

CHAPTER 3

GENERAL PLAN, LAND USE ORDINANCE, ZONING MAPS AND AMENDMENTS

Section	
3-1	Tooele County General Plan.
3-2	Planning commission responsibility.
3-3	Application to amend the general plan.
3-4	Restriction on applications after adoption of general plan.
3-5	Effect of the plan on public uses.
3-6	Land use ordinance.
3-7	Amendment procedure.
3-8	Initiation of land use ordinance text and zoning map amendments.
3-9	Zoning map amendment procedure.
3-10	County commission consideration for zoning map amendment – Hearing – Notice.
3-11	Restriction on applications after decision of rezone application.
3-12	Application for the initiation of land use ordinance text amendments.
3-13	Determination of commissioners.
3-14	Appeal procedure.
3 - 1. Tooele County General Plan.	
	(1) To accomplish the purposes set forth in the Utah Land Use Development and Management Act, the Tooele County General plan is comprehensive in scope and addresses:
	(a) the present and future needs of the county; and
	(b) the growth and development of the land within the county or any part of the county, including uses of land for urbanization, trade, industry, residential, agricultural, wildlife habitat, and other purposes.
	(2) Any amendment to the Tooele County General Plan shall provide for:
	(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;
	(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;
	(c) the efficient and economical use, conservation, and production of the supply of:
	(i) food and water; and
	(ii) drainage, sanitary, and other facilities and resources;
	(d) the use of energy conservation and solar and renewable energy resources;
	(e) the protection of urban development;
	(f) the protection and promotion of air quality;
	(g) a land use element that: designates the proposed general distribution and location and extent of uses of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and may include a statement of the standards of population density and building intensity recommended for the various land use categories covered by the plan;
	(h) a transportation and circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that are appropriate, all correlated with the land use element of the plan to include an official map, pursuant to Title 72, Chapter 5, Part 4 UCA, Transportation Corridor Preservation;
	(i) an environmental element that addresses: the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;
	(j) a public services and facilities element showing general plans for sewage, waste disposal, drainage, local utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;
	(k) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for: historic preservation; and the elimination of blight and for redevelopment, including housing sites, business and industrial sites, and public building sites;
	(l) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity;

(m) an economic element composed of appropriate studies and an economic development plan that may include review of county revenue and expenditures, revenue sources, identification of base and residentiary industry, primary and secondary market areas, employment, and retail sales activity; and

(n) the protection or promotion of moderate income housing.

(3) The plan shall define the county's local customs, local culture, and the components necessary for the county's economic stability.

(Ord 2005-22, 9/13/05)

3 - 2. Planning commission responsibility.

(1) (a) The planning commission shall make and recommend to the county commission a proposed general plan for the unincorporated area within the county.

(b) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is adopted by the municipal governing body.

(2) The general plan, with the accompanying maps, plats, charts and descriptive and explanatory matter, shall show the planning commission's recommendations for the development of the territory covered by the plan, and shall include, among other things:

(a) recommendations for implementing the plan, including the use of land use ordinances, subdivision ordinances, capital improvement plans, and other appropriate actions;

(b) any other elements that the county commission considers appropriate;

(c) a reasonable opportunity for a variety of housing, including moderate income housing, to meet the needs of people desiring to live there; and

(d) locating moderate income housing in all areas of a community to allow persons with moderate incomes to benefit from and to fully participate in all aspects of neighborhood and community life.

(3) As used in this section:

(a) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the county statistical area for households of the same size.

(b) "Plan for moderate income housing" or "plan" means a written document prepared by the county planner, recommended by the planning commission and adopted by the county commission that includes, but is not limited to:

(i) an estimate of the existing supply of moderate income housing located within the county;

(ii) an estimate of the need for moderate income housing in that county for the next five years as revised annually;

(iii) a survey of total residential zoning;

(iv) an evaluation of how existing zoning densities affect opportunities for moderate income housing; and

(v) a description of the county's program to encourage an adequate supply of moderate income housing.

