

ORDINANCE 2005-22

**AN ORDINANCE REPEALING AND REENACTING CHAPTERS 1, 3, 4, 5,
AND 7 OF THE TOOELE COUNTY LAND USE ORDINANCE**

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

SECTION I - PURPOSE. Numerous changes were made to zoning provisions in this year's Utah State legislative session to which the county needs to conform. This ordinance implements these changes as well as makes additional technical and grammatical amendments.

SECTION II - CHAPTERS REENACTED. Chapters 1, 3, 4, 5, and 7 of the Tooele County Land Use Ordinance are hereby repealed and reenacted to read as attached hereto, which attachment is, by this reference, made a part hereof.

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 Ordinances and resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION IV - 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 13th day of September 2005.

Ord. 2005-22

ATTEST:


DENNIS D. EWING, Clerk

Marilyn K. Gillette
Chief Deputy Clerk



APPROVED AS TO FORM:


DOUGLAS J. AHLSTROM
Tooele County Attorney

TOOELE COUNTY COMMISSION:


DENNIS ROCKWELL, Chairman

Commissioner Rockwell voted aye
Commissioner Lawrence voted aye
Commissioner Johnson voted aye

CHAPTER 1

GENERAL PROVISIONS

Section

- 1 - 1. Short title – County defined.
- 1 - 2. Purpose.
- 1 - 3. Penalties.
- 1 - 4. Violation – Notice and order.
- 1 - 5. Civil penalties.
- 1 - 6. Enforcement.
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- 1 - 17. Permits or licenses.
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- 1 - 19. Improvements - Performance bonds.

1 - 1. Short title – County defined.

(1) This title and all chapters within it shall be known as the Tooele County Land Use Ordinance, and may be so cited and pleaded.

(2) The term "county" as used in this title refers to the unincorporated areas of Tooele County and does not include incorporated municipalities. (Ref UCA §17-27a-103, 17-27a-501)

1 - 2. Purpose.

The Tooele County Land Use 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, 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) 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.

(3) 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.

(4) Whenever any act or omission is made unlawful in this land use ordinance, it shall include causing, permitting, aiding, or abetting such act or omission.

(5) 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.

(6) 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.

(7) 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 title, 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 land use 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 land use 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 or that 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; and

(b) compliance with the subject land use ordinance 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) 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 waived;
2. Cured within sixty days after notice -- 50% fine reduction; or
3. Cured within ninety days after notice -- 25% fine 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) other mitigating circumstances as may be approved by the attorney or designee; or

(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, allow for the delayed or periodic payment of the applicable penalty.

1 - 6. Enforcement.

(1) The zoning administrator is a land use authority and is authorized as an enforcing officer for all chapters of this land use ordinance. The zoning administrator shall uphold this land use ordinance, judiciously insuring full compliance with all county ordinances by entering actions in court if necessary. The administrator's 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 land use ordinance, in whole or in part, to another officer of Tooele County, without amendment to this land use 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 land use 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 district's 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 land use 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 land use 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 land use or building permit.

1 - 10. Inspection.

The zoning administrator and 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 land use ordinance provisions. They 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 land use 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 land use ordinance, the requirements contained herein are declared to be the minimum requirements for the purposes set forth.

1 - 12. Conflict.

This land use ordinance 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 land use ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this land use ordinance.

1 - 14. Effect on previous ordinances.

(1) Those zoning ordinances and chapters enacted prior to January 10, 1975, covering zoning are hereby

superseded and amended in their entirety. The intent of previous zoning ordinances and the revisions made to them is included in this land use ordinance, whether in the same or in different language.

(2) This land use 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 land use ordinance. Any amendment shall not be made unless:

(1) 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 meeting on the proposed amendment. (Ref UCA § 17-27a-502)

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 ten days in advance of the hearing. (Ref UCA §17-27a-205)

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 land use 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 land use 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 land use 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-site and off-site improvements required by this land use ordinance or by the planning commission, including curb, gutter, sidewalk, fences, landscaping, streets, fire hydrants, signs, 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 required on-site and off-site 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 100% of the cost of construction as determined by the department of engineering, to ensure completion of the improvements within one year. Twenty percent of the bond amount for such improvements shall extend for a one-year period beyond the date the improvements are completed, to guarantee replacement if such improvements become defective or missing. 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 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.

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. Initiation of land use ordinance text and zoning map amendments.
- 3 - 8. Zoning map amendment procedure.
- 3 - 9. Consideration for zoning map amendment.
- 3 - 10. Restriction on applications after decision of rezone application.
- 3 - 11. Land use ordinance amendments.
- 3 - 12. Determination of commissioners.
- 3 - 13. 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:

(i) 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

(ii) 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:

(i) 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

(ii) 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:

- (i) historic preservation; and
- (ii) 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.

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.

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 reasons 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.

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.

(1) 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.

(2) 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.

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.

3 - 7. 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.

3 - 8. 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 rezoned;

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

(m) 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;

(n) 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 rezoned area and how these facilities are affected by this proposal;

(o) 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;

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

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

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

(s) 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

(t) 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 material 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 area;

(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.

3 - 9. Consideration for zoning map amendment.

