

ORDINANCE 2004-26

AN ORDINANCE AMENDING THE UNIFORM ZONING
ORDINANCE OF TOOELE COUNTY, CHAPTER 1, GENERAL
PROVISIONS

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE BODY OF
TOOELE COUNTY, UTAH AS FOLLOWS:

SECTION I - AMENDMENT. The Uniform Zoning Ordinance of Tooele County, Chapter
1, General Provisions, hereby amended to read as attached hereto.

SECTION II - REPEALER. Ordinances in conflict herewith are hereby repealed to the
extent of such conflict.

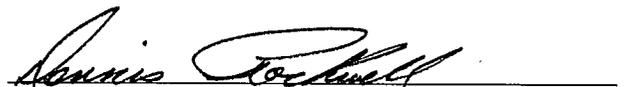
SECTION III - EFFECTIVE DATE. This ordinance shall become effective 15 days after
its passage provided it has been published, or at such publication date, if more than 15 days after
passage.

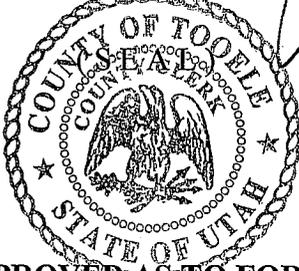
IN WITNESS WHEREOF the Tooele County Commission, which is the legislative body of
Tooele County, passed, approved and enacted this ordinance this 12th day of October 2004.

ATTEST:

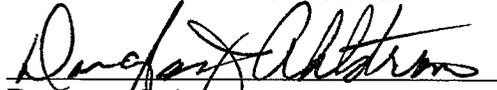

DENNIS D. EWING, Clerk

TOOELE COUNTY COMMISSION


DENNIS ROCKWELL, Chairman



APPROVED AS TO FORM:


DOUGLAS J. AHLSTROM
Tooele County Attorney

Commissioner Rockwell voted aye
Commissioner White voted aye
Commissioner Lawrence voted aye

CHAPTER 1

GENERAL PROVISIONS

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1 - 1. Short title.

This zoning ordinance and all chapters within it shall be known as the "Uniform Zoning Ordinance of Tooele County", and may be so cited and pleaded. The term "county" as used in this zoning ordinance refers to the unincorporated areas of Tooele County and does not include the incorporated municipalities of Grantsville, Rush Valley, Stockton, Tooele, Ophir, Vernon, and Wendover.

1 - 2. Purpose.

This Zoning ordinance is designed and enacted for the purpose of promoting the health, safety, comfort, convenience, order, prosperity, aesthetics and welfare of the present and future inhabitants of Tooele County. This is accomplished by the lessening of congestion on the streets, or roads, securing safety from fire and other dangers, providing adequate light and air, classifying land uses, distributing land development and utilization, protecting the tax base, securing economy in governmental expenditures, fostering agriculture and other industries, and protecting urban and nonurban development.

1 - 3. Penalties.

(1) No land, building or structure shall be used for any purpose not allowed in the zone in which such land,

building or structure is located.

(2) Violation of any provision contained in this zoning ordinance is prohibited. Any person who violates a provision of this title shall be subject to the criminal and civil penalties set forth in this chapter.

(3) Any person who violates any provision of this title is guilty of a class C misdemeanor upon conviction. In addition, the provisions of this title may also be enforced by injunction, mandamus, abatement, civil penalty, or any other remedy provided by law.

(4) Any person, corporation or other entity, whether as owner, occupant, agent or employee, who causes, permits or otherwise participates in any violation of the provisions of this title may be held responsible for the violation, suffer the penalties, and be subject to the remedies provided by law.

(5) Whenever any act or omission is made unlawful in this zoning ordinance, it shall include causing, permitting, aiding, or abetting such act or omission

(6) Any one, all, or any combination of the penalties and remedies set forth in this section may be used to enforce the provisions of this title.

(7) Each day that any violation continues after notification by the zoning administrator that such violation exists shall be considered a separate offense for purposes of penalties and remedies set forth in this title.

(8) Accumulation of penalties for continuing violations, but not the obligation for payment of penalties already accrued, shall stop upon correction of the violation.

1 - 4. Violation - Notice and order.

(1) Upon discovery that any provision of this title is being violated, the zoning administrator shall provide a written notice of violation and order to the property owner and to any other party who may be responsible for the violation.

(2) The written notice and order shall:

(a) indicate the nature of the violation;

(b) order the action necessary to correct the violation;

(c) give information regarding the established warning period for the violation; and

(d) state the action the zoning administrator intends to take if the violation is not corrected within the warning period.

(3) The written notice shall be posted on-site if possible and delivered personally or mailed to the property owner, as shown on the records of the county recorder, and to any other person who may be responsible for the violation.

