

ORDINANCE 2011-16

AN ORDINANCE AMENDING TITLE 4, BOARDS AND COMMITTEES, CHAPTER 10, TOWNSHIP PLANNING DISTRICT PLANNING COMMISSIONS, OF THE TOOEELE COUNTY CODE, TO ENSURE COMPLIANCE WITH NEW PROVISIONS OF THE STATE CODE

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

SECTION I - PURPOSE. In the 2011 General Session of the Utah Legislature, House Bill 434 was passed amending Utah Code Section 17-27a-301. The provisions of this bill: (1) require that on or before January 1, 2012, the county enact an ordinance providing for the election of at least three members of a township planning commission, (2) provide for the appointment of a township planning commission member in certain circumstances, and (3) require that on or before January 1, 2012, the county enact an ordinance designating the elected seats of a township planning commission.

SECTION II - CHAPTER AMENDED. Chapter 10, Township Planning District Planning Commissions, of Title 4, Boards and Committees, of the Tooele County Code is hereby amended to read as attached hereto, which attachment is, by this reference, made a part hereof.

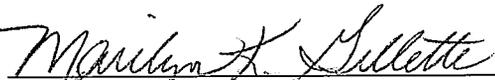
SECTION III - REPEALER. Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

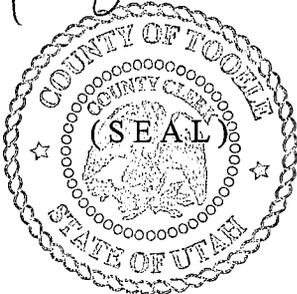
SECTION IV - EFFECTIVE DATE. This ordinance shall take effect fifteen (15) days after its passage, provided the same has been published, with the name of the members voting for and against the same, for at least one publication in one issue of a newspaper published in and having general circulation in Tooele County.

Ord. 2011-16

IN WITNESS WHEREOF the Tooele County Commission, which is the legislative body of Tooele County, passed, approved and enacted this ordinance this 6th day of December 2011.

ATTEST:


Marilyn K. Gillette, Clerk



TOOELE COUNTY COMMISSION:


Colleen S. Johnson, Chairman

Commissioner Johnson voted *aye*
Commissioner Clegg voted *aye*
Commissioner Hurst voted *aye*

APPROVED AS TO FORM:


DOUG HOGAN
Tooele County Attorney

CHAPTER 10

TOWNSHIP PLANNING DISTRICT PLANNING COMMISSIONS

Section

- 4-10-1. Township planning commission members.
- 4-10-2. Repealed.
- 4-10-3. Overlapping township planning district petitions.
- 4-10-4. Jurisdiction.
- 4-10-5. Powers and duties.
- 4-10-6. Policies and procedures.
- 4-10-7. Vacancy on township planning commissions.
- 4-10-8. Ex parte contact.
- 4-10-9. Land use authority.

4-10-1. Township planning commission members.

- (1) Each township planning district created pursuant to Section 11-9-1 shall have a planning commission, which shall consist of seven members.
- (2) The board of county commissioners shall appoint members of the first planning commissions so that the terms of at least one member and no more than two members expire each year. Thereafter, members shall serve four-year terms and until their successors are appointed or elected.
- (3) Each member of a township planning commission shall be a registered voter residing within the township, subject to Subsection (4).
- (4) One member may be an appointed member who is a registered voter residing outside the township if that member:
 - (a) is an owner of real property located within the township; and
 - (b) resides within Tooele County.
- (5) Three of the seven planning commission members shall be elected. The other four seats shall be filled by appointment by the board of county commissioners. The election shall coincide with the election of other county officers during even-numbered years. Seats A and B of the elected planning commission shall be elected every four years during elections held on even-numbered years commencing in 2012, and Seat C of the elected members shall be elected every four years on the alternating even-numbered years commencing in 2014.
- (6) Pursuant to the County Land Use Development and Management Act, 17-27a-301, et. seq. Utah Code Annotated, hereinafter "the Act," election of township planning commission members shall be conducted in accordance with the requirements of the Act, the Utah Election Code governing general and special elections, and this chapter.
- (7) Candidates shall file a declaration of candidacy with the county clerk on forms prepared by the clerk and shall pay a filing fee of ten dollars (\$10.00). If no person files a declaration of candidacy in accordance with Utah Code Section 20A-9-202 for an open township planning commission member position:
 - (a) the position may be appointed in accordance with Subsection (5); and
 - (b) a person appointed under this section may not serve for a period of time that exceeds the elected term for which there was no candidate.
- (8) All aspects of township elections not specifically addressed in this section shall be conducted in accordance with standard election procedures as established by the Utah Election Code; including, but not limited to, voter registration and qualifications, election judges, ballots and polling procedures, canvasses, and all other aspects and procedures of the electoral process. The county clerk shall determine the necessity and manner of consolidating voting precincts and appointing election judges, in accordance with state statute. (Ord. 2011-16, 12/6/11; Ord. 2005-20, 7/5/05; Ord. 99-1, 1/5/99)