The decision to amend the zoning map is a discretionary legislative decision 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.

3 - 10. Restriction on applications after decision of rezoning 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.

3 - 11. Land use ordinance 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.

3 - 12. 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.

3 - 13. 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 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.

CHAPTER 4

SUPPLEMENTARY AND QUALIFYING REGULATIONS

Section

- 4 - 1. **Effect of chapter.**
- 4 - 2. **Substandard lots at time of ordinance passage.**
- 4 - 3. **Lot standards.**
- 4 - 4. **Every dwelling to be on a lot - Exceptions.**
- 4 - 5. **Yard space for one building only.**
- 4 - 6. **Private garage with side yard - Reduced yards.**
- 4 - 7. **Sale or lease of required space.**
- 4 - 8. **Sale of lots below minimum space requirements.**
- 4 - 9. **Yards to be unobstructed - Exceptions.**
- 4 - 10. **Area of accessory buildings.**
- 4 - 11. **Height limitations - Exceptions.**
- 4 - 12. **Minimum height of main building.**
- 4 - 13. **Maximum height of accessory buildings.**
- 4 - 14. **Clear view of intersecting streets.**
- 4 - 15. **Maximum height of fences, walls, hedges.**
- 4 - 16. **Water and sewerage requirements.**
- 4 - 17. **Curbs, gutters and sidewalks.**
- 4 - 18. **Effect of official map.**
- 4 - 19. **Lots on private streets.**
- 4 - 20. **Lots divided by a zone boundary.**
- 4 - 21. **Disconnection or disincorporation of property.**
- 4 - 22. **Animal and fowl restrictions.**
- 4 - 23. **Off-site improvements.**
- 4 - 24. **Commercial renting of dwellings prohibited.**
- 4 - 25. **Temporary residences for emergency construction or repair.**

4 - 1. Effect of chapter.

The regulations set forth in this chapter qualify or supplement, as the case may be, the regulations of any zoning district appearing elsewhere in the Tooele County Land Use Ordinance.

4 - 2. Substandard lots at time of ordinance passage.

(1) Any legal substandard lot created prior to January 10, 1975, or having been granted a special exception by the administrative hearing officer pursuant to Tooele County Code 13-7-2, and having less than the requirements for lot area or width for the zoning district in which it is located, may be used for a single family dwelling if it is located in a zoning district that permits single family dwellings.

(2) The method for determining side yard setback distances for lots described in Subsection (1) is to:

- (a) determine the area of the lot;
- (b) determine the equivalent zone by using Table 4-A;
- (c) compare the actual front width with the equivalent zone frontage requirement;
- (d) if the actual frontage equals or exceeds the equivalent zone frontage, use the setback distance of the equivalent zone; and
- (e) if the actual frontage is less than the equivalent zone frontage, then use Table 4-B to determine the adjusted side yard setback.

(3) All setbacks other than side yard setbacks shall remain as stated in the equivalent zone.

(4) Notwithstanding anything to the contrary in this section, side yard setbacks in lots described in Subsection (1) shall not be less than eight feet.

Table 4-A	
Area of Lot:	Equivalent Zone:
Over 120 acres	MU-160
Over 60 acres, up to 120 acres	MU-80
Over 50 acres, up to 60 acres	MU-40
Over 15 acres, up to 50 acres	A-20
Over 7 acres, up to 15 acres	RR-10
Over 3 acres, up to 7 acres	RR-5
Over 0.75 acres, up to 3 acres	RR-1
Over 17,000 square feet, up to 32,670 square feet	R-1-21
Over 11,000 square feet, up to 17,000 square feet	R-1-12
Over 9,000 square feet, up to 11,000 square feet	R-1-10
Up to 9,000 square feet	R-1-8

Table 4-B		
(Actual Width x Side Yard Multiplier = Adjusted Side Yard)		
Equivalent Zone		Side Yard Multiplier
R-1-8	=	0.0857
R-1-10	=	0.1000
R-1-12	=	0.1250
R-1-20	=	0.1000
RR-1	=	0.1200
RR-5	=	0.1000
RR-10	=	0.0758
A-20	=	0.0909
A-40	=	0.0909
MU-40	=	0.0454
MU-80	=	0.0227
MU-100	=	0.0227

4 - 3. Lot standards.

(1) Except for planned unit developments and conservation subdivisions or as otherwise provided in this Tooele County Land Use Ordinance, every lot shall have such area, width and depth as is required by for the zoning district in which such lot is located.

(2) Lots shall have frontage upon a dedicated or publicly-approved street before any building permit may be issued, except residential lots may front upon private roads approved by the planning commission.

(3) In residential and rural residential zoning districts, no lot shall be created which is more than three times as deep as it is wide. In rural residential zoning districts, a special exception thereto may be granted by the administrative hearing officer if it can be shown by the applicant that a deeper lot represents the most judicious configuration of the property, but in no case shall the exception be granted for more than five lots in any subdivision, neither shall it create a lot more than five times as deep as it is wide.

(4) Any lot or portion thereof that exceeds 30% slope is not buildable.