(4) The written notice shall serve to start any warning

periods provided in this chapter, commencing upon receipt of notice. Receipt of notice shall mean three days after the date written notice is delivered or mailed as provided herein. If the violation remains uncured within the time specified by the zoning administrator, the civil penalties shall start and accrue back to the date the violation was noticed.

(5) In cases where the zoning administrator determines that a delay of enforcement would pose a danger to the public health, safety or welfare, or would otherwise compromise the effective enforcement of this zoning ordinance, the zoning administrator may seek immediate enforcement without prior written notice by instituting any of the remedies, other than civil penalties, authorized by this zoning ordinance.

1 - 5. Civil penalties.

(1) Any person having received notice of a violation, or the owner of any affected property, may appear before a hearing officer and present and contest such alleged violation of this title.

(2) The burden to prove any defense shall be upon the person raising such defense.

(3) If the hearing officer finds that no violation occurred and/or a violation occurred but one or more of the defenses set forth in this section is applicable, the hearing officer may dismiss the notice of violation. Such defenses are:

(a) At the time of the receipt of the notice of violation, compliance would have violated the criminal laws of the state;

(b) Compliance with the subject zoning ordinances would have presented an imminent and irreparable injury to persons or property.

(4) No action by a hearing officer shall relieve the violator from complying with any of the provisions of this title.

(5) Abatement for Correction and Payment.

(a) Civil penalties shall be partially abated after the violation is cured and in the discretion of a hearing officer considering the following guidelines and factors:

(i) Prompt Cure. Reductions are generally appropriate for promptly curing the violation pursuant to the following schedule, but the hearing officer may grant greater or lesser abatements depending on the facts of the case:

1. Cured within time specified - fine totally waved;
2. Cured within sixty days after notice -- fifty percent reduction; or
3. Cured within ninety days after notice -- twenty-five percent reduction;

(ii) If strict compliance with the notice and order

would have caused an imminent and irreparable injury to persons or property;

(iii) If the violation and inability to cure were both caused by a force majeure event such as war, act of nature, strike or civil disturbance;

(iv) Such other mitigating circumstances as may be approved by the attorney or designee;

(v) If a change in the actual ownership of the property was recorded in the recorder's office after the notice was issued and the new owner is not related by blood, marriage or common ownership to the prior owner.

(b) If the hearing officer finds that the noticed violation occurred and no applicable defense applies, the hearing officer may, in the interest of justice and on behalf of the county, enter into an agreement for the delayed or periodic payment of the applicable penalty.

1 - 6. Enforcement.

(1) The zoning administrator is authorized as the enforcing officer for all chapters of this zoning ordinance and will uphold this zoning ordinance judiciously insuring full compliance with all county ordinances by entering actions in court if necessary. The administrators failure to do so shall not legalize any violations of such provisions.

(2) The Tooele County Commission may, by resolution or ordinance, from time to time entrust administration of this zoning ordinance, in whole or in part, to another officer of Tooele County, without amendment to this zoning ordinance.

1 - 7. Building Permit Required.

The construction, alteration, repair, erection, placement, or removal of any building, structure, mobile home, modular home, manufactured home, office trailer or part thereof as provided or as restricted in any chapter of this zoning ordinance shall not be commenced or continued except after review by the zoning administrator or designated representative and a written permit from the building inspector. If work is not started or substantial progress is not made within 180 days a new permit will be required.

1 - 8. Occupancy permit required.

(1) Land, buildings or premises in any zoning district shall hereafter be used only for a purpose permitted in such district and in accordance with the zoning districts regulations. An occupancy permit shall be issued by the zoning administrator, chief building official or designated representative to the effect that the use, building or premises will conform to the provisions of this zoning ordinance and other related ordinances prior to occupancy, for any building that has been erected, enlarged or altered structurally, or the occupancy or use of any land, except for

permitted agricultural uses. Such a permit is needed whenever the use or character of any building or use of land is to be changed.

(2) An occupancy permit shall be issued after the approved final inspection, which shows completion of a building permit. Upon written request from the owner, a permit shall be issued covering any lawful use of buildings or premises, including nonconforming buildings and uses existing on the effective date of this zoning ordinance and any subsequent amendments.

1 - 9. Site plans required.

A detailed plan of appropriate scale and sheet size as determined by the zoning administrator shall be filed as part of any application for a building permit. It shall show, where pertinent:

- (1) scale of plan and direction of north point;
- (2) lot lines and adjacent streets, roads, right-of-way;
- (3) location of all existing structures including signs on subject property and adjoining properties, with utility lines, poles, etc. fully dimensioned;
- (4) location of proposed construction and improvements, with location and dimension of all signs;
- (5) motor vehicle access, circulation patterns, with individual parking stalls, and curb, gutter and sidewalk locations;
- (6) necessary explanatory notes;
- (7) the name, address, telephone number of builder and owner; and
- (8) all other information required as determined by the zoning administrator.

