

**PUBLIC NOTICE**

NOTICE IS HEREBY GIVEN THAT the Tooele City Planning Commission will meet in a business meeting scheduled for **Wednesday, August 11, 2021** at the hour of 7:00 p.m. The meeting will be held in the City Council Chambers of Tooele City Hall, located at 90 North Main Street, Tooele, Utah.

*We encourage anyone interested to join the Planning Commission meeting electronically by logging on to the Tooele City Facebook page, at <https://www.facebook.com/tooelecity>. If you would like to submit a comment for any public hearing item you may email [pcpubliccomment@tooelecity.org](mailto:pcpubliccomment@tooelecity.org) anytime after the advertisement of this agenda and before the close of the hearing for that item during the meeting. Emails will only be read for public hearing items at the designated points in the meeting.*

**AGENDA**

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Public Hearing and Recommendation** on the Proposed Ordinance 2021-22 An Ordinance of Tooele City Amending Tooele City Code Sections 7-26-1 and 7-26-2 Regarding the Conveyance of Water Rights for New Development.
4. **City Council Reports**
5. **Review and Approval** of Planning Commission Minutes for Meeting held on July 28, 2021.
6. **Planning Commission Training** on Water Rights.
7. **Adjourn**

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify Andrew Agard, Tooele City Planner and Zoning Administrator prior to the meeting at (435) 843-2132 or TDD (435) 843-2108.

**TOOELE CITY CORPORATION**

**ORDINANCE 2021-22**

**AN ORDINANCE OF TOOELE CITY AMENDING TOOELE CITY CODE SECTIONS 7-26-1 AND 7-26-2 REGARDING THE CONVEYANCE OF WATER RIGHTS FOR NEW DEVELOPMENT.**

WHEREAS, Utah Constitution, Article XI, Section 5 directly confers upon Utah's charter cities broad legislative and executive authority independent of the State Legislature, and reads in pertinent part as follows:

Each city forming its charter under this section shall have, and is hereby granted, the authority to exercise all powers relating to municipal affairs, and to adopt and enforce within its limits, local police, sanitary and similar regulations not in conflict with the general law, and no enumeration of powers in this constitution or any law shall be deemed to limit or restrict the general grant of authority hereby conferred; but this grant of authority shall not include the power to regulate public utilities, not municipally owned, if any such regulation of public utilities is provided for by general law, nor be deemed to limit or restrict the power of the Legislature in matters relating to State affairs, to enact general laws applicable alike to all cities of the State.

WHEREAS, Utah Code Section 10-8-84(1) provides broad legislative enabling authority to Utah municipalities, as follows:

The municipal legislative body may pass all ordinances and rules, and make all regulations, not repugnant to law, necessary for carrying into effect or discharging all powers and duties conferred by this chapter, and as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city.

WHEREAS, Utah Code Section 10-9a-508(1) authorizes Utah municipalities to make exactions on developments proportionate to their impacts upon municipalities, and reads as follows:

A municipality may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if: (a) an essential link exists between a legitimate governmental interest and each exaction; and (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

WHEREAS, Tooele City Code Chapter 7-26 codifies Tooele City's water rights exaction and conveyance policy ("Water Exaction") and requires all developers to convey water rights sufficient for their developments. Section 7-26-1 reads as follows:

Intent. It is intended that all applicants requesting annexation of land into Tooele City for residential development, all applicants requesting that property already within the boundaries of the City rezone the property to a higher density or more intensive use which increases the need for water service from the City, all applicants requesting the subdivision of land, and all applicants requesting a development permit shall provide water rights in an amount sufficient to satisfy the anticipated future water needs of the respective proposed development to be served and supplied by the City water system as provided in this Chapter. Satisfaction of this water rights acquisition policy and the accompanying conveyance requirements shall be considered as a condition to and requirement of approval for all such applications.

