

**ORDINANCE 2005-20**

**AN ORDINANCE AMENDING CHAPTERS 5, 8, AND 10 OF TITLE 4 OF THE TOOELE COUNTY CODE, BRINGING REFERENCE TO THE PLANNING COMMISSIONS IN LINE WITH STATE LAW, AND REPLACING THE BOARD OF ADJUSTMENT WITH THE ADMINISTRATIVE HEARING OFFICER**

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

**SECTION I - PURPOSE.** Utah State law was amended this year which redefined powers and duties of planning commissions. This ordinance seeks to make changes in conformity with those made at the State level. Also, it is felt that those issues which have heretofore been handled by the Board of Adjustment may be better handled by an administrative hearing officer.

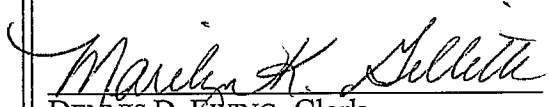
**SECTION II - CHAPTERS AMENDED.** Title 4, Chapters 5, 8, and 10 of the Tooele County Code are hereby amended to read as attached hereto, which attachment is, by this reference, made a part hereof.

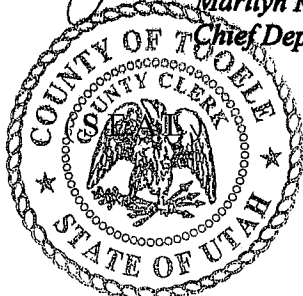
**SECTION III - REPEALER.** Ordinances and resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**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 5<sup>th</sup> day of July 2005.

**ATTEST:**

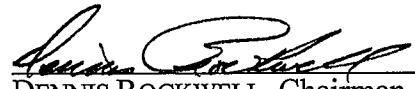
  
DENNIS D. EWING, Clerk  
*Marilyn K. Gillette*  
Chief Deputy Clerk



**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

## TITLE 4

### BOARDS AND COMMITTEES

#### CHAPTER 5

#### PLANNING COMMISSION

##### Section

- 4-5-1. Planning commission established - Terms.
- 4-5-2. Vacancy - Removal.
- 4-5-3. Organization and procedures.
- 4-5-4. Use of state data.
- 4-5-5. Powers and duties.
- 4-5-6. Entrance upon land.
- 4-5-7. Compensation.
- 4-5-8. Ex parte contact.
- 4-5-9. Land use authority.

##### 4-5-1. Planning commission established - Terms.

There is hereby established a Tooele County Planning Commission. The planning commission shall consist of seven members appointed by the Board of County Commissioners. Members shall serve three four-year terms and until their successors are appointed and qualified. Terms shall commence on January 1 of each year. In the event a term of a member shall expire without the member having been reappointed or a successor having been appointed, the member shall continue to serve until a successor is appointed, and the term of the successor shall terminate on the same day as though the successor was appointed in a timely manner. Terms of at least two members, and not more than three, shall expire each year.

##### 4-5-2. Vacancy - Removal.

(1) Any vacancy occurring on the planning commission by reason of death, resignation, removal or disqualification shall be filled by the Board of County Commissioners for the unexpired term of such member.

(2) The Board of County Commissioners may remove a member of the planning commission for cause after filing written charges against the member. The member shall be provided with a hearing on the charges if requested.

##### 4-5-3. Organization and procedures.

(1) The planning commission shall elect a chairperson from its members who shall serve a one-year term. The planning commission may create and fill any other necessary offices.

(2) (a) The planning commission may adopt policies and procedures for the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the functioning of the planning commission.

(b) The planning commission's policies and procedures shall be approved by the ~~County~~ legislative body commission before taking effect.