(5) Any lot created through Section 13-1-8 of the Tooele County Code or Section 17-27a-605 UCA for an agricultural partition is not a buildable lot for a residential dwelling or use. To become a residential building lot, the lot or parcel shall first be divided as a subdivision under Title 13 of the Tooele County Code.

4 - 4. Every dwelling to be on a lot - Exceptions.

(1) Except as otherwise stated herein, every dwelling shall be placed and maintained on a separate lot.

(2) Group and cluster dwellings, condominiums and other multi-structure dwelling complexes with single ownership and management may occupy one lot for each multi-structure complex.

4 - 5. Yard space for one building only.

No required yard or other open space around an existing building or that is hereafter provided around any building shall be considered as providing a yard or open space for another building, nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established.

4 - 6. Private garage with side yard - Reduced yards.

(1) On any interior substandard lot where a private garage containing a sufficient number of parking spaces to meet the Tooele County Land Use Ordinance has a side yard equal to the minimum side yard required for a dwelling in the same zoning district, the width of the other side yard for the dwelling may be reduced to equal that of the minimum required side yard for a recognized substandard lot.

(2) On any substandard lot where such a garage has a side yard as described in Subsection (1), the rear yard of the dwelling may be reduced to 15 feet, provided the garage also has a rear yard of at least 15 feet.

4 - 7. Sale or lease of required space.

No space needed to meet the width, yard, area, coverage, parking or other requirements of the Tooele County Land Use Ordinance for a lot or building may be sold or leased away from such lot or building.

4 - 8. Sale of lots below minimum space requirements.

No parcel of land may be divided or subdivided from a larger parcel which creates a lot that has less than the minimum width and area requirements for the zoning district in which it is located. This regulation applies whether the intent of the division or subdivision may or may not be for the purpose, whether immediate or future, of building, development or any other land use.

4 - 9 Yards to be unobstructed - Exceptions.

(1) Every part of a required yard shall be unobstructed and open to the sky, except for:

- (a) accessory buildings in a rear yard;
- (b) the ordinary projections of eaves, skylights, sills, belt courses, cornices, chimneys, flues,

and like features which project into a yard not more than two and one-half feet; and

- (c) projections allowed by the building or fire codes for fire safety purposes shall be allowed to extend into a yard not more than five feet.

(2) In no case shall a stoop, cantilever, eave, or other projection extend into any designated easement for public utilities, drainage, or access.

4 - 10. Area of accessory buildings.

No accessory building or group of accessory buildings in any residential district shall cover more than 25% of the rear yard.

4 - 11. Height limitations - Exceptions.

All buildings and structures must conform to the height limit of the zoning district in which they are located. No space above the height limit shall be allowed for purposes of providing additional floor space. The following are the only exceptions which shall be allowed by conditional use permit to the height limits in any zoning district:

- (1) penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building;
- (2) fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos, or similar structures; and
- (3) public and quasi-public utility buildings.

4 - 12. Minimum height of main building.

No dwelling shall be erected to a height less than one story above grade.

4 - 13. Maximum height of accessory buildings.

No accessory building in a residential (R-1) or residential multi-family (RM) zoning district shall contain more than one story or exceed 20 feet in height. In all other zoning districts accessory buildings and structures shall not exceed the height of the zoning district in which it is located. No space within an accessory building or structure shall be used as a dwelling.

4 - 14. Clear view of intersecting streets.

(1) In all districts requiring a front yard, no obstruction to view in excess of two feet in height or twelve inches in width shall be placed on any corner lot within the clear view zone. Pole signs and a reasonable number of trees pruned to at least ten feet clearance to grade to permit unobstructed vision to automobile drivers and pedestrians are permitted.

(2) Signs or other advertising structures shall not be erected at the intersection of any street or driveway in

such a manner as to obstruct free and clear vision. They shall not be erected at any location where by reason of the position, shape or color, they may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal device, or make use of the words, "Stop," "Drive-in," "Danger," or any other words, phrases, symbols or characters in such a manner as to interfere with, mislead or confuse vehicle operators.

4 - 15. Maximum height of fences, walls and hedges.

(1) Fences, walls and hedges may be erected to permitted building height for the zoning district in which they are located when within the buildable area, provided that any such structure over six feet high requires a building permit.

(2) View-obscuring fences, walls, and hedges may not exceed three feet in height within any required front yard. Corner lots in residential zones are allowed a view obscuring fence, on the side of the house that does not face the street only, up to six feet in height at the property line provided the fence is at no time located less than five feet behind the front façade. No fences, walls, or hedges over two feet in height may be located in the clear view zone.

(3) Where a fence, wall, or hedge is located along a property line separating two lots and there is a difference in the grade of the properties on the two sides of the property line, the fence, wall, or hedge may be erected or allowed to the maximum height permitted on either side of the property line.

4 - 16. Water and sewerage requirements.

In all cases where a proposed building or proposed use will involve the use of sewerage facilities and a connection to a public sewer system as defined by the Utah State Department of Environmental Quality is not available, and in all situations where a connection to a public water system approved by the Utah State Department of Environmental Quality is not available, the sewage disposal and the domestic water supply shall comply with the requirements of Tooele County Health Department. The application for a building permit shall be accompanied by a certificate of approval from the Tooele County Health Department.