WHEREAS, TCC Section 7-26-2 defines the quantity of water rights, measured in acre-feet, required for development under the Water Exaction. For residential development, the requirement is 0.45 acre-feet of fully-depletable water rights for each dwelling unit interior, and 4.00 acre-feet of diversion for every 1.00 acre (43,560 square-foot) of irrigable land. By way of illustration, a dwelling unit on a 10,000 square-foot lot would require 1.00 acre-foot of water rights (0.45 acre-feet per dwelling unit interior + 0.55 acre-feet per 10,000 square-foot lot); and,

WHEREAS, Rules 309-510-7 (Source Sizing) and 309-510-8 (Storage Sizing) of the Utah Administrative Code establish the State's general rule for sizing a community water system. In these rules, the indoor equivalent residential connection (ERC) flow requirement is established at 400 gallons per day (GPD) for average yearly demand (146,000 gallons per year), which is equivalent to 0.45 acre-feet per year. The peak day demand is established at 800 GPD, or 0.90 acre-feet. (See Rule 309-510-7 Table 510-1 and Rule 309-510-8 Table 510-4.) And,

WHEREAS, Tooele City has enacted for its Water Exaction the State standards established by Rules 309-510-7 and -8 (see TCC Section 7-26-2); and,

WHEREAS, the Utah Division of Water Rights continues to use the 0.45 acre-foot indoor standard in its water right determinations and the 4.0 acre-foot/acre duty for outside irrigation. (See the Division of Water Rights diversion/depletion calculator at <https://waterrights.utah.gov/automm/calculator.asp>); and,

WHEREAS, given that Tooele City owns and operates a full-use water reclamation facility, the Division of Water Rights has imposed upon the City the additional requirement that all interior use water allow 100% depletion (meaning that all the water coming out of the taps may be fully consumed, and that none needs to be returned to the hydrologic system); and,

WHEREAS, UCA Section 19-4-114 requires the State to establish minimum sizing requirements (“Requirements”) for a community drinking water system, such as Tooele City’s culinary water system. The Requirements are to be based on at least the most recent three years of a community water system’s actual water use data, and are to consider (among other things) fire storage capacity, system losses (including leakage), and other system-specific conditions affecting infrastructure needs. And,

WHEREAS, on May 19, 2021, the City Council approved Ordinance 2021-14 and adopted the 2021 Tooele City Drinking Water System Master Plan (“Master Plan”), prepared by the engineering firm of Hansen Allen & Luce, the primary purpose of which Master Plan was to address the Requirements; and,

WHEREAS, the Master Plan does not address the Water Exaction; and,

WHEREAS, beyond the factors required by UCA Section 19-4-114, Hansen Allen & Luce considered these additional factors in conducting its analyses and reaching its Master Plan recommendations: water conservation measures and their relative effectiveness; prolonged drought and other climatic conditions; the effects of Utah’s severe housing shortage; the need for storage redundancies; landscaping expansion and upgrades; and, peak day demand; and,

WHEREAS, Tooele City acknowledges that while there is a relationship between the two units of measurement, gallons-per-day and acre-feet, with their units being convertible one to another, there is not necessarily a direct correlation between acre-feet and a community’s water system minimum sizing, or, in other words, no direct correlation between the Water Exaction and the Requirements. The Requirements are set based on usage data and many other considerations, but a community water system is not sized based on the number of acre-feet conveyed to the City pursuant to the Water Exaction, the number of acre-feet possessed by the City, or the amount of water any landowner is entitled to use to irrigate the land. Further, the Requirements are based on water usage data while the Water Exaction is based on land use approval entitlement and how much water could reasonably be used for a given land use application. And,

WHEREAS, no practical method exists to compare actual indoor water usage with potential or entitlement indoor water usage (i.e., whether someone washed their dishes or clothes on any given day), while there are practical and objective methods to compare actual outdoor irrigation water usage with potential outdoor irrigation water usage (i.e., whether lawns are green); and,

WHEREAS, the principal reliable indoor water usage data the City possesses or can gather are contained in the Master Plan; and,

WHEREAS, the City (and other Utah municipalities) has faced and is facing legal challenges to the Water Exaction from developers, who claim that (1) water usage data in municipal water master plans not only dictates system sizing but also dictates the upper

limit of water rights exactions, despite the information provided in the above Recitals, and that (2) any exaction of water rights over and above that water usage data is a taking of land interests that must be justly compensated by the City under the Fifth Amendment to the United States Constitution; and,

WHEREAS, litigation is an extremely costly expenditure of taxpayer revenues with no sure outcomes, regardless of the merits of one's legal posture; and,

