal; and
 - 222 5. includes a recommendation to the County legislative body either to accept, accept
 - 223 and modify, or reject the proposal.
- 224 C. Within 45 days after receipt of the proposal, the Advisory Board shall submit a report of
 225 action to the County legislative body that:
- 226 1. analyzes and evaluates the effect of the creation of the proposed area on the
 - 227 county's planning policies and objectives;
 - 228 2. recommends any modifications to the land to be included in the proposed
 - 229 agriculture protection area;
 - 230 3. analyzes and evaluates the proposal by applying the criteria contained in Section
 - 231 16.29.08;
 - 232 4. analyzes and evaluates any objections to the proposal; and
 - 233 5. includes a recommendation to the County legislative body either to accept, accept
 - 234 and modify, or reject the proposal.
- 235 D. The County legislative body shall consider a failure of the Planning Commission or
 236 Advisory Board to submit a written report within the 45 days under Subsections (B) and
 237 (C) as a recommendation of that body to approve the proposal as submitted.

238 **16.29.07: PUBLIC HEARING.**

- 239 A. After receipt of the written reports from the Advisory Board and Planning Commission,
 240 or after the 45 days has expired, whichever is earlier, the County clerk, in coordination
 241 with the Wasatch County planning department, shall:
- 242 1. schedule a public hearing;
 - 243 2. provide notice of the public hearing by:
 - 244 a. posting notice on the Utah Public Notice Website created in Utah Code
 - 245 63A-16-601; and

- 246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
- b. posting mailing written notice to each owner of land within 1,000 feet of the land proposed for inclusion within an agriculture protection area or industrial protection area; and
 - c. posting notice at two public places reasonably likely to be seen by people in the area within or near the proposed agriculture protection area or industrial protection area, and shall periodically verify that the posted notices remain in place for seven days; and replace the notice(s) within a reasonable time after discovering that the notice(s) have been removed or damaged; and
3. ensure that the notice includes:
- a. the time, date, and place of the public hearing on the proposal;
 - b. a description of the proposed agriculture protection area or industrial protection area;
 - c. any proposed modifications to the proposed agriculture protection area or industrial protection area;
 - d. a summary of the recommendations of the Advisory Board and Planning Commission; and
 - e. a statement that interested persons may appear at the public hearing and speak in favor of or against the proposal, any proposed modifications to the proposal, or the recommendations of the Advisory Board and Planning Commission.
4. Nothing herein shall preclude the ability of the planning department to include all public hearings being placed on the same notice for convenience in advertising.
- B. The County legislative body shall:
- 1. convene the public hearing at the time, date, and place specified in the notice; and
 - 2. take verbal or written testimony from interested persons.
- C. Within 120 days of the submission of the proposal, the County legislative body shall approve, modify and approve, or reject the proposal. Failure to approve the proposal within 120 days shall be deemed a denial by the county legislative body, unless the county legislative body continues the proposal to a date certain.
- D. The creation of an agriculture protection area or industrial protection area is effective at the date of the County legislative body's approval of a proposal or modified proposal.
- E. In order to give constructive notice of the existence of the agriculture protection area or industrial protection area to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the agriculture protection area or industrial protection area, within ten days of the creation of an agriculture protection area or industrial protection area, the County Planning Department shall file an executed document containing a legal description of the agriculture protection area or industrial protection area with:
- 1. the County Recorder; and
 - 2. the Planning Commission.
- F. Within ten days of the recording of the agriculture protection area, the County legislative body shall:
- 1. send written notification to the Commissioner of Agriculture and Food that the agriculture protection area has been created, and include in said notification the following:

- 292 a. the number of landowners owning land within the agriculture protection
293 area;
- 294 b. the total acreage of the area;
- 295 c. the date of approval of the area; and
- 296 d. the date of recording.
- 297 G. Failure by the County to record the notice required under Subsection (E) does not
298 invalidate the creation of an agriculture protection area.
- 299 H. Land in an agriculture protection area and industrial protection area shall be designated
300 on the county zoning map.
- 301 I. The County legislative body may consider the cost of recording notice under Subsection
302 (E) and the cost of sending notification under Subsection (F) in establishing a fee.

303 **16.29.08: EVALUATION CRITERIA.**

- 304 A. In evaluating a proposal and in determining whether or not to create or recommend the
305 creation of an agriculture protection area or industrial protection area, the Advisory
306 Board, Planning Commission, and County legislative body shall apply the following
307 criteria:
- 308 1. whether or not the land is currently being used for agriculture production or
309 industrial uses, as the case may be;
- 310 2. whether or not the land is zoned for agriculture uses, industrial uses or in the PF
311 zone, as the case may be;
- 312 3. what the General Plan land use recommendation is for the land;
- 313 4. compatibility of uses of neighboring properties for agricultural production or
314 industrial uses, as the case may be;
- 315 5. whether or not the land is viable for agricultural production or industrial uses, as
316 the case may be;
- 317 6. the extent and nature of existing or proposed farm improvements or industrial
318 improvements, as the case may be;
- 319 7. anticipated trends in agricultural, industrial, or technological conditions, as the
320 case may be; and
- 321 8. Any other criteria to be considered under this Chapter, or related to the criteria of
322 this Chapter.