4 - 17. Curbs, gutters and sidewalks.

The installation of curbs, gutters and sidewalks of a type approved by the director of the Tooele County Department of Engineering may be required on any existing or proposed street adjoining a lot on which a building is to be constructed or remodeled, or on which a new use is to be established. Such curbs, gutters or sidewalks may be required as a condition of a building permit or a use permit approval.

4 - 18. Effect of official map.

Wherever a front yard is required for a lot facing on a street for which an official map has been recorded, the depth of such front yard shall be measured from the mapped street line.

4 - 19. Lots on private streets.

Lots with frontage only on private streets shall only be allowed by conditional use permit or planned unit development. They are subject to all applicable requirements of this Tooele County Land Use Ordinance.

4 - 20. Lots divided by a zone boundary.

A lot divided by a zone boundary shall be subject to the following special regulations:

(1) A use allowed in the less restrictive zone but not allowed in the more restrictive zone may be allowed to extend into the more restrictive zone but not more than 50 feet by approval of the administrative hearing officer, if the officer finds that the extension is required for the reasons of justice and equity and will not be harmful to neighboring property or human values.

(2) A substandard lot may have area added from a legally-existing, legally-created, or existing substandard lot through a subdivision approval or by a variance issued by the administrative hearing officer if the total lot area would not equal the minimum lot area of the zone, as long as the creation of the new lot or lots, or the addition of land to an existing lot:

(a) would not create undesirable land patterns or prevent desirable subdivision designs in the area;

(b) would not be detrimental to the development of required or desirable streets, utilities, or other public facilities or service; and

(c) would provide a usable and desirable lot for the uses and densities allowed.

(3) The uses allowed on any portion of the new lot shall only be those allowed in the district in which such portion of the lot is located.

(4) Any such enlarged lot shall not be re-subdivided except through submission and approval of a subdivision plat.

4 - 21. Disconnection or disincorporation of property.

Any parcel of property that becomes part of the unincorporated area of Tooele County because of disconnection from a municipality or disincorporation of a municipality shall be designated in the same county zoning district as the adjoining zone.

4 - 22. Animal and fowl restrictions.

No animal or fowl shall be kept or maintained closer than 40 feet to any dwelling on an adjacent parcel of land,

and no barn, stable, coop, pen or corral shall be kept closer than 40 feet to any street, except that in the RR-10, A-20, A-40, MU-40, MU-80 and MU-160 zoning districts, no corral or stable for the keeping of horses may be located closer to a public street or to any dwelling on an adjacent parcel of land than one hundred feet. No animal or fowl other than horses, cattle, sheep, poultry, swine or mink shall be kept on a parcel with out first obtaining a conditional use permit to insure the welfare, safety and mitigation of nuisances arising from maintaining such animals.

4 - 23. Off-site improvements.

(1) The applicant for a building permit in an approved subdivision shall provide curb, gutter and sidewalk along the entire property line abutting any public street where it has been determined as being required, at Tooele County standards. Vehicular entrances to the property shall be provided as required in Chapter 6 and Chapter 23 of the Tooele County Land Use Ordinance. Height, location, structural specifications and maximum roadway approach angles to the centerline of the street are subject to approval from the Department of Engineering.

(2) A fee may be paid in lieu of improvements when conditions exist which make it unfeasible or impractical to install such curb, gutter and sidewalk. In such circumstances approved by the planning commission, the applicant shall pay Tooele County a fee equal to the cost of such improvements, as estimated by the director of the Department of Engineering. Upon payment of such fee, Tooele County shall assume responsibility for future installation of such improvements. The auditor shall deposit such fees in the special account established to hold such fees and shall credit to such account a proportionate share of interest earned from investment of county moneys. Records relating to the identification of properties for which such fees have been collected, fee amounts collected for such properties, and money transfer requests shall be the responsibility of the Department of Engineering.

(3) The planning commission may grant an exception to installation of the sidewalk in industrial areas where it determines that the sidewalk is not necessary to serve the public need and the elimination of the sidewalk does not jeopardize the public health, safety and welfare.

(4) The planning commission may grant an exception to the installation of curb, gutter and sidewalk in rural or estate areas where topographic or other exceptional conditions exist, provided that the public health, safety and welfare is preserved.

4 - 24. Commercial renting of dwellings prohibited.

It shall be deemed a commercial use and unlawful to rent or lease any dwelling or portion thereof within any

residential, agricultural or multi-use zoning district for lodging or accommodation purposes for a period of less than 30 days except as specifically allowed in the zoning district regulations.

issued a building permit, placed, stored, located, or constructed on the property until a temporary use permit has been issued.

4 - 25. Temporary residences for emergency construction or repair.

If for reason of emergency construction or major repair there is need for a temporary residence on construction sites of non-residential premises in the remote areas of the county where travel would exceed one hour at posted speed limits to a residence or a trailer park, a temporary use permit shall be considered to allow temporary placement of mobile homes, manufactured homes or the use of recreational vehicles to provide temporary housing. Any such use must be approved by the director of the Department of Engineering with the following terms and conditions:

(1) The temporary use approval of the structure, recreational vehicle, mobile home, or manufactured housing is not to exceed six months, with the exception that the owner can apply for a six month extension, provided that substantial progress of the emergency, construction or repair is demonstrated. There shall be no more than three extensions granted for any temporary use permit or any lot, parcel or property.