4-10-2. Repealed. (Ord. 2011-16, 12/6/11; Ord. 2005-20, 7/5/05; Ord. 2005-16, 6/7/05)

4-10-3. Overlapping township planning district petitions.

Under circumstances in which two or more township planning district petitions are filed with overlapping boundaries, the petition which the board of county commissioners received first shall be given preference, although the board of county commissioners may give preference to a township petition which follows recognized but informal community boundaries and may also give consideration regarding priority based on the topography, natural boundaries and drainage basin of the proposed township planning district. (Ord. 2005-20, 7/5/05; Ord. 97-10, 6/5/97)

4-10-4. Jurisdiction.

Upon the appointment of all members of a township planning district planning commission created after February 27, 1997 and the former township planning and zoning board members that continue to hold office as the members of the township planning district, the township planning districts shall immediately begin to exercise the powers and perform the duties as provided for in the Utah Code with respect to all matters then pending that had previously been under the jurisdiction of either the county-wide planning commission or the township planning and zoning board. (Ord. 2005-20, 7/5/05; Ord. 97-10, 6/5/97)

4-10-5. Powers and duties.

- (1) Each countywide or township planning commission shall, with respect to the unincorporated area of the county, or the township, make a recommendation to the county legislative body for:
 - (a) a general plan and amendments to the general plan;
 - (b) land use ordinances, zoning maps, official maps, and amendments;
 - (c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;
 - (d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and
 - (e) application processes that:
 - (i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and
 - (ii) shall protect the right of each:
 - (A) applicant and third party to require formal consideration of any application by a land use authority;
 - (B) applicant, adversely affected party, or county officer or employee to appeal a land use authority's decision to a separate appeal authority; and
 - (C) participant to be heard in each public hearing on a contested application.
- (2) The planning commission of a township under this part may recommend to the legislative body of the county in which the township is located:
 - (a) that the legislative body support or oppose a proposed incorporation of an area located within the township, as provided in Subsection 10-2-105(4); or
 - (b) that the legislative body file a protest to a proposed annexation of an area located within the township, as provided in Subsection 10-2-407(1)(b). (RefUCA §17-27a-302) (Ord. 2005-20, 7/5/05)

4-10-6. Policies and procedures.

The board of county commissioners shall adopt such policies and procedures as it deems necessary to provide for:

- (1) the planning support staff;
- (2) the funding of necessary and reasonable expenses of township planning districts; and
- (3) any other purposes considered necessary to the functioning of township planning districts. (Ord. 2005-20, 7/5/05; Ord. 97-10, 6/5/97)

4-10-7. Vacancy on township planning commissions.

Unless otherwise provided by law, any vacancy occurring on a township planning commission by reason of death, resignation, removal, or disqualification shall be filled by appointment by the board of county commissioners for the unexpired term of such member. The board of county commissioners may remove for cause a member of a township planning commission that the county commission has appointed upon the filing of written charges against the member and after a hearing on the charges if requested by the member. (Ord. 2011-16, 12/6/11; Ord. 2005-20, 7/5/05; Ord. 99-1, 1/5/99)

4-10-8. Ex parte contact.