(4) The plan shall provide for moderate income housing by any means or combination of techniques which provide a realistic opportunity to meet estimated needs. The plan may include an analysis of why the means or techniques selected provide a realistic opportunity to meet the objectives of this section. Such techniques may include:

(a) rezoning for densities necessary to assure the economic viability of inclusionary developments, either through mandatory set asides or density bonuses;

(b) infrastructure expansion and rehabilitation that will facilitate the construction of moderate income housing;

(c) rehabilitation of existing uninhabitable housing stock;

(d) consideration of waiving construction-related fees generally imposed by the county;

(e) utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(f) utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(g) utilization of affordable housing programs administered by the Department of Community and Economic Development.

(5) (a) After adoption of a plan for moderate income housing, each planning commission shall biannually:

(i) review the plan and its implementation; and

(ii) prepare a report setting forth the findings of the review.

(b) Each report under Subsection (5)(a)(ii) shall include a description of:

(i) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;

(ii) actions taken by the county to encourage preservation of existing moderate income housing and development of new moderate income housing;

(iii) progress made within the county to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and

(iv) efforts made by the county to coordinate moderate income housing plans and actions with neighboring municipalities or counties. (Ord 2005-22, 9/13/05)

3 - 3. Application to amend the general plan.

Any property owner or authorized agent thereof may file an application requesting the planning commission hear an amendment to the county general plan. Such application shall include the reasons or basis upon which the property owner believes the general plan should be amended. The proposed amendment shall be comprehensive in scope and comply with the provisions of Section 3 - 1. The planning commission shall consider an application to amend the county general plan only if it first determines that there has been a change of circumstances or other sufficient to justify consideration of an amendment to the county general plan. A decision by the planning commission not to consider an amendment to the county general plan may be appealed to the board of county commissioners pursuant to the procedures set forth in Title 17, Chapter 27a, Utah Code Annotated. Amendments to the county general plan shall comply with the procedures and notice requirements set forth in Chapter 27a of Title 17 of the Utah Code Annotated. (Ord 2005-22, 9/13/05)

3 - 4. Restriction on applications after adoption of general plan.

No application may be filed by any property owner or authorized agent thereof to amend any part of the county general plan for a period of one year after adoption of such part of the county general plan.

3 - 5. Effect of the plan on public uses.

No street, park, or other public way, ground, place, or space, no publicly-owned building or structure, and no utility, whether publicly or privately owned, may be constructed or authorized until and unless it conforms to the general plan. Before accepting,

widening, removing, extending, relocating, narrowing, vacating, abandoning, changing the use, acquiring land for, or selling or leasing any street or other public way, ground, place, property, or structure, the planning commission shall first review the proposed action and make recommendations to the county commission. (Ord 2005-22, 9/13/05)

3 - 6. Land use ordinance.

The land use ordinance shall establish regulations for land use and development that furthers the intent of the Tooele County General Plan. (Ord 2005-22, 9/13/05)

3 - 7. Amendment procedure.

(1) The board of county commissioners may, from time to time, amend the number, shape, boundaries or area of any zone or any regulation within any zone or any other provisions of the land use ordinance. Any such amendment shall not be made or become effective unless the same shall have been proposed by or be first submitted to the appropriate planning commission for its recommendation.

(2) This land use ordinance and the zoning map may be amended from time to time by ordinance duly enacted by the Board of County Commissioners in accordance with the procedures set out forth in 17-27a-502 and 17-27a-205(1)(b), UCA. (Ord 2005-22, 9/13/05)

3 - 8. Initiation of land use ordinance text and zoning map amendments.

(1) Amendment to the text of the land use ordinance shall be initiated by the planning commission or by the filing of an application in which the planning commission shall make a recommendation to the Board of County Commissioners.