(2) The temporary structure, mobile home, manufactured housing, or recreational vehicle shall be constructed or placed in accordance with the Building Code and the Tooele County Land Use Ordinance and shall be required to have a permit from the Tooele County Health Department in regard to sanitation facilities and a building permit issued before commencement of construction or placement of the temporary structure.

(3) The temporary structure, mobile home, manufactured home, or recreational vehicle shall be removed:

(a) immediately following completion of the project, construction or repairs, or

(b) immediately upon the expiration of the term of the temporary use permit.

(4) The Department of Engineering and its employees may review the temporary use permit or the structures on the property to insure compliance and substantial progress.

(5) Mobile and manufactured homes will be placed in accordance with Chapter 10 of the Tooele County Land Use Ordinance with the following exceptions:

(a) They shall leave the running gear intact.

(b) The skirting shall be of a temporary construction, not of masonry material.

(6) The temporary structure, mobile home, manufactured housing or recreational vehicle shall not be

CHAPTER 5

NONCONFORMING BUILDINGS AND USES

Section

- 5 - 1. Purpose.
- 5 - 2. Repairs and alterations.
- 5 - 3. Additions, enlargements, and moving.
- 5 - 4. Alteration where parking insufficient
- 5 - 5. Restoration of damaged buildings.
- 5 - 6. One-year vacancy or abandonment.
- 5 - 7. Continuation of use.
- 5 - 8. Occupancy within one year.
- 5 - 9. Change of use.
- 5 - 10. Expansion permitted.
- 5 - 11. Nonconforming use of land.
- 5 - 12. Diminishing assets.

5 - 1. Purpose.

Within the zoning districts established by this ordinance or subsequent amendments thereto, there exist uses, structures and lots which were lawfully established or created, but which would be prohibited, regulated or restricted under the terms of this ordinance or future amendments. The intent of this chapter is to permit these nonconformities to continue but not to encourage their perpetuation or survival. Nonconformities are declared by this chapter to be incompatible with permitted uses, structures and lots in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or enjoy an increase in intensity of use.

5 - 2. Repairs and alterations.

Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use.

5 - 3. Additions, enlargements, and moving.

A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area, or yard requirements shall not be added to or enlarged in any manner or moved to another location on the lot.

5 - 4. Alteration where parking insufficient.

A building or structure lacking the automobile parking space required by the land use ordinance may be altered or enlarged provided additional automobile parking space is supplied to fully meet the requirements of the land use ordinance.

5 - 5. Restoration of damaged buildings.

A nonconforming building or structure, which is or is not occupied by a nonconforming use, that is damaged or destroyed by the public enemy, fire, flood, wind, earthquake or other calamity or Act of God may be restored and the occupancy or use of such building, structure, or part thereof, which existed at the time of the damage or destruction may be continued or resumed, provided that such restoration is started within a period of one year and is diligently pursued to completion.

5 - 6. One-year vacancy or abandonment.

(1) A building or structure or portion thereof, nonconforming as to use, which is or hereafter becomes vacant and remains unoccupied for a continuous period of one year shall not be occupied except by a use which conforms to the use regulations of the zoning district in which it is located.

(2) Wherever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be in conformance with the provisions of the land use ordinance.

(3) Any building, structure, or use for which a valid building permit has been issued and actual construction was lawfully begun prior to the effective date of the land use ordinance, may be completed and used in accordance with the plans, specifications and permit on which the building permit was granted.

(4) For purposes of this section, actual construction is hereby defined to be:

(a) the actual placing of construction materials in their permanent position, fastened in a permanent manner;

(b) actual work in excavating a basement; or

(c) the demolition or removal of an existing structure begun preparatory to rebuilding, provided that in all cases actual construction work shall be diligently carried on without delay until the completion of the building or structure involved.

5 - 7. Continuation of use.

(1) The occupancy of a building or structure by a nonconforming use existing at the time this land use ordinance became effective may be continued.

(2) Except as provided in this chapter, a nonconforming use of land may be continued by the present or a future property owner.

5 - 8. Occupancy within one year.

A vacant building or structure may be occupied by a use for which the building or structure was designed or intended, if so occupied within a period of one year after the use became nonconforming.

but does allow that all property held at the time the more restrictive ordinance was passed can be used for the intended purpose.

5 - 9. Change of use.

(1) Whenever any part of a building, structure or land occupied by a nonconforming use is changed to or replaced by a use conforming to the provisions of the land use ordinance, the premises shall not thereafter be used or occupied by a nonconforming use, even though the building may have been originally designed and constructed for the prior nonconforming use.

(2) Whenever a nonconforming use of a building or structure, or part thereof, has been discontinued or abandoned for a period of one year, such use shall not be reestablished, and the use of the premises shall be in conformity with the regulations of the zoning district.

(3) Where no enclosed building is involved, discontinuance of a nonconforming use for a period of one year constitutes abandonment.