- (1) Ex parte contact between township planning commission members and opposing parties involved in litigation with Tooele County involving land use issues shall be prohibited. Township planning commission members shall not participate in site or office visits, electronic communication, written communication, or verbal conversation either face-to-face or over the telephone, with any individual or any representative of a company or entity involved in legal proceedings with Tooele County involving land use issues. This prohibition shall include plaintiffs who have filed suit against Tooele County, claimants who have served a Notice of Claim on Tooele County, and defendants in actions filed

by Tooele County, such as those in violation of provisions of the Tooele County Code or the Tooele County Land Use Ordinance.

(2) Township planning commission members shall be restricted from ex parte contact, including site or office visits, electronic communication, written communication, and verbal conversation either face-to-face or over the telephone, with any individual or representative of a company or entity when such interaction involves a request for a conditional use permit, planned unit development, a request for approval of a subdivision, or for an exception to the Tooele County Land Use Ordinance. This restriction on ex parte contact applies to all conditional use permit approval requests, planned unit development or subdivision requests, after an application for such is filed with the Tooele County Engineering Department, while the application is under review by the township planning commissions, after a decision or recommendation on the application has been made by the planning commissions, while the application is under review by the Tooele County Commission, or while the application is under appeal, if an appeal is filed. Township planning commissioners shall not participate in ex parte contact with individuals or representatives of a company or entity opposed to a request for a conditional use permit, planned unit development or a subdivision approval, or an exception to the Tooele County Land Use Ordinance.

(3) If ex parte contact as described in Subsections (1) or (2) occurs, it shall be disclosed at the next meeting of the township planning commission and the planning commission member who had such contact shall neither participate in the discussion nor vote on the matter.

(4) Receipt of written information regarding an active request for a conditional use permit, planned unit development or a subdivision, or an exception to the Tooele County Land Use Ordinance shall be permitted, provided such written information is disclosed at the next meeting of the township planning commission and submitted as a part of the record of that meeting. (Ord. 2005-20, 7/5/05; Ord. 2005-14, 5/17/05)

4-10-9. Land use authority.

The Erda Township Planning Commission and Pine Canyon Township Planning Commission are hereby designated as land use authorities for Tooele County, to act in their respective jurisdictions. (Reference UCA 17-27a-301) (Ord. 2005-20, 7/5/05; Ord. 2005-14, 5/17/05)

CHAPTER 10

TOWNSHIP PLANNING DISTRICT PLANNING COMMISSIONS

Section

- 4-10-1. ~~Appointment of Township planning commission members.~~
- 4-10-2. ~~Erda and Pine Canyon township planning commission members Repealed.~~
- 4-10-3. ~~Overlapping township planning district petitions.~~
- 4-10-4. ~~Jurisdiction.~~
- 4-10-5. ~~Powers and duties.~~
- 4-10-6. ~~Policies and procedures.~~
- 4-10-7. ~~Vacancy on township planning commissions.~~
- 4-10-8. ~~Ex parte contact.~~
- 4-10-9. ~~Land use authority.~~

4-10-1. ~~Appointment of Township planning commission members.~~

- (1) ~~Each township planning district created pursuant to Section 11-9-1 shall have a planning commission, which shall consist of seven members who, except as provided in Section 4-10-2, shall be appointed by the board of county commissioners.~~
- (2) ~~Except as provided in Section 4-10-2, the board of county commissioners shall appoint members of the first planning commissions so that the terms of at least one member and no more than two members expire each year. Thereafter, members shall serve four-year terms and until their successors are appointed or elected.~~
- (3) ~~Except as provided in Section 4-10-2, each member of a township planning commission shall be a registered voter residing within the township, subject to Subsection (4).~~
- (4) ~~One member may be an appointed member who is a registered voter residing outside the township if that member:~~
 - ~~(a) is an owner of real property located within the township; and~~
 - ~~(b) resides within Tooele County.~~
- (5) ~~Three of the seven planning commission members shall be elected. The other four seats shall be filled by appointment by the board of county commissioners. The election shall coincide with the election of other county officers during even-numbered years. Seats A and B of the elected planning commission shall be elected every four years during elections held on even-numbered years commencing in 2012, and Seat C of the elected members shall be elected every four years on the alternating even-numbered years commencing in 2014.~~
- (6) ~~Pursuant to the County Land Use Development and Management Act, 17-27a-301, et. seq. Utah Code Annotated, hereinafter "the Act," election of township planning commission members shall be conducted in accordance with the requirements of the Act, the Utah Election Code governing general and special elections, and this chapter.~~
- (7) ~~Candidates shall file a declaration of candidacy with the county clerk on forms prepared by the clerk and shall pay a filing fee of ten dollars (\$10.00). If no person files a declaration of candidacy in accordance with Utah Code Section 20A-9-202 for an open township planning commission member position:~~
 - ~~(a) the position may be appointed in accordance with Subsection (5); and~~
 - ~~(b) a person appointed under this section may not serve for a period of time that exceeds the elected term for which there was no candidate.~~
- (8) ~~All aspects of township elections not specifically addressed in this section shall be conducted in accordance with standard election procedures as established by the Utah Election Code; including, but not limited to, voter registration and qualifications, election judges, ballots and polling procedures, canvasses, and all other aspects and procedures of the electoral process. The county clerk shall determine the necessity and manner of consolidating voting precincts and appointing election judges, in accordance with state statute. (Ord. 2011-16, 12/6/11; Ord. 2005-20, 7/5/05; Ord. 99-1, 1/5/99)~~