##### 4-5-4. Use of state data.

The planning commission may obtain access to and use any data and information held by the ~~State~~ or any of its agencies:

- ~~(1) that is classified "public"; and~~
- ~~(2) that is classified "protected" if the planning commission's use of the data is lawfully authorized or if the data will be used for a purpose similar to the purpose for which it was gathered. unless the disclosure is prohibited by Title 63, Chapter 2, Government Records Access and Management Act. (Ref UCA §17-27a-402)~~

##### 4-5-5. Powers and duties.

The planning commission shall:

- ~~(1) prepare and recommend a general plan and amendments to the general plan to the legislative body;~~
  - ~~(2) recommend zoning ordinances and maps, and amendments to zoning ordinances and maps, to the legislative body;~~
  - ~~(3) administer provisions of the zoning ordinance, where specifically provided for in the zoning ordinance adopted by the legislative body;~~
  - ~~(4) recommend subdivision regulations and amendments to those regulations to the legislative body;~~
  - ~~(5) recommend approval or denial of subdivision applications;~~
  - ~~(6) advise the legislative body on matters as the legislative body directs;~~
  - ~~(7) hear or decide any matters that the legislative body designates, including the approval or denial of, or recommendations to approve or deny, conditional use permits;~~
  - ~~(8) exercise any other powers:~~
    - ~~(a) that are necessary to enable it to perform its function; or~~
    - ~~(b) delegated to it by the legislative body;~~
- with respect to the unincorporated area of the county, make a recommendation to the county legislative body for:
- (1) a general plan and amendments to the general plan;
  - (2) land use ordinances, zoning maps, official maps, and amendments;
  - (3) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

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(4) 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

(5) application processes that:

(a) 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

(b) shall protect the right of each:

(i) applicant and third party to require formal consideration of any application by a land use authority;

(ii) applicant, adversely affected party, or county officer or employee to appeal a land use authority's decision to a separate appeal authority; and

(iii) participant to be heard in each public hearing on a contested application. (Ref UCA §17-27a-302)

### 4-5-6. Entrance upon land.

The county planning commission, or its authorized agents, may enter upon any land at reasonable times to make examinations and surveys: pertinent to the:

(1) preparation of its general plan; or

(2) preparation or enforcement of its land use ordinances. (Ref UCA §17-27a-303)

### 4-5-7. Compensation.

Members of the planning commission may receive per diem compensation based on necessary and reasonable expenses and on meetings actually attended. (Ref UCA §17-27a-301(4))

### 4-5-8. Ex parte contact.

(1) Ex parte contact between planning commission members and opposing parties involved in litigation with Tooele County involving land use issues shall be prohibited. 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) 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 planning commission, after a decision or recommendation on the application has been made by the planning commission, while the application is under review by the Tooele County Commission, or while the application is under appeal, if an appeal is filed. 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 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 planning commission and submitted as a part of the record of that meeting.

### 4-5-9. Land use authority.

The Tooele County Planning Commission is hereby designated as a land use authority for Tooele County, to act in its individual jurisdiction. (Reference UCA 17-27a-301)

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### CHAPTER 8

#### ADMINISTRATIVE HEARING OFFICER

##### Section

- 4-8-1. Administrative hearing officer  
4-8-2. ~~Organization - Procedures: Powers and duties.~~  
4-8-3. ~~Powers and duties: Appeals.~~  
4-8-4. ~~Appeals: Variances.~~  
4-8-5. ~~Variances: District court review of board of adjustment administrative hearing officer decision.~~  
4-8-6. ~~District court review of board of adjustment decision: Ex parte contact.~~

##### 4-8-1. Administrative hearing officer

(1) In order to provide for just and fair treatment in the administration of the Tooele County zoning ordinance, and to ensure that substantial justice is done, there is hereby appointed a board of adjustment an administrative hearing officer to exercise the powers and duties provided in this chapter.

~~(2) (a) The board of adjustment shall consist of five members and whatever alternate members that the county commission considers appropriate. The county commission shall appoint members and alternate members.~~

~~(b) Board of adjustment members shall serve terms of five years. The term of one member shall expire each year.~~

~~(2) The county commission may appoint as many administrative hearing officers as necessary.~~

~~(3) (a) No more than two alternate members may sit at any meeting of the board of adjustment at one time.~~

~~(b) An alternate member may take the place of any regular board member who is not in attendance at a board meeting. The chairperson of the board of adjustment shall determine which alternate shall serve when only one board member is absent.~~

~~(3) Administrative hearing officers are hereby designated as appeal authorities for Tooele County. (Reference UCA 17-27a-701)~~

~~(4) The county commission may remove any member of the board of adjustment for cause if written charges are filed against the member with the county commission. The county commission will provide the member with a public hearing if he requests one.~~