(4) A nonconforming use not authorized by the provisions of this ordinance shall be discontinued and not reestablished unless the use is conforming to the zoning district in which it is located.

5 - 10. Expansion permitted.

A nonconforming use may be extended to include the entire floor area of the existing building in which it is conducted at the time the use became nonconforming.

5 - 11. Nonconforming use of land.

The nonconforming use of land, existing at the time this ordinance became effective, or through a change in the land use ordinance or zoning district boundaries, may be continued, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or on adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of one year or more, any future use of such land shall be in conformity with the provisions of this land use ordinance.

5 - 12. Diminishing assets.

Some nonconforming uses, such as mining or gravel extraction, must be expanded in order for the use to continue at all. Such businesses shall be allowed to expand without limitation or restriction to the immediate area excavated at the time the ordinance was passed regardless of the current zoning onto the rest of the property acquired for such a use. This shall not allow for the purchase of additional property with which to expand,

CHAPTER 7

CONDITIONAL USES

Section

- 7 - 1. Definition of conditional use.
- 7 - 2. Permit required.
- 7 - 3. No presumption of approval.
- 7 - 4. Application.
- 7 - 5. Determination.
- 7 - 6. Fee.
- 7 - 7. Public hearing.
- 7 - 8. Appeals.
- 7 - 9. Compliance and inspection.
- 7 - 10. Substantial action required.
- 7 - 11. Notification required.
- 7 - 12. Extension or change of use.
- 7 - 13. Revocation.
- 7 - 14. Special events - Temporary permits.
- 7 - 15. Professional filming.

7 - 1. Definition of conditional use.

A conditional use is a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

7 - 2. Permit required.

A conditional use permit shall be required for all uses listed as conditional uses in the zoning district regulations where they are or will be located, or if the use is specified as conditional use elsewhere in this Tooele County Land Use Ordinance.

7 - 3. No presumption of approval.

The listing of a conditional use in any table of permitted and conditional uses in this Tooele County Land Use Ordinance for each category of zoning district does not constitute an assurance or presumption that such conditional use will be approved. Rather, each proposed conditional use shall be evaluated on an individual basis, in relation to its compliance with the standards and conditions set forth in this chapter and with the standards for the district in which it is located, in order to determine whether the conditional use is appropriate at the particular location.

7 - 4. Application.

(1) Application for a conditional use permit shall be made to the Tooele County zoning administrator. The zoning administrator shall submit the application to the planning commission and schedule it for the commission's work meeting. The planning commission may authorize the zoning administrator to grant, attach conditions to, or deny conditional use permits, subject to such limitations or qualifications as they deem necessary.

(2) Each application for a conditional use permit shall be accompanied by maps, drawings, statements or other documents as required by the planning commission. Submittals must be filed with the zoning administrator for staff and public review by noon of the fourteenth day prior to the planning commission meeting.

7 - 5. Determination.

(1) The planning commission, or upon authorization the zoning administrator, shall approve a conditional use permit if reasonable conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards in which a conditional use permit is required by the use regulations of that zoning district or elsewhere in the land use ordinance or Tooele County Code.

(2) In authorizing any conditional use the planning commission or zoning administrator shall impose such requirements and conditions as are necessary for protection of adjacent properties and the public welfare. The land use authority may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions may include:

(a) assuring that the use will not be detrimental to the health, safety, comfort, order or general welfare of persons residing or working in the vicinity;

(b) the use will:

(i) comply with the intent, spirit and regulations of the Tooele County Land Use Ordinance and the zoning district where the use is to be located;

(ii) make the use harmonious with the neighboring uses in the zoning district;

(c) the site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust and emissions, light,

glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;

(d) all required public facilities have adequate capacity to serve the proposal;

(e) limiting the hours, days, place and manner of operation;

(f) requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust and emissions, glare, erosion, odor and dust;

(g) requiring a larger setback area, lot area, or lot depth or width;

(h) limiting the building height, size or lot coverage, and location on the site;

(i) designating the size, number, location and design of vehicle access points or parking areas;

(j) requiring street right-of-way to be dedicated and streets, sidewalks, curbs, planting strips, pathways, or trails to be improved, provided:

(i) an essential link exists between a legitimate governmental interest and each exaction; and

(ii) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development;

(k) requiring landscaping, screening, drainage, water quality facilities, and improvement of parking and loading areas;

(l) limiting the number, size, location, height, and lighting of signs;

(m) limiting or setting standards for the location, design, shielding, and intensity of outdoor lighting;

(n) requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;

(o) requiring and designating the size, height, location, and materials for fences;

(p) encouraging the protection and preservation of natural features including existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, slopes, cultural resources, and sensitive lands;

(q) requiring the protection and preservation of groundwater recharge areas;

(r) limiting noise generation;

(s) minimizing environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities;

(t) turn-lane improvements at street intersections may be required when:

(i) an unsafe condition would be created by the development without the improvements; or

(ii) the projected increase in traffic generated by the new or expanded use will lower the level of service;

(u) providing for emergency response access;

(v) requiring pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks; and

(w) the conditions shall be in compliance with the general plan of Tooele County.