1 - 10. Inspection.

(1) The zoning administrator, the chief building official or their designated representatives are authorized to inspect or to have inspected all buildings and structures in the course of their construction, modification or repair, and to inspect land uses to determine compliance with the zoning ordinance provisions. The zoning administrator or any authorized employee of the department of engineering shall have the right to enter any building for the purpose of determining the use, or to enter premises for the purpose of determining compliance with this zoning ordinance, provided that such right of entry is to be used only at reasonable hours, unless an emergency exists. In no case shall entry be made to any occupied building in the absence of the owner, representative, employee or tenant thereof, without written permission of an owner, or written order of a court of competent jurisdiction.

1 - 11. Interpretation.

In interpreting and applying the provisions of any chapter of this zoning ordinance, the requirements

contained herein are declared to be the minimum requirements for the purposes set forth.

1 - 12. Conflict.

This zoning ordinance and any chapter contained within shall not nullify the more restrictive provisions of covenants, agreements, or other ordinances or laws, but shall prevail over any such provisions which are less restrictive.

1 - 13. Validity.

If any chapter, section, subsection, sentence, clause, or phrase of this zoning ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this zoning ordinance.

1 - 14. Effect on previous ordinances.

(1) Those zoning ordinances and chapters enacted prior to January 10, 1975, covering zoning, in their entirety are hereby superseded and amended. The intent of previous zoning ordinances and the revisions made to them is included in this zoning ordinance, whether in the same or in different language.

(2) This zoning ordinance shall be interpreted to questions of conforming or nonconforming uses, buildings and structures, and as to the dates upon which such uses, buildings, or structures became conforming or nonconforming.

1 - 15. Amendments.

The county commission may from time to time amend the number, shape, boundaries or areas of any district, or regulation, or any provision of this zoning ordinance. Any amendment shall not:

- (1) be made unless the same shall have been proposed by or first submitted to the planning commission for its approval, disapproval and recommendations, and
- (2) the county commission has held a public hearing on the proposed amendment after 14 days reasonable notice.

1 - 16. Notice.

When application is made to amend a zoning district or portion thereof, notice of the public hearing shall be made by publication in a newspaper having general circulation within Tooele County, at least 14 days in advance of the hearing.

1 - 17. Permits or licenses.

All departments, officials and public employees of Tooele County which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this zoning ordinance and shall issue no permit or license for uses, buildings, or purposes where the same

would be in conflict with the provisions thereof. Any permit or license, if issued in conflict with the provisions of this zoning ordinance, shall be null and void.

1 - 18. Fees.

Fees may be charged to applicants for building, occupancy, conditional use permits, design review, planned unit development approval, planning commission and board of adjustment hearings, and such other services required by this zoning ordinance to be performed by public officers or agencies. Such fees shall be established by resolution of the county commission and shall be in amounts reasonably necessary to defray costs to the public.

1 - 19. Improvements - Performance bonds.

(1) Any on or off site improvements required by this zoning ordinance or by the planning commission, including curb, gutter, sidewalk, fences, landscaping, streets, fire hydrants, and parking, shall be satisfactorily installed prior to Tooele County authorizing electrical service being provided; or, if no electrical service is required, prior to issuance of any occupancy permit for the land or structure being developed or constructed.

(2) In lieu of actual completion of such improvements prior to electrical service being provided or the issuance of an occupancy permit, a developer, contractor or land owner may file with the county commission a cash bond, escrow agreement, or other approved form of financial assurance, in an amount equal to 125% of the cost of construction as determined by the department of

engineering, to ensure completion of improvements within one year. Twenty percent of the bond amount for public improvements such as curb, gutter, sidewalk, road surfacing and fire hydrants, shall extend for a one-year period beyond the date the improvements are completed, to guarantee replacement if such improvements become defective. Upon completion of the improvements for which a cash bond or escrow agreement has been filed, the developer, contractor or land owner shall call for inspections of the improvements by the department of engineering.

(3) To protect the health, safety and welfare of persons from traffic, flood, drainage or other hazards, the planning commission or county commission may determine that the required improvements should be completed in a specific sequence and/or in less than a one year period. The planning commission or county commission may require in approving the cash bond or escrow agreement that the improvements be installed in a specified sequence and period which may be less than one year and shall incorporate such requirements in the bond.

(4) When the developer, contractor or land owner is a school district, municipality, service area, special-purpose district or other political subdivision of the state, the county commission may waive the cash bond or escrow agreement and accept a letter from the governing body thereof, guaranteeing installation of the improvements. Before approving any such waiver, the county commission shall receive a recommendation from the department of engineering.