323 **16.29.09: ADDING LAND TO AN AGRICULTURE PROTECTION AREA OR**
324 **INDUSTRIAL PROTECTION AREA.**

- 325 A. Any owner may add land to an existing agriculture protection area or
326 existing industrial protection area within the
327 unincorporated part of the County by:
- 328 1. filing a proposal with the County planning department; and
- 329 2. obtaining the approval of the County legislative body for the addition of the land
330 to the area.
- 331 B. The County legislative body and other applicable persons shall comply with the
332 provisions for creating an agriculture protection area or industrial protection
333 area in determining whether or not to accept the proposal.

334 **16.29.10: REMOVING LAND FROM AN AGRICULTURE PROTECTION AREA OR**
 335 **INDUSTRIAL PROTECTION AREA.**

- 336 A. Any owner may remove land from an agriculture protection area or industrial protection
 337 area within the unincorporated part of the County by filing a petition for removal of the
 338 land from the agriculture protection area or industrial protection area with the County
 339 planning department. The written petition shall be on a form provided by the Wasatch
 340 County Planning Department, which shall:
- 341 1. Contain a legal description of the land proposed to be removed from the
 342 agriculture protection area or industrial protection area;
 - 343 2. Contain a notarized declaration signed by the property owner(s);
 - 344 3. Contain any other information reasonably requested by the planning Department.
- 345 B. The County legislative body hereby designates the Wasatch County Planning Department
 346 as the department who processes applications to remove land from an existing
 347 Agriculture Protection Area or industrial protection area. The Planning Department shall:
- 348 1. grant the petition for removal of land from an agriculture protection area or
 349 industrial protection area even if removal of the land would result in an
 350 agriculture protection area or industrial protection area of less than the minimum
 351 number of acres for the establishment of an Agricultural Protection Area or
 352 industrial protection area; and
 - 353 2. in order to give constructive notice of the removal to all persons who have, may
 354 acquire, or may seek to acquire an interest in land in or adjacent to the agriculture
 355 protection area or industrial protection area and the land removed from the
 356 agriculture protection area or industrial protection area, file a legal description of
 357 the revised boundaries of the agriculture protection area or industrial protection
 358 area with the County Recorder and the Planning Commission.
- 359 C. The remaining land in the agriculture protection area or industrial protection area is still an
 360 agriculture protection area or industrial protection area.
- 361 D. When a municipality annexes any land that is part of an agriculture protection area or
 362 industrial protection area, the County legislative body shall, within 30 days after the land
 363 is annexed, review the feasibility of that land remaining in the agriculture protection area
 364 or industrial protection area according to the procedures and requirements of Section
 365 16.29.11. The planning department, in coordination with the county clerk, shall facilitate
 366 the County legislative body conducting their review by noticing any required public
 367 meetings, and preparing necessary staff reports to evaluate the feasibility.
- 368 1. If appropriate, the County Planning Department shall remove the annexed land
 369 from the agriculture protection area or industrial protection area.
 - 370 2. Appeals of actions of the Planning Department applying this subsection shall be
 371 made to the Appeals Hearing Officer.

372 **16.29.11: REVIEW OF AGRICULTURE PROTECTION AREAS.**

- 373 A. For the purposes of this Section, the term “calendar year” means the period from January
 374 1 to December 31 inclusive.
- 375 B. The County legislative body shall perform an initial review of any agriculture protection
 376 area or industrial protection area created under the authority of this Chapter in the 20th