(2) Amendment to any zoning map shall be initiated by a recommendation from the planning commission or the by filing an application by at least one land owner, owner by contract option or lessee with permission of the land owner within the area proposed to be changed or affected by the map amendment. Such proposal may extend beyond the property lines of the applicant.

(3) The planning commission shall provide:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use ordinance; and

(b) notice of each public meeting on the subject.

(4) Each notice of a public hearing under Subsection (3)(a) shall be:

(a) mailed to each affected entity at least ten calendar days before the public hearing;

(b) posted on the county's official website; and

(c) published in a newspaper of general circulation in the area at least ten calendar days before the public hearing.

(5) Each notice of a public meeting under Subsection (3)(b) shall be posted at least 24 hours before the hearing:

(a) in at least three public locations within the county; or

(b) on the county's official website.

(6) The planning commission shall:

(a) hold a public hearing on a proposed land use ordinance or zoning map; and

(b) prepare and recommend to the county commission a proposed land use ordinance or ordinances that represent regulating the use and development of land within all or any part of the unincorporated area of the county.

(Ord 2005-22, 9/13/05)

3 - 9. Zoning map amendment procedure.

(1) Applications for amendments to the zoning map shall be completed in full, signed, supplemented with any additional information required by the planning commission. An application which is incomplete or provides insufficient data shall be just cause for denial.

(2) A proposed amendment to the zoning map shall be initiated by the filing of an application for rezoning with the planning commission secretary or the Tooele County Department of Engineering. An application to amend the zoning map shall address:

(a) general existing site characteristics including ownership, topography, soils, drainage, vegetation and other physical characteristics of the area proposed to be changed;

(b) a legal description of the area to be zoned;

(c) types of land uses permitted, conditional or prohibited in the current zoning district and the proposed zoning district;

(d) existing transportation patterns to including public and private roads and internal and external circulation patterns, rights-of-way, easements and parking;

(e) existing and proposed land uses, open spaces, impervious surfaces including streets, parking areas, structures and buildings with a general description of size area,

intensities/densities, and height, and proposed storm-water drainage facilities;

(f) existing and proposed utilities and infrastructure;

(g) the relationship of the proposed zone change with the Tooele County General Plan and specifically how the proposed zone change would conflict, conform, complement or otherwise affect the general plan as well as any special studies that are designed to further detail the Tooele County General Plan in a specific area;

(h) an area map showing adjacent property owners and existing land uses within 500 feet of the area proposed to be rezoned;

(i) the location, description and acreage of land uses;

(j) the approximate location and number of residential units along with approximate square footage, density and height;

(k) the approximate location and square footage of non-residential buildings;

(l) the approximate location and square footage of non-residential buildings;

(m) a calculation of the approximate amount of open space both before and after build-out construction, indicating areas of expected open space and new landscaping, and including maintenance plans for these areas;

(n) if the site has unusual or unique natural features, a demonstration of how proposed development preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural draining patterns, and if appropriate, geotechnical studies submitted to indicate soil types, depth of bedrock and slope stability;

(o) a description of the availability of culinary and irrigation water, community facilities such as schools, fire protection services and other types of facilities that would serve the re-zoned area and how these facilities are affected by this proposal;

(p) the approximate location and size of storm water detention and retention areas and calculations on the impact to those systems as a result of the change in density and use of land;

(q) an indication of the construction schedule of any project proposed;

(r) for multi-phased projects, a phasing plan that describes the anticipated timing and geographical extent of each phase;

(s) a detailed traffic study showing the vehicle trips per day on average at build-out and a determination how the project would significantly alter existing traffic patterns or volume;

(t) for applications involving a PUD, a table of proposed dimensional standards for the proposed land uses or phases including lot sizes and frontages, building heights and intensities, and setbacks and a description of any requested exceptions to the requirements of the underlying zone; and

(u) any other study or information required by the planning commission or zoning administrator.