4-10-2. ~~Erda and Pine Canyon township planning commission members Repealed.~~

- (1) ~~In the Erda and Pine Canyon township planning districts, three of the seven planning commission members shall be elected. The election shall coincide with the election of other county officers during even-numbered years. Approximately half the elected planning commission members shall be elected every four years during elections held on even-numbered years, and the remaining elected members shall be elected every four years on an alternating even-numbered years.~~

- ~~(2) Notwithstanding Section 4-10-1(3), one member may be an appointed member who is a registered voter residing outside the township if that member:~~
- ~~— (a) is an owner of real property located within the township; and~~
 - ~~— (b) resides within Tooele County.~~
- ~~(3) (a) Each appointee under Subsection (2) shall be chosen by the township planning commission from a list of three persons submitted by the Board of Tooele County Commissioners.~~
- ~~— (b) If the township planning commission has not notified the Board of Tooele County Commissioners of its choice under subsection (3)(a) within 60 days of the township planning commission's receipt of the list, the Board of Tooele County Commissioners may appoint one of the three persons on the list or a registered voter residing within the township as a member of the township planning commission.~~
- ~~(4) Pursuant to the County Land Use Development and Management Act, 17-27a-301, et. seq. Utah Code Annotated, hereinafter "the Act," election of Erda and Pine Canyon township planning commission members shall be conducted in accordance with the requirements of the Act, the Utah Election Code governing general and special elections and this chapter.~~
- ~~(5) Candidates shall file a declaration of candidacy with the county clerk on forms prepared by the clerk and shall pay a filing fee of ten dollars.~~
- ~~(6) All aspects of township elections not specifically addressed in this section shall be conducted in accordance with standard election procedures as established by the Utah Election Code, including but not limited to, voter registration and qualifications, election judges, ballots and polling procedures, canvass, and all other aspects and procedures of the electoral process. The county clerk shall determine the necessity and manner of consolidating voting precincts and appointing election judges, in accordance with state statute: (Ord. 2011-16, 12/6/11; Ord. 2005-20, 7/5/05; Ord. 2005-16, 6/7/05)~~

4-10-3. Overlapping township planning district petitions.

Under circumstances in which two or more township planning district petitions are filed with overlapping boundaries, the petition which the board of county commissioners received first shall be given preference, although the board of county commissioners may give preference to a township petition which follows recognized but informal community boundaries and may also give consideration regarding priority based on the topography, natural boundaries and drainage basin of the proposed township planning district. (Ord. 2005-20, 7/5/05; Ord. 97-10, 6/5/97)

4-10-4. Jurisdiction.

Upon the appointment of all members of a township planning district planning commission created after February 27, 1997 and the former township planning and zoning board members that continue to hold office as the members of the township planning district, the township planning districts shall immediately begin to exercise the powers and perform the duties as provided for in the Utah Code with respect to all matters then pending that had previously been under the jurisdiction of either the county-wide planning commission or the township planning and zoning board. (Ord. 2005-20, 7/5/05; Ord. 97-10, 6/5/97)

4-10-5. Powers and duties.