WHEREAS, by Release and Settlement Agreement dated May 25, 2021, approved by Resolution 2021-56 on June 2, 2021, the City settled a water rights exaction claim made by Zenith Tooele LLC for the Lexington Greens development in the Overlake area of Tooele City; and,

WHEREAS, the City Council believes that it is in the best interest of Tooele City to reduce its risk of litigation exposure and expenditures (including attorneys fees and judgment/settlement costs) by reducing the Water Exaction to match Master Plan water usage data, i.e. by reducing the residential interior requirement from 0.45 acre-feet per dwelling unit to 0.25 acre-feet per dwelling unit; and,

WHEREAS, the Master Plan demonstrates that, on average, there is no significant difference in water usage between single-family and multi-family dwelling units; and,

WHEREAS, TCC Chapter 7-26 regarding the Water Exaction is considered to be a "land use regulation" for purposes of Utah's Municipal Land Use and Development Management Act (MLUDMA: UCA Chapter 10-9a), and therefore amendments to Chapter 7-26 require public hearings, with appropriate notice, and a Planning Commission recommendation, before the City Council can approve the amendments; and,

WHEREAS, on August 11, 2021, the Planning Commission convened a duly-noticed public hearing, received public comment, and voted to forward its recommendation to the City Council; and,

WHEREAS, on August 18, 2021, the City Council convened a public hearing and received public comment; and,

WHEREAS, in light of the above Recitals, the City Council finds it to be in the best interest of Tooele City to reduce the Water Exaction and to amend TCC Sections 7-26-1 and 7-26-2 to reflect the reduced Water Exaction:

NOW, THEREFORE, BE IT ORDAINED BY TOOEELE CITY that

1. Tooele City Code Sections 7-26-1 and 7-26-2 are hereby amended as shown in redline format in the attached Exhibit A.
2. This Ordinance and the amended City Code provisions shall be effective immediately upon approval, without further publication, by authority of the Tooele City Charter.

3. The amended Water Exaction approved by this Ordinance shall apply to all land use applications, irrespective of application date or approval date, for which the applicants convey (or otherwise provide) water rights under the Water Exaction subsequent to the adoption of the 2021 Tooele City Drinking Water System Master Plan on May 19, 2021. In other words, this Ordinance and its revised Water Exaction shall apply to all water rights conveyed to the City under the Water Exaction after adoption of the Plan on May 19, 2021. Stated in the reverse, this Ordinance and its revised Water Exaction shall have no retroactive application to the conveyance (or other provision) of water rights to Tooele City under the Water Exaction prior to adoption of the Plan on May 19, 2021.

This Resolution shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this \_\_\_\_ day of \_\_\_\_\_, 2021.

TOOELE CITY COUNCIL

(For)

(Against)

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ABSTAINING: \_\_\_\_\_

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

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ATTEST:

\_\_\_\_\_  
Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

\_\_\_\_\_  
Roger Evans Baker, City Attorney

## Exhibit A

Amendments to TCC Sections 7-26-1 and 7-26-2



## CHAPTER 26. WATER RIGHTS

### 7-26-1. Water Rights Acquisition Policy and Conveyance Requirements.

### 7-26-2. Water Rights Required–Determination of Amount.

### 7-26-3. Type of Water Rights Acceptable for Conveyance.

### 7-26-4. Possible Adjustments or Revisions to Water Rights Conveyance Requirements.

### 7-26-5. Time of Conveyance.

### 7-26-6. Appeals and Requests for Adjustment, Modification, Exemption, or Waiver of Water Rights Conveyance Requirements.

### 7-26-7. Effective Date.

### 7-26-1. Water Rights Acquisition Policy and Conveyance Requirements.

Intent. It is intended that all applicants requesting annexation of land into Tooele City for residential development, all applicants requesting that property already within the boundaries of the City rezone the property to a higher density or more intensive use which increases the need for water service from the City, all applicants requesting the subdivision of land, and all applicants requesting a development permit shall convey provide water rights in an amount sufficient to satisfy the anticipated future water needs of the respective proposed development to be served and supplied by the City water system as provided in this Chapter. Satisfaction of this water rights acquisition policy and the accompanying conveyance requirements shall be considered as a condition to and requirement of approval for all such applications.