(3) The land use authority shall ensure the conditions imposed are not capricious, arbitrary, or contrary to any precedent set on prior permits, which are similar in use and district, unless prior approvals were not in accordance with the provisions and standards of this Tooele County Land Use Ordinance.

(4) The land use authority may require that a traffic study or an EIS or EA may be required to address one or more of these criteria.

(5) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards the conditional use may be denied.

(6) A conditional use permit shall not be issued if the applicant has made a false, misleading or deceptive statement in providing the information required.

7 - 6. Fee.

The application for conditional use permit shall be accompanied by the appropriate fee established by the board of county commissioners.

7 - 7. Public hearing.

A public hearing on the conditional use permit application may be held if the planning commission deems a hearing to be necessary and in the public interest.

7 - 8. Appeals.

(1) Any person aggrieved by a decision of the planning commission or the zoning administrator regarding the issuance, denial or revocation or amendment of a conditional use permit may appeal such decision to the board of county commissioners whose decision shall be final. All appeals to the county commission must be in writing and filed with the county commission within 30 days of the date of the decision appealed from.

(2) The decision of the county commission may be appealed to the district court provided such appeal is filed within 30 days of the county commission decision. The

appeal shall be filed with the county commission and with the clerk of the district court.

7 - 9. Compliance and inspection.

Following the issuance of a conditional use permit:

(1) The Department of Engineering shall receive an application for a building permit, if applicable, and ensure that development is undertaken and completed in compliance with the conditional use permit.

(2) The zoning administrator shall make periodic inspections to ensure compliance with all conditions imposed. An investigation report will be issued to those who are out of compliance. If the discrepancy is not corrected in an allotted time, an Order to Show Cause will be issued for action by the planning commission or zoning administrator.

7 - 10. Substantial action required.

Unless there is substantial action under a conditional use permit within one year of its issuance, the permit shall expire. The planning commission may grant one extension up to six months, when deemed in the public interest.

7 - 11. Notification required.

(1) When the planning commission considers an application for a conditional use permit, notification shall be mailed to all landowners appearing on the tax rolls of Tooele County that adjoin the property.

(2) When the zoning administrator is authorized to issue a conditional use permit for a use other than home occupation, temporary construction office, or temporary construction equipment and supply trailer, notice shall be sent to the adjoining landowners giving them a deadline of no less than seven days to give written comments on the application. If a written comment is received objecting to the issuance of the permit, the application shall be put on the planning commission agenda, new noticing for the meeting sent giving the date, time and place where the meeting will be held. The written comments received by the zoning administrator shall be made part of the record.

7 - 12. Extension or change of use.

(1) A use granted by a conditional use permit shall not be enlarged, changed, extended, increased in intensity or relocated unless a new conditional use permit application is made to, and approved by, the land use authority.

(2) Notwithstanding Subsection (1), the zoning administrator may administratively consider, approve, or deny modifications or changes that are consistent with the purpose and intent of the Tooele County Land Use Ordinance. Such determinations may be made only where

the additions, modifications, or changes are determined not to have significant impact beyond the site.

(3) The planning commission may consider, approve with modifications, or disapprove amendments to a conditional use permit where the zoning administrator determines not to make an administrative determination as provided in Subsection (2) and where:

(a) the proposed modification or amendment complies with the intent and purpose of the land use ordinance; and

(b) reasonable conditions are attached where and to the extent the planning commission finds their imposition will directly mitigate or eliminate some aspect of the proposed amendment that violates the intent and requirements of this land use ordinance. Impacts must be of the magnitude that without the mitigation or elimination thereof, the amendment to the conditional use permit could not be granted.

7 - 13. Revocation.

(1) A conditional use permit shall be revocable by the planning commission at any time due to failure of the permittee to observe any condition specified or failure to observe other requirements of the Tooele County Land Use Ordinance in regard to the maintenance of improvements or conduct of the use or business as approved. The county shall also have a right of action to compel offending structures or uses to be removed at the cost of the violator or owner.

(2) No conditional use permit shall be revoked until a hearing is held by the planning commission. The permittee shall be notified in writing of such hearing. The notification shall state the grounds for complaint or reasons for revocation, and the time and location at which the hearing will be held. At the hearing, the permittee shall be given an opportunity to be heard. The permittee may call witnesses and present evidence. Upon conclusion of the hearing, the planning commission shall determine whether the permit should be revoked.

7 - 14. Temporary permits.

(1) A temporary conditional use permit shall be issued for any use listed in the land use ordinance as a conditional use for that zone and shall be issued for no longer than six months but may be extended for an equivalent period.

(2) A temporary conditional use permit may be issued by the zoning administrator provided the applicant agrees in writing to the conditions established in Subsection (3). If the applicant requests Tooele County provide extraordinary services or equipment, the applicant shall pay a fee sufficient to reimburse Tooele County for the costs of such services.

(3) A temporary conditional use permit shall not be approved if the use will:

- (a) materially endanger the public health or safety;
- (b) substantially injure the value of the adjoining or abutting property;
- (c) not be in harmony with the area in which it is to be located;
- (d) not be in general conformity with the land use plan or any other plan officially adopted by the board of county commissioners or the planning commission;
- (e) have hours of operation not compatible with the uses adjacent to the activity;
- (f) create noise which disrupts the activities of adjacent land uses;
- (g) potentially create an amount of litter or property damage that the applicant cannot reasonably control or remove;
- (h) require more parking than can be accommodated;
- (i) will interfere with the normal flow of traffic; or
- (j) will interfere with the rights of adjacent and surrounding property owners.