(3) The planning division of the engineering department shall review the proposal and submit to the applicant and the planning commission a staff report on the proposed application. The planning division shall analyze the impact of the proposed change on the development of the land within the community and county. In making a staff report, the planning division shall evaluate the proposal and address the following:

(a) whether the requested zoning is in conformity with the county's general plan;

(b) a finding that there have been materials changes in the character of the neighborhood, community or county such as to justify a change in the zoning as requested by the applicant;

(c) the extent to which the proposed development of the subject property in accordance with the requested zoning will be in harmony with and compatible with surrounding land uses and present development in the

(d) whether the subject property can be reasonably used and developed as presently zoned;

(e) how the requested zoning will affect traffic congestion and infrastructure in the area;

(f) whether the requested zoning will promote the public welfare;

(g) if a denial of the requested zoning would preclude use of the property for any purpose to which it is reasonably adaptable;

(h) how the land uses between the existing zone and the requested zoning afford any reasonable use of the property;

(i) whether failure to zone the property as requested would impose a hardship on the owner; and

(j) how the requested zoning will promote or disturb stability in the zoning of the neighborhood.

(4) The planning commission shall:

(a) provide notice as required by Subsection 17-27a-205(1)(a) UCA;

(b) hold a public hearing on a proposed land use ordinance or zoning map; and

(c) prepare and recommend to the legislative body a proposed zoning map that represents the planning commission's recommendation for regulating the use and development of land within all or any part of the unincorporated area of the county.

(5) In making a recommendation on any zoning map amendment, the planning commission may approve or deny the application as proposed. The planning commission may modify the proposal to exclude those properties, the rezoning of which does not, in the opinion of the planning commission, meet the criteria and intent of the general plan. Such recommendation shall specifically address the impact such a change will have on the resources and infrastructure within the county. (Ord 2005-22, 9/13/05)

3 - 10. County commission consideration for zoning map amendment--Hearing--Notice.

Applications to amend the zoning map are discretionary legislative decisions even if the application otherwise conforms to ordinance requirements. Before finally adopting any zoning map amendment, the board of county commissioners shall hold a public meeting. (Ord 2005-22, 9/13/05)

3 - 11. Restriction on applications after decision of rezone application.

A final determination regarding an application to amend the zoning map shall preclude the filing of another application to amend the zoning map to reclassify the same parcel of property, or any portion thereof to the same zone classification within one year of the date of the final decision unless the county planning commission finds that there has been a substantial change in the circumstances or sufficient new evidence to merit consideration of a second application within the one-year time period. (Ord 2005-22, 9/13/05)

3 - 12. Application for the initiation of land use ordinance text amendments.

(1) The land use ordinance is a principal means of implementing the land use policies of the Tooele County General Plan. The land use ordinance is a regulatory document which classifies property within the county limits into various zoning districts. Certain land uses are allowed in each zoning district; for example, single-family residential, neighborhood commercial, and light industrial. Zoning district boundaries shall be established on a zoning map. For each zoning district, the ordinance text prescribes a set of development standards to be enforced by the county with respect to such physical factors as permitted, conditional and prohibited land uses, lot size, building setbacks, building heights, open space provisions, parking requirements, and so forth.

(2) A proposal for an amendment to the land use ordinance may be initiated by:

- (a) the planning commission;
- (b) a county official through a request to the planning commission; or
- (c) an individual, through an application to the planning commission.

(3) Each applicant bears the burden of proof to show that the amendment requested furthers the goals and policies of the general plan.

(Ord 2005-22, 9/13/05)

3 - 13. Determination of commissioners.

The Board of County Commissioners, after review of the decision of the planning commission, may affirm, reverse, alter or remand for further review and consideration any action taken by the planning commission. (Ord 2005-22, 9/13/05)

3 - 14. Appeal procedure.

Any person shall have the right to appeal to the district court a decision by the Board of County Commissioners regarding the amendment of a the land use ordinance or zoning map by filing an appeal in writing within 30 days following the date upon which the decision is made. (Ord2005-22, 9/13/05)