(Ord. 2015-03, 03-04-2015) (Ord. 1998-31, 08-18-1998)

### 7-26-2. Water Rights Required–Determination of Amount.

(1) (a) ~~–Residential Uses–Interior. The amount of water rights to be conveyed in order to satisfy this policy and provide an adequate supply of water for a dwelling unit interior shall be 0.25 acre-feet per dwelling based on the needs created by anticipated future development shall be defined for residential development as one (1.0) acre-foot per equivalent residential dwelling unit.<sup>1</sup>~~

(b) ~~Residential Uses–Exterior. The amount of water rights to be conveyed in order to satisfy this policy~~

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<sup>1</sup>/

~~The above requirement is based on a combination of State of Utah standards and Tooele historical usages of approximately .45 acre-feet of water for indoor use and .55 acre-feet of water for outdoor use assuming a 10,000 square-foot lot. The City may prorate the outdoor use requirement by considering such factors as the size of the lot, a lot's impervious surface, and a lot's irrigable area. This requirement is a reasonable average and is required despite a showing of variations in water usage above or below the average.~~

and provide an adequate supply of water for a dwelling unit exterior shall be 4.00 acre-feet per acre of irrigable land, taking into account such factors as lot size, lot impervious surfaces, and lot irrigable area.

(c) ~~These requirements are a reasonable average and are required despite variations in usage above or below the average in any given application.~~

(2) ~~–Non-Residential Uses. An amount sufficient to satisfy the projected needs of the proposed development shall be determined by the Tooele City Public Works Director. The Public Works Director may delegate responsibilities under this Chapter.~~

(3) ~~State Engineer Requirements.~~

(a) ~~For interior use, due to the nature of Tooele City's water reclamation facility, the State Engineer requires that the quantity of water credited to a development applicant upon the applicant's conveyance dedication of water rights shall be that portion of the water right which the Office of the State Engineer has approved for depletion, and that quantity shall not include any diversion amounts which the State Engineer requires to be returned to the hydrologic system. In other words, interior water rights must be approved by the State Engineer for 100% depletion.~~

(b) ~~For exterior use, the quantity of water credited to a development applicant upon the applicant's conveyance dedication of water rights shall be that portion of the water right which the State Engineer has approved for diversion, which quantity may include any amounts which the State Engineer requires to be returned to the hydrologic system.~~

(Ord. 2015-03, 03-04-2015) (Ord. 2000-03, 1-5-2000) (Ord. 1999-34, 12-01-1999) (Ord. 1998-31, 08-18-1998).

### 7-26-3. Type of Water Rights Acceptable for Conveyance.

(1) ~~Water rights proposed for conveyance to the City shall be municipal or municipal-type water rights. Prior to acceptance of such water rights, the City shall evaluate the rights proposed for conveyance and may refuse to accept any right which it determines to be insufficient in annual quantity or flow rate, unsuitable for municipal use, not reasonably likely to be approved for change to municipal purposes within the City by the State Engineer, or otherwise deficient. The City's refusal of such rights shall not constitute a waiver of, and shall not relieve an applicant from complying with, the requirements of this Chapter. In determining the quantity of water available under the water rights, the City will evaluate the priority of the water rights, the historic average quantities of water associated with the water rights, and other relevant factors. The City will require an approved application for the change of use and change of point of diversion, as applicable, with the State Engineer in order to quantify and verify the water rights.~~

(2) ~~Fee-in-lieu. Pursuant to established City Council policy, in lieu of actual conveyance of water~~

rights pursuant to this Chapter, certain development applicants may pay to the City an amount per acre-foot for access to water rights controlled by the City in a quantity necessary to satisfy the anticipated future water needs of the proposed development to be served and supplied by the City water system.

(3) Supply and Delivery Facilities May be Required. In addition to furnishing water rights pursuant to this Chapter, the applicant will be required to comply with other provisions of the Tooele City Code, including the payment of water impact fees, and also may be required to pay additional costs necessary to construct the facilities necessary to supply, store, and distribute water. (Ord. 2015-03, 03-04-2015) (Ord. 2005-19, 08-03-2005) (Ord. 2000-03, 01-05-2000) (Ord. 1998-31, 08-18-1998)

#### **7-26-4. Possible Adjustments or Revisions to Water Rights Conveyance Requirements.**

(1) Annexation; deferral. Where an annexation contains property which is being annexed without the consent of the owner, or where water service will not immediately be provided by the City as a result of an annexation, the City may, in the exercise of the discretion of the City Council, elect to not require the conveyance of water rights at the time of annexation as long as the annexation specifically identifies such parcels and provides either an alternative means to satisfy these water rights conveyance requirements or provides that any subsequent change in zoning classification or subsequent development approval which increases the need for water service by the City will require the conveyance of additional water rights to the extent necessary to provide adequate water to serve such future development. Such an election shall not constitute a waiver of, and shall not relieve an applicant from complying with, the requirements of this Chapter.

