

PUBLIC NOTICE

Notice is hereby given that the Tooele City Council, and the Tooele City Redevelopment Agency will meet in a Work Session, on Wednesday, October 18, 2017 at the hour of 5:00 p.m. The meeting will be held at the Tooele City Hall Large Conference Room located at 90 North Main Street, Tooele, Utah.

1. Open City Council Meeting

2. Roll Call

3. Discussion:

- **Resolution 2017 - 44 A Resolution of the Tooele City Council Accepting the Completed Public Improvements Associated with the Copper Canyon PUD Phase 5 Subdivision
Presented by Paul Hansen**
- **Resolution 2017 - 23 A Resolution of the Tooele City Council Establishing Fees for Various Administrative Appeals
Presented by Roger Baker**
- **Ordinance 2017 - 28 An Ordinance of Tooele City Amending Tooele City Code Section 11-1-4 Regarding Commercial Handbills
Presented by Roger Baker**
- **New Utah Supreme Court Opinion on Land Use Decisions
Presented by Roger Baker**

4. Council Reports

5. Recess to RDA

6. Discussion:

- **Review of Procedure for the RDA Meeting, Scheduled at 7:30
Presented by Randy Sant**
- **Review of Project Area Plans to be Adopted
Presented by Randy Sant**
- **Review of RDA Resolutions to be Adopted
Presented by Randy Sant**
- **Review of Ordinances to be Adopted
Presented by Randy Sant**

7. Adjourn RDA

8. Reconvene City Council

9. Close Meeting

- **Litigation**
- **Property Acquisition**

10. Adjourn

Michelle Y. Pitt
Tooele City Recorder/RDA Secretary

Pursuant to the Americans with Disabilities Act, Individuals Needing Special Accommodations Should Notify Michelle Y. Pitt, Tooele City Recorder, at 843-2110 or michellep@tooelecity.org, Prior to the Meeting.

TOOELE CITY CORPORATION

RESOLUTION 2017-23

A RESOLUTION OF THE TOOELE CITY COUNCIL ESTABLISHING FEES FOR VARIOUS ADMINISTRATIVE APPEALS.

WHEREAS, Tooele City Code (“TCC”) Chapter 1-28 governs appeals of administrative decisions to the Administrative Hearing Officer (the “Hearing Officer”); and,

WHEREAS, TCC Section 1-28-7 anticipates the City Council requiring the payment of fees associated with administrative appeals heard by the Hearing Officer: **“Appeal fees.** The City Council may require by resolution the payment of fees associated with appeals heard by the Hearing Officer”; and,

WHEREAS, many of the appeals heard by the Hearing Officer pursuant to the TCC currently have no appeal fee associated with them, either in the TCC or in the Tooele City Fee Schedule (the “Fee Schedule”), as follows:

- Section 1-27-5: Zoning Administrator decision appeals
- Sections 2-4-3(1)(a) and 7-1-9(1)(a): administrative zoning decision appeals
- Sections 2-4-3(1)(b) and 7-1-9(1)(b): variances
- Section 2-4-3(2): nonconforming use decision appeals
- Section 5-1-29: business license decision appeals
- Section 6-5b-8: dangerous animal and potentially dangerous animal decision appeals
- Section 7-25-32: sign decision appeals
- Section 8-11-17(4): POTW pre-treatment decision appeals
- Section 8-16-10: special event permit decision appeals
- Section 9-4-16: water restriction violation citation appeals
- Section 10-3-32: parking citation appeals

and,

WHEREAS, the City Council hears appeals of administrative impact fee and water rights decisions under TCC Sections 4-15-6 and 7-26-6, respectively, but no appeal fees have been established; and,

WHEREAS, the Tooele City Water Special Service District Board hears appeals of administrative decisions regarding reclaimed water under TCC Section 9-7-27, but no appeal fee has been established; and,

WHEREAS, the Fee Schedule does contain appeal fees for the following appeals heard by the Hearing Officer:

- Chapter 8-4: Abatement of Nuisances (established by the City Council at **\$150**)
- Section 7-5-11: conditional use decision appeal fees (established by the City Council at **\$150**)

and,

WHEREAS, the Fee Schedule contains a general Appeal of Administrative Decision appeal fee of **\$150**; and,