- calendar year after it is created to determine whether the agriculture protection area or industrial protection area should be continued, modified, or terminated.
- C. If the County Planning Department receives five (5) written complaints from different aggrieved persons within three (3) calendar years immediately preceding the 20th calendar year after an agriculture protection area or industrial protection area or any portion thereof is created or reauthorized, or alternatively the County legislative body determines that after the initial review that the agriculture protection area or industrial protection area should be modified or terminated, or within 30 days of land in an agriculture protection area or industrial protection area being annexed, then the County Planning Department shall, for that agriculture protection area or industrial protection area:
1. request the Planning Commission and Advisory Board to submit recommendations about whether the agriculture protection area or industrial protection area should be continued, modified, or terminated;
 2. schedule the County legislative body to, at least 120 days before the end of the 20th calendar year, or within 120 days of the applicable annexation, hold a public hearing to discuss whether the agriculture protection area or industrial protection area should be continued, modified, or terminated;
 3. give notice of the hearing using the same procedure required by Section 16.29.04; and
 4. after the public hearing, the County legislative body shall continue, modify, or terminate the agriculture protection area or industrial protection area.
 5. If the County legislative body modifies or terminates the agriculture protection area or industrial protection area, the Wasatch County Planning Department shall file an executed document containing the legal description of the agriculture protection area or industrial protection area with the County Recorder.
- D. If the County legislative body determines after that initial review that the agricultural protection area or industrial protection area should be continued or otherwise fails to affirmatively continue, modify, or terminate the agriculture protection area or industrial protection area in the 20th calendar year, within 120 days of an applicable annexation, then the agriculture protection area or industrial protection area is considered to be reauthorized for another 20 years. The time required for action is continued provided the county legislative body continues the matter to a date certain, and the legislative body takes action on the matter in the subsequent meeting.

16.29.12: PROTECTION OF LAND IN AGRICULTURE PROTECTION AREA AND INDUSTRIAL PROTECTION AREA

- A. Land in an agriculture protection area and industrial protection area shall be protected as provided in Utah Code 17-41 Part 4 (2023).
- B. Local regulations of general applicability, enacted after land is added to an agricultural protection area or industrial protection area, shall apply to land in an agriculture protection area or industrial protection area, and shall be presumed to bear a direct relationship to public health or safety, and to not unreasonably restrict farm structures or farm practices or industrial uses. If a property owner seeks to be exempt from local regulations of general applicability, the property owner shall bear the burden of proving

- 422 beyond a reasonable doubt that the regulation does not bear a direct relationship to public
423 health or safety, and that it unreasonably restricts farm structures, farm practices or
424 industrial uses and practices, using the statement outlined in subsection (E) below.
- 425 C. Local regulations, including zoning regulations, that effect the A-20 zone or land in
426 agriculture protection areas or the Industrial and PF zones in industrial protection areas,
427 which are enacted after land is added to an agricultural protection area or industrial
428 protection area, are presumed to be applicable to land in agriculture protection areas and
429 industrial protection areas. If a property owner seeks to be exempt from such local land
430 use regulations, including zoning regulations, the property owner shall bear the burden
431 of proving by a preponderance of the evidence that they are exempt from the regulation
432 under Utah Code 17-41 Part 4 (2023), using the statement outlined in subsection (E)
433 below.
- 434 D. Land within an agriculture protection area or industrial protection area that is changed
435 from A-20, Industrial or PF to another zoning designation shall be presumed to remain
436 subject to the zoning designation in effect when the land was added to an agriculture
437 protection area or industrial protection area. The property owner shall follow the
438 statement outlined in subsection (E) below to let the land use authority know of the
439 exemption, and then the land use authority shall bear the burden of proving by the
440 preponderance of the evidence that the land is subject to the new zoning designation at
441 issue. If the A-20, Industrial or PF zone is dissolved or called by another name, the land
442 shall be considered part of the zoning designation which is functionally the closest to the
443 A-20, Industrial or PF zone, and the property owner may seek exemption from individual
444 local regulations, including zoning regulations, using the procedure outlined in section
445 16.29.12.
- 446 E. If a property owner desires to have a local law, ordinance, or regulation, including a
447 zoning regulation, or zoning designation, not apply to land in the agricultural protection
448 area or industrial protection area because its applicability is limited by Utah Code 17-41
449 Part 4 (2023), the property owner shall submit a statement with any applicable land use
450 application indicating:
- 451 1. What regulation is not applicable to the land.
 - 452 2. When the regulation was enacted.
 - 453 3. What alternative regulation is applicable, if any.
 - 454 4. When the land was added to an agriculture protection area, and a statement that
455 the land is still in an agriculture protection area.
 - 456 5. How the enactment or application of the land use regulation to the land is
457 prohibited by Utah Code 17-41 Part 4 (2023).
 - 458 6. Any other information reasonably requested by the planning department or the
459 legislative body.
- 460 F. The applicability of the local land use regulations, laws, ordinances, or regulations shall
461 be determined by the land use authority as part of the approval or denial of the associated
462 land use application. Any appeals shall be made using the processes for an appeal of the
463 associated land use decision. Determinations shall be made on an individual land use
464 application basis, and determinations shall not be applicable to other land use
465 applications.
- 466 G. Any complaints of violations of the land use and development code for property in an
467 agriculture protection area or industrial protection area may be required by the planning

468 department to demonstrate that the alleged violation would not be afforded protection due
469 to the property's status in an agriculture protection area or industrial protection area in
470 order to be considered for an enforcement action. Nevertheless, the planning department
471 retains sole discretion on whether or not to bring an enforcement action by the planning
472 department.