(2) Lands Which are Restricted Against Future Development. Where development of the property in question is restricted by unusual circumstances such as topographic features, environmentally sensitive or fragile conditions, or voluntary limitations on landscape and other activities which will reduce the amount of water to be provided by the City, the Public Works Director may reduce the amount of the water right required to be conveyed to an amount commensurate with the nature of the proposed restricted development. Any such restriction must be accompanied by enforceable provisions for securing compliance in a form to be approved the Tooele City Attorney.

(3) Redevelopment.

(a) Dwellings. A dwelling building permit application associated with land that contains or once contained a dwelling, which dwelling will be or has been razed, shall not require the conveyance of water rights. The burden shall be upon the applicant to demonstrate by substantial evidence that the land contains or once contained a dwelling. The water rights adjustment made for dwellings pursuant to this Subsection shall apply to the new dwelling and curtelage only. Additional irrigable land added to the parcel upon which the to-be-razed

dwelling sits, or the prior dwelling sat, shall require the conveyance of additional water rights or the payment of a fee-in-lieu, as determined by the Public Works Director.

(b) Other primary structures. A building permit application associated with land that once contained a primary structure that was not a dwelling shall require the conveyance of water rights or the payment of a fee-in-lieu of conveyance if the applicant cannot demonstrate by substantial evidence that water rights were previously conveyed to the City for the prior structure. If water rights were conveyed to the City for a prior non-dwelling structure, but those water rights are determined by the Public Works Director to be insufficient for the structure and associated irrigated areas identified in a new building permit application, the applicant shall convey additional water rights or pay an additional fee-in-lieu of conveyance, as determined by the Public Works Director.

(4) Expansion and change of use. Where a non-residential building alteration or change of use requires a new building permit or a new occupancy permit, and the building alteration or change of use is anticipated to result in increased culinary water usage, the permit applicant shall convey additional water rights or pay an additional fee-in lieu of conveyance, as determined by the Public Works Director. Dwelling alterations or expansions shall not require the conveyance of additional water rights unless resulting in the creation of a new dwelling unit. No rebate or refund shall be owing where a building alteration or change of use may result in decreased culinary water usage.

(5) Water-wise methods. Where a building site, building, or use of a building, including landscaping, incorporates technologies or processes designed to decrease impacts to City water systems and facilities, where the water rights conveyance requirement was reduced in reliance upon those technologies or processes, and where those technologies or processes fail or cease to be used, for any reason or to any degree, the City may require the conveyance of additional water rights or the payment of an addition fee-in-lieu of conveyance corresponding to the increased culinary water usage resulting from such failure or cessation of use, as determined by the Public Works Director. The fee-in-lieu may be invoiced by the City to the building water account through the regular city water bill, to be paid in full over a period of no more than three years. The City may record a Notice with the office of the Tooele County Recorder regarding any property utilizing this provision.

(6) Secondary water. Where site landscaping uses secondary water provided by the City or by an irrigation company, where the water rights conveyance requirement was reduced in reliance upon secondary water usage, and where secondary water usage decreases in favor of an increase in culinary water usage, the City may require the conveyance of additional water rights or the payment of an additional fee-in-lieu of conveyance corresponding to the

increased culinary water usage, as determined by the Public Works Director. The fee-in-lieu may be invoiced by the City to the property water account through the regular city water bill, to be paid in full over a period of no more than three years. The City may record a Notice with the office of the Tooele County Recorder regarding any property utilizing this provision.

(7) Exemption for *de minimus* usage. Notwithstanding the requirements of this Chapter, the City Council may establish a policy whereby building alterations or changes of use resulting in *de minimus* increases of culinary water usage shall not require the conveyance of additional water rights or the payment of a fee-in-lieu of conveyance. The term *de minimus* shall be defined in the policy.