7 - 15. Professional filming.

(1) A conditional use permit shall be required for professional filming to be performed in an area where the primary use is not that of an approved motion picture studio in a zoning district permitting such use. The permit shall be issued to cover the entire time that film crews are working and may be issued on an annual basis.

(2) The permit shall be issued by the zoning administrator provided the applicant files an application with the appropriate fee, agrees in writing to the conditions and posts a \$5,000 bond to ensure compliance with the permit's conditions. The amount of the bond may be adjusted by the zoning administrator for the particular request. The bond shall not be released until each site has been inspected and remediation work has returned the site back to its original condition.

(3) If the applicant requests Tooele County provide services or equipment beyond that which is provided to the general public, or if the zoning administrator determines that those services or equipment should be provided to protect public health or safety, the applicant shall pay a fee sufficient to reimburse Tooele County for the costs of these services.

(4) The permit shall not be approved if the filming will:

- (a) materially endanger the public health or safety;
- (b) substantially injure the value of the adjoining or abutting property;
- (c) not be compatible with the current land uses in the area which it is to be located;

(d) place permanent structures without a building permit;

- (e) have hours of operation not compatible with the uses on property adjacent to the activity;
- (f) create noise or glare which disrupts the activities of adjacent land uses;
- (g) potentially create an amount of litter or property damage that the applicant cannot reasonably control or remove; or
- (h) create more traffic congestion than can be accommodated or that will interfere with the normal flow of traffic.

(5) Structures left after completion of the filming of the site are considered and regulated as permanent and must pass all applicable building codes adopted by Tooele County for permanent structures.

(6) The application shall show an operation plan which addresses:

- (a) dates of filming;
 - (b) permits issued by the Utah Department of Transportation for use of state roads;
 - (c) coordination and agreement from applicable state and local law enforcement agencies;
 - (d) areas where filming will take place with a site plan showing:
 - (i) parking for staff and crews;
 - (ii) equipment and vehicle parking;
 - (iii) service and production trailers;
 - (iv) location and number of sleeping trailers;
 - (v) site traffic patterns; and
 - (vi) storage of pyrotechnics and explosives.
 - (e) method of trash disposal;
 - (f) vendor, location and number of restroom facilities;
 - (g) hours of operation;
 - (h) provisions and phone numbers for on-site security;
 - (i) construction and demolition schedules and details for props and structures; and
 - (j) names, permanent addresses, office, cellular, and fax phone numbers, e-mail, dates of birth, and driver license numbers for persons responsible for the activity.
- (7) Prior to permit issuance, the zoning administrator shall have the site inspected and photographs taken. The zoning administrator shall notify the sheriff's department, the local fire department and the health department. Those departments shall have 48 hours to respond to the notification.
- (8) Prior to releasing the bond, the zoning administrator shall have the site inspected and photographs taken to ensure compliance with the permit.
- (9) If the conditions of the permit have been violated, the zoning administrator shall leave notice in writing on

the property and mail a copy to the responsible party ordering that the site be properly mitigated to the conditions given in the permit. The zoning administrator shall give a 30-day notice to comply, unless in the administrator's opinion the violation endangers the health or safety of the public, in which case such time frame may be shortened. At the conclusion of the time to comply, the zoning administrator shall have the site re-inspected and photographs taken. If the site is not in compliance, the zoning administrator shall post a request for proposal for the cleanup of the site.

(10) When the zoning administrator puts the cleanup of the site out to bid, those funds from the bond may be used to accomplish that task in a timely manner. Any portion of the bond not used to mitigate the site shall be returned to the permittee. If the costs of the mitigation exceed the bond amount, the zoning administrator shall give an accounting of the costs to the permittee and the county attorney. The county attorney shall proceed with legal collection of the amount owed.

(11) As a condition of the issuance of the permit, the applicant shall:

(a) provide traffic control and obtain properly issued permits to ensure the safety of the public;

(b) maintain all pyrotechnics in secured enclosures;

(c) demolish all structures and remove all materials after completion of the filming;

(d) provide restroom facilities for personnel, which shall be removed when filming is completed;

(e) remediate any site disturbance and re-vegetate with plant materials indigenous to the area; and

(f) obtain inspection by the zoning administrator, the health department, the sheriff's office and the building inspector for compliance with the permit and local laws, regulations and ordinances.

(12) Any stop order issued by any official or agency shall cause the operations of filming to cease immediately.

(13) The applicant shall agree to the conditions imposed by signing the following statement: "I (We) as the applicant(s) for a professional filming conditional use permit, have read and do hereby agree to, and understand the above terms and conditions without reservation and place my/our signature below as a act of such agreement. It is further agreed and understood that should I (we) violate any of the above conditions, all operations shall be immediately suspended. This permit is issued specifically to the applicant for the land indicated in the application and is not transferable."