- (1) Each countywide or township planning commission shall, with respect to the unincorporated area of the county, or the township, make a recommendation to the county legislative body for:
- (a) a general plan and amendments to the general plan;
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 - (c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;
 - (d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and
 - (e) application processes that:
 - (i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and
 - (ii) shall protect the right of each:
 - (A) applicant and third party to require formal consideration of any application by a land use authority;
 - (B) applicant, adversely affected party, or county officer or employee to appeal a land use authority's decision to a separate appeal authority; and
 - (C) participant to be heard in each public hearing on a contested application.

(2) The planning commission of a township under this part may recommend to the legislative body of the county in which the township is located:

- (a) that the legislative body support or oppose a proposed incorporation of an area located within the township, as provided in Subsection 10-2-105(4); or
- (b) that the legislative body file a protest to a proposed annexation of an area located within the township, as provided in Subsection 10-2-407(1)(b). (Ref UCA §17-27a-302) (Ord. 2005-20, 7/5/05)

4-10-6. Policies and procedures.

The board of county commissioners shall adopt such policies and procedures as it deems necessary to provide for:

- (1) the planning support staff;
- (2) the funding of necessary and reasonable expenses of township planning districts; and
- (3) any other purposes considered necessary to the functioning of township planning districts. (Ord. 2005-20, 7/5/05; Ord. 97-10, 6/5/97)

4-10-7. Vacancy on township planning commissions.

Unless otherwise provided by law, any vacancy occurring on a township planning commission by reason of death, resignation, removal, or disqualification or failure to file for election shall be filled by appointment by the board of county commissioners for the unexpired term of such member. The board of county commissioners may remove for cause a member of a township planning commission that the county commission has appointed upon the filing of written charges against the member and after a hearing on the charges if requested by the member. (Ord. 2011-16, 12/6/11; Ord. 2005-20, 7/5/05; Ord. 99-1, 1/5/99)

4-10-8. Ex parte contact.

(1) Ex parte contact between township planning commission members and opposing parties involved in litigation with Tooele County involving land use issues shall be prohibited. Township planning commission members shall not participate in site or office visits, electronic communication, written communication, or verbal conversation either face-to-face or over the telephone, with any individual or any representative of a company or entity involved in legal proceedings with Tooele County involving land use issues. This prohibition shall include plaintiffs who have filed suit against Tooele County, claimants who have served a Notice of Claim on Tooele County, and defendants in actions filed by Tooele County, such as those in violation of provisions of the Tooele County Code or the Tooele County Land Use Ordinance.

(2) Township planning commission members shall be restricted from ex parte contact, including site or office visits, electronic communication, written communication, and verbal conversation either face-to-face or over the telephone, with any individual or representative of a company or entity when such interaction involves a request for a conditional use permit, planned unit development, a request for approval of a subdivision, or for an exception to the Tooele County Land Use Ordinance. This restriction on ex parte contact applies to all conditional use permit approval requests, planned unit development or subdivision requests, after an application for such is filed with the Tooele County Engineering Department, while the application is under review by the township planning commissions, after a decision or recommendation on the application has been made by the planning commissions, while the application is under review by the Tooele County Commission, or while the application is under appeal, if an appeal is filed. Township planning commissioners shall not participate in ex parte contact with individuals or representatives of a company or entity opposed to a request for a conditional use permit, planned unit development or a subdivision approval, or an exception to the Tooele County Land Use Ordinance.

(3) If ex parte contact as described in Subsections (1) or (2) occurs, it shall be disclosed at the next meeting of the township planning commission and the planning commission member who had such contact shall neither participate in the discussion nor vote on the matter.

(4) Receipt of written information regarding an active request for a conditional use permit, planned unit development or a subdivision, or an exception to the Tooele County Land Use Ordinance shall be permitted, provided such written information is disclosed at the next meeting of the township planning commission and submitted as a part of the record of that meeting. (Ord. 2005-20, 7/5/05; Ord. 2005-14, 5/17/05)

4-10-9. Land use authority.

The Erda Township Planning Commission and Pine Canyon Township Planning Commission are hereby designated as land use authorities for Tooele County, to act in their respective jurisdictions. (Reference UCA 17-27a-301) (Ord. 2005-20, 7/5/05; Ord. 2005-14, 5/17/05)