(Ord. 2015-03, 03-04-2015) (Ord. 1999-34, 12-01-1999) (Ord. 1998-31, 08-18-1998)

#### **7-26-5. Time of Conveyance.**

(1) The conveyance of title to the water rights, free and clear of all liens, encumbrances, and claims of any nature not expressly approved in writing by Tooele City, shall be an express condition to the City's approval of any final annexation, rezoning, or development permit. Tooele City may require a water rights title insurance policy or the equivalent.

(2) The water rights conveyance required by this Chapter shall occur promptly following the earliest development approval for which the amount of water rights necessary to satisfy the anticipated future water needs of the development can be ascertained with reasonable certainty. An approved residential final plat shall not be signed or recorded, nor any building permit issued, prior to conveyance of the water rights or payment of the fee-in-lieu. Notwithstanding City review of a land use application, a land use application shall not be considered complete until the associated water rights are conveyed or the fee-in-lieu paid, as applicable. Should the amount reasonably anticipated fall short of the amount actually required, the applicant shall convey additional water rights or pay an additional fee-in-lieu, as determined by the Public Works Director, as soon as possible following written notice to do so, but no later than a subsequent development permit for the subject development.

(3) Notwithstanding Subsection (2), above, the City may approve a non-residential building permit prior to the conveyance of the required water rights where:

(a) the applicant has filed a change application with the State Engineer for sufficient water rights for the development;

(b) there is no indication that the State Engineer will deny approval of the change application; and,

(c) the applicant has executed and recorded a water rights agreement on a form approved by the City Attorney.

(Ord. 2015-03, 03-04-2015) (Ord. 1999-34, 12-01-1999) (Ord. 1998-31, 08-18-1998)

#### **7-26-6. Appeals and Requests for Adjustment, Modification, Exemption, or Waiver of Water Rights Conveyance Requirements.**

(1) Any applicant, person, or entity which is subject to this water rights acquisition policy and conveyance requirement may file, in writing, either prior to or concurrent with the application that triggers the water rights conveyance requirement, an appeal or a request for adjustment, modification, exemption, or waiver of the requirement with the City Council seeking relief from all or a portion of the water rights acquisition policy requirements as contained in this Chapter.

(2) Supporting Information to be Submitted. Any such appeal or request for relief shall be signed by the applicant and contain adequate information and documentation in support of the relief requested. The City Council may request additional information which they deem reasonably necessary in order to make a decision on the application. The burden shall be upon the applicant in any such appeal or request for adjustment, modification, exemption, or waiver of this water rights conveyance requirement to demonstrate that the strict application of the policy under their particular facts and circumstances is inequitable, unreasonable, or unlawful.

(3) Decision by City Council. Within 30 days of the filing of the completed appeal or request, together with all supporting information and documentation required by the City Council, the City Council shall schedule a public meeting with appropriate notice. At the public meeting, the applicant and all interested persons shall be entitled to present information, documentation, and witnesses in support of or in opposition to the application. At the conclusion of the meeting, the City Council shall either issue its decision or vote to study further the appeal or request and issue its decision at the next regular City Council meeting. (Ord. 2015-03, 03-04-2015) (Ord. 1998-31, 08-18-1998)

#### **7-26-7. Effective Date.**

Tooele City specifically finds that it is necessary for the immediate preservation of the health, safety, and welfare of the present and future inhabitants of the City that this ordinance shall take effect retroactive to the date of subdivision final plat or site plan application for those subdivisions or site plans that fail to do any one of the following:

(1) (a) for residential subdivisions or the residential portion of mixed-use subdivisions, obtain subdivision final plat approval from the City Council prior to August 1, 2005;

(b) for non-residential subdivisions or the non-residential portion of mixed-use subdivisions, obtain site plan approval from the Planning Commission prior to August 1, 2005;

(2) complete public improvement bonding pursuant to Tooele City Code §7-19-12 prior to August 1, 2006; or

(3) complete all bonded public improvements prior to August 1, 2007.