~~(5) The county commission will fill any vacancy. The person appointed shall serve for the unexpired term of the member or alternate member whose office is vacant.~~

##### 4-8-2. ~~Organization - Procedures:~~

~~(1) The board of adjustment shall organize and elect a chairperson and adopt rules that comply with any ordinance adopted by the county commission.~~

~~(2) The board of adjustment shall meet at the call of the chairperson and at any other times that the board of adjustment determines.~~

~~(3) The chairperson, or in the absence of the chairperson, the acting chairperson, may administer oaths and compel the attendance of witnesses.~~

~~(4) (a) All meetings of the board of adjustment shall comply with the requirements of Utah Code Title 52, Chapter 4, Open and Public Meetings.~~

~~(b) The board of adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and keep records of its examinations and other official actions.~~

~~(c) The board of adjustment may, but is not required to, have its proceedings contemporaneously transcribed by a court reporter or a tape recorder.~~

~~(d) The board of adjustment shall file its records in the office of the board of adjustment.~~

~~(e) All records in the office of the board of adjustment are public records.~~

~~(5) The concurring vote of at least three members of the board of adjustment is necessary to reverse any order, requirement, decision, or determination of any administrative official or agency or to decide in favor of the appellant.~~

~~(6) Decisions of the board of adjustment become effective at the meeting in which the decision is made, unless a different time is designated in the board's rules or at the time the decision is made.~~

~~(7) Members of the board of adjustment may receive mileage reimbursement at the rate paid county employees for meetings actually attended.~~

##### 4-8-3. ~~Powers and duties.~~

~~(1) The board of adjustment administrative hearing officer shall hear and decide:~~

~~(a) appeals from zoning decisions applying the zoning ordinance;~~

~~(b) special exceptions to the terms of the zoning ordinance; and~~

~~(c) variances from the terms of the zoning ordinance.~~

~~(2) The board of adjustment administrative hearing officer shall not make determinations regarding the existence, expansion, or modification of nonconforming uses.~~

~~(3) The board of adjustment administrative hearing officer may interpret the zoning maps and pass upon~~

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disputed questions of lot lines, district boundary lines, or similar questions as they arise in the administration of the zoning regulations.

(4) An administrative hearing officer:

(a) shall:

- (i) act in a quasi-judicial manner; and
- (ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and

(b) may not entertain an appeal of a matter in which the administrative hearing officer, or any participating member, had first acted as the land use authority.

### 4-8-43. Appeals.

(1) (a) ~~The An~~ applicant or any other person or entity adversely affected by a decision administering or interpreting a zoning ordinance may appeal that decision applying the zoning ordinance by alleging that there is error in any order, requirement, decision, or determination made by an official in the administration or interpretation of the zoning ordinance.

(b) Appeals to the ~~board of adjustment~~ administrative hearing officer shall be made in writing and shall be filed with the county department of engineering within 30 days of the decision administering or interpreting a zoning ordinance.

(2) The person or entity making the appeal has the burden of proving that an error has been made.

(3) Only decisions applying the zoning ordinance may be appealed to the ~~board of adjustment~~ administrative hearing officer. A person may not appeal, and the ~~board of adjustment~~ administrative hearing officer may not consider, any zoning ordinance amendments.

(4) Appeals may not be used to waive or modify the terms or requirements of the zoning ordinance.

### 4-8-54. Variances.

(1) Any person or entity desiring a waiver or modification of the requirements of the zoning ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the ~~board of adjustment~~ administrative hearing officer for a variance from the terms of the zoning ordinance.

(2) (a) The ~~board of adjustment~~ administrative hearing officer may grant a variance only if:

- (i) literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out

the general purpose of the zoning ordinance;

(ii) there are special circumstances attached to the property that do not generally apply to other properties in the same district;

(iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;

(iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and

(v) the spirit of the zoning ordinance is observed and substantial justice done.

(b) (i) In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection (2)(a), the ~~board of adjustment~~ administrative hearing officer may not find an unreasonable hardship unless the alleged hardship:

1) is located on or associated with the property for which the variance is sought; and

2) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

(ii) In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under subsection (2)(a), the ~~board of adjustment~~ administrative hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.