(Ord. 2015-03, 03-04-2015) (Ord. 2007-07, 04-04-2007)

(Ord. 2006-15, 07-05-2006) (Ord. 2005-19, 08-13-2005)

(Ord. 2005-07, 05-04-2005) (Ord. 19 98-31, 08-18-1998)

**Tooele City Planning Commission  
Business Meeting Minutes**

**Date:** Wednesday, July 28, 2021

**Time:** 7:00 p.m.

**Place:** Tooele City Hall Council Chambers  
90 North Main Street, Tooele Utah

**Council Members Present:**

Tyson Hamilton  
Dave McCall  
Melanie Hammer  
Shaunna Bevan  
Matt Robinson  
Paul Smith  
Nathan Thomas  
Melanie Hammer

**Commission Members Excused:**

Weston Jensen

**City Council Members Present:**

Ed Hansen  
Maresa Manzione

**City Employees Present:**

Andrew Aagard, City Planner  
Jim Bolser, Community Development Director  
Paul Hansen, City Engineer  
Roger Baker, City Attorney

Minutes prepared by Katherin Yei

Chairman Hamilton called the meeting to order at 7:00 p.m.

**1. Pledge of Allegiance**

The Pledge of Allegiance was led by Commissioner Robinson.

**2. Roll Call**

Tyson Hamilton, Present  
Dave McCall, Present  
Melanie Hammer, Present  
Shaunna Bevan, Present

Matt Robinson, Present  
Chris Sloan, Present  
Nathan Thomas, Present  
Paul Smith, Present  
Weston Jensen, Excused

**3. Public Hearing and Decision on a Conditional Use Permit Request by Scott Aders to Authorize the “Personal Storage Facility and Warehouse” Land Use on Approximately 1.0 Acre of Property Located at 1220 Flinders Street in the LI Light Industrial Zoning District.**

*Presented by Andrew Aagard, City Planner*

Mr. Aagard stated the property is located at 1220 Flinders Street with an auto-body business and storage facility in the surrounding area. He stated the applicant has submitted a site plan with the warehouse housing storage and office space. He stated notices had been sent out to the surrounding areas. He stated they received a phone call from the neighboring business regarding storm water coming onto their property.

Chairman Hamilton opened the public hearing.

**Commissioner Thomas moved to approve the Conditional Use Permit Request by Scott Aders.** Commissioner McCall seconded the motion. The vote was as follows: Commissioner McCall, “Aye”, Commissioner Robinson, “Aye”, Commissioner Bevan, “Aye”, Commissioner Hammer, “Aye”, Commissioner Sloan, “Aye”, Commissioner Thomas, “Aye,” and Chairman Hamilton, “Aye”.

**4. Recommendation on a Preliminary Subdivision Plan Request by Building Dynamics, Inc., for the Creation of 25 Townhome Lots Located at Approximately 1150 North Franks Drive in the MR-16 Multi-Family Residential Zoning District on 2.14 Acres.**

*Presented by Andrew Aagard, City Planner*

Mr. Aagard stated the Preliminary Subdivision Plan request was for the subject property located approximately 1150 North Franks Drive. He stated the surrounding land is undeveloped with developments coming soon. He stated the property is zoned MR-16, multi-family residential with a maximum density of 16 units per acre. He stated the applicant wants to create 25 unit lots with 12 units per acre. He stated each townhouse will be privately owned.

**Commissioner Robinson moved to forward a positive recommendation on the Preliminary Subdivision Plan request by Building Dynamics, Inc.** Commissioner Bevan seconded the motion. The vote was as follows: Commissioner McCall, “Aye”, Commissioner Robinson, “Aye”, Commissioner Bevan, “Aye”, Commissioner Hammer, “Aye”, Commissioner Sloan, “Aye”, Commissioner Thomas, “Aye,” and Chairman Hamilton, “Aye”.

**5. Decision on a Site Plan Design Review Request by Lexington Townhomes, LLC, for a 25-Unit Townhome Development Proposed at Approximately 1150 North Franks Drive in the MR-16 Multi-Family Residential Zoning District on 2.14 Acres.**

*Presented by Andrew Aagard, City Planner*

Mr. Aagard stated this item is a follow up to the previous item. He stated the site plan proposes the construction on 550 West with access to the townhomes. He stated the townhomes will be rear-loaded with the exception of three townhomes which will be front-loaded. He stated the driveways will be able to accommodate two vehicles with guest parking available. He stated landscaping will incorporate irrigated turf grass, child play area, cobble mulches and trees in between buildings. He stated the landscaping and the architecture has been reviewed and complies with the City standards.

Commissioner Robinson asked why some townhomes were rear-loaded and others were front-loaded.

Mr. Aagard stated he is not sure why, but invited the applicant up.

Mr. Carpenter stated the purpose of front-load and rear-load is to add variety and be the model home for future developments that will be front loading.

Commissioner Smith suggested they consider a gazebo to appeal to multiple ages.

Mr. Carpenter stated it is a good idea to consider.

Commissioner Thomas stated he likes the idea of Gazebo.

**Commissioner Robinson moved to approve the site plan design review request.**

Commissioner McCall seconded the motion. The vote was as follows: Commissioner McCall, "Aye", Commissioner Robinson, "Aye", Commissioner Bevan, "Aye", Commissioner Hammer, "Aye", Commissioner Sloan, "Aye", Commissioner Thomas, "Aye.", and Chairman Hamilton, "Aye".

**6. Public Hearing and Recommendation on a Proposed Text Amendment Request by Tooele City to Revise the Terms of Table 2 of Chapter 7-16 of the Tooele City Code Regarding Certain Setback Requirements in Industrial Zoning Districts.**

*Presented by Jim Bolser, Community Development Director*

Mr. Bolser stated the City Code establishes the setbacks that a community determines would be appropriate. He stated that one aspect that goes into this determination is the building code which has varying requirements based on the type of construction and use of the building. He stated commercial and non-residential has more varying aspects to it where the uses and construction types are less consistent than residential. He stated there was an application that went through a pre-development process with the intent to look at a mass subdivision and split the property for different uses. That subdivision would split existing buildings onto separate properties that would be too close to meet setbacks. He stated the amendment is to allow and establish a

minimum standard lower than the current requirement with the emphasis shifting the setback determination to the applicant based on the type of construction of and nature of use for the building and what they want to do.

Chairman Hamilton stated it could allow diversity to the commercial property as well. Mr. Bolser stated the current focus is for industrial zones but could potentially be for commercial.

Chairman Hamilton opened the public hearing.

**Commissioner Bevan moved to forward a positive recommendation on a proposed text amendment Request by Tooele City to Revise the Terms of Table 2 of Chapter 7-16 of the Tooele City Code Regarding Certain Setback Requirements in Industrial Zoning Districts.**

Commissioner Hammer seconded the motion. The vote was as follows: Commissioner McCall, “Aye”, Commissioner Robinson, “Aye”, Commissioner Bevan, “Aye”, Commissioner Hammer, “Aye”, Commissioner Sloan, “Aye”, Commissioner Thomas, “Aye,” and Chairman Hamilton, “Aye”.

### **7. City Council Reports**

Council Member Manzione stated the ordinance to reassign the land use for the U-Haul facility was denied because of the sales tax revenue. She stated the changing of the zone to LI, Light industrial for the property located at 701 East 2400 North passed. She stated they approved the code changes for RSD and CSD with a few discrepancies in the text. She stated they formed an IT department and Mayor Winn appointed Jamie Grandpre to the Position of Director of the Public Works Department. She stated they had an application for multi-family residential zone near England Acres, for D.R Horton, who asked to table the discussion to work on a few items on their end.

Commissioner Robinson asked if there was a time table when D.R Horton would be coming back.

Council Member Manzione stated they had not been given a time frame yet.

### **8. Review and Approval of Planning Commission Minutes for Meeting held on July 14, 2021.**

No Changes were asked to be made to the minutes.

**Commissioner Robinson moved to approve the minutes from July 14, 2021.** Commissioner Robinson seconded the motion. The vote was as follows: Commissioner McCall, “Aye”, Commissioner Robinson, “Aye”, Commissioner Bevan, “Aye”, Commissioner Hammer, “Aye”, Commissioner Sloan, “Aye”, Commissioner Thomas, “Aye,” and Chairman Hamilton, “Aye”.



**9. Adjourn**

**Chairman Hamilton adjourned the meeting at 7:33 p.m.**

*The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.*

Approved this \_\_\_\_ of August, 2021

\_\_\_\_\_  
Tyson Hamilton, Tooele City Planning Commission Chair

DRAFT