(c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the ~~board of adjustment~~ administrative hearing officer may find that special circumstances exist only if the special circumstances:

(i) relate to the hardship complained of; and

(ii) deprive the property of privileges granted to other properties in the same district.

(3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(4) Variances run with the land.

(5) The ~~board of adjustment~~ administrative hearing officer may not grant use variances.

(6) In granting a variance, the ~~board of adjustment~~ administrative hearing officer may impose additional requirements on the applicant that will:

(a) mitigate any harmful effects of the

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variance; or

(b) serve the purpose of the standard or requirement that is waived or modified.

### **4-8-65. District court review of ~~board of adjustment~~ administrative hearing officer decision.**

(1) Any person adversely affected by any decision of an ~~board of adjustment~~ administrative hearing officer may petition the district court for a review of the decision.

(2) In the petition, the plaintiff may only allege that the ~~board of adjustment~~ administrative hearing officer's decision was arbitrary, capricious, or illegal.

(3) The petition is barred unless it is filed within 30 days after the ~~board of adjustment~~ administrative hearing officer's decision is final. As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a land use authority's decision, in accordance with this title.

(4) The ~~board of adjustment~~ administrative hearing officer shall transmit to the reviewing court the record of its proceedings including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings. If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for purposes of this subsection.

(5) If there is a record, the district court's review is limited to the record provided by the ~~board of adjustment~~ administrative hearing officer. The court may not accept or consider any evidence outside the ~~board of adjustment~~ administrative hearing officer's record unless that evidence was offered to the ~~board of adjustment~~ administrative hearing officer and the court determines that it was improperly excluded by the ~~board of adjustment~~ administrative hearing officer.

(6) If there is no record, the court may call witnesses and take evidence.

(7) The court shall affirm the decision of the ~~board of adjustment~~ administrative hearing officer if the decision is supported by substantial evidence in the record.

(8) The filing of a petition does not stay the decision of the ~~board of adjustment~~ administrative hearing officer. Before filing the petition, the aggrieved party may petition the ~~board of adjustment~~ administrative hearing officer to stay its decision. Upon receipt of a petition to stay, the ~~board of adjustment~~ administrative hearing officer may order its decision stayed pending district court review if the ~~board of adjustment~~ administrative hearing officer finds it to be in the best interest of the county. After the petition is filed, the petitioner may seek an injunction staying the ~~board of adjustment~~ administrative hearing officer's decision.

### **4-8-6. Ex parte contact.**

(1) Ex parte contact between an administrative hearing officer and opposing parties involved in litigation with Tooele County involving land use issues shall be prohibited. Appeal authorities 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 contact with 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) Appeal authorities 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 hearings, variances, appeals of administrative decisions, or special exceptions. This restriction on ex parte contact applies to all variances, appeals of administrative decisions, or special exceptions after an application for such is filed with the Tooele County Engineering Department, while the application is under review by the administrative hearing officer or while the application is under appeal, if an appeal is filed. Appeal authorities shall not participate in ex parte contact with individuals or representatives of a company or entity opposed to a request for a hearing, variance, appeal of administrative decision, or special exception.

(3) If ex parte contact as described in Subsections (1) or (2) occurs, it shall be disclosed by the administrative hearing officer who had such contact and who shall then neither participate in the discussion nor render a decision on the matter.

(4) Receipt of written information regarding an active request for a hearing, variance, appeal of administrative decision, or special exception shall be permitted, provided such written information is disclosed by the administrative hearing officer and submitted as a part of the record.

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### 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.**

**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.

(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. (Ord. 99-1, 1/5/99)

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

(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. 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. 97-10, 6/5/97)

**4-10-4. Jurisdiction.**

Upon the appointment of all members of a township planning district planning commission created after



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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. 97-10. 6/5/97)

### 4-10-5. Powers and duties.

~~After a township planning district is created, the duly elected and/or appointed township planning commission shall have all the powers and duties as provided for in the Utah Code and to advise the board of county commissioners on matters the board of county commissioners directs.~~

(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). (Ref UCA §17-27a-302)

### 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. 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, disqualification or failure to file for election shall be filled 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. 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

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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.

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### 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)