WHEREAS, the City Administration believes that a principle of sound budget and fiscal management of the general fund is to charge fees reasonably calculated to recover the City's cost of providing certain services; and,

WHEREAS, failing to charge fees reasonably calculated to recover the City's cost of providing services gives a general fund subsidy to isolated individuals at the expense of the general taxpayer who is not receiving a service; and,

WHEREAS, the City Administration has researched the administrative appeal fees charged in more than 20 Utah cities and towns as shown in Exhibit A; and,

WHEREAS, the City Administration recommends that the City Council establish the administrative appeal fees shown in Exhibit B, being reasonably calculated to recover or under-recover the City's cost of providing services related to administrative appeals; and,

WHEREAS, the City Administration recommends removing the outdated Board of Adjustment appeal and variance fees; and,

WHEREAS, the City Administration recommends removing the general Appeal of Administrative Decision appeal fee in favor of more specific appeal fees; and,

WHEREAS, the City Administration recommends that appeal fees be refunded upon an appellant bringing a successful appeal:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that

1. the Tooele City Fee Schedule is hereby amended to establish a section entitled Administrative Appeals; and,
2. the Tooele City Fee Schedule is hereby amended to include the administrative appeal fees as shown in Exhibit B; and,
3. the Tooele City Fee Schedule is hereby amended to relocate all entries in the Fee Schedule for existing fees for appeals to the Administrative Hearing Officer to the Administrative Appeals section of the Tooele City Fee Schedule (a notation in Fee

Schedule sections currently containing such fees may be made so as to cross-reference with the Administrative Appeals section); and,

4. the outdated Board of Adjustment appeal and variance fees are hereby repealed and stricken from the Fee Schedule; and,
5. the general Appeal of Administrative Decision appeal fee is hereby repealed and stricken from the Fee Schedule, in favor of the more specific appeal fees established by this Resolution; and,
6. nothing in this Resolution shall be deemed to modify appeal or other fees established in the Tooele City Code or Tooele City Fee Schedule except as expressly provided herein.

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 _____, 2017.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, City Attorney

Exhibit A

Administrative Appeal Fees in Utah Cities (2017)

Administrative Appeal Fees in Utah Cities (2017)

City	Appeal Authority/Case Types Appealed	Appeal Fee	Contact
Tooele	Administrative Hearing Officer: various		
Alpine	Appeal Officer (outside attorney): various	attorney's fee (based on estimated time involved in the appeal)	Charmayne Warnock
Bountiful	Administrative Law Judge: land use decisions	\$250	Sauna Andrus, City Recorder
Cedar City	NA	NA	Paul Bittemen, Asst City Manager
Centerville	Board of Adjustment: zoning appeals	1/2 land use application fee	Lisa Romney, City Attorney
	Administrative Hearing Officer: civil appeals	1/2 civil penalty	Lisa Romney, City Attorney
Cottonwood Heights	Board of Adjustment: appeals	\$600	Dean Lundell, Finance Director
Delta	Outside attorney: various	\$250	Todd Anderson, City Attorney
Draper	Planning Commission: conditional use permit, site plan	\$200	Rachelle Conner, City Recorder
	Hearing Officer: variances, special exceptions, administrative decisions	\$500	Rachelle Conner, City Recorder
Enoch	City Council (hearing noticed as open and public meeting)	\$100	Julie Watson
Grantsville	NA	NA	Sherry Broadbent
Gunnison	Hearing Officer: land use	?	Janell Braithwait, City Recorder
Herriman	Land use	\$300	city web page
Highland	Appeal Authority	\$300	city web page
Kaysville	Zoning	\$50	city web page
Logan	Hearing Officer: various	no fee	Kimber Housley

Ogden	Board of Adjustment	\$100	city web page
Pleasant Grove	Board of Adjustment: variances, appeals	\$200	city web page
Sandy	Board of Adjustment	\$400	Steve Osborne
South Jordan	City Council	\$288	city web page
	Planning Commission	\$819	city web page
	Board of Adjustment	\$456	city web page
South Salt Lake	Administrative Law Judge: various	\$25	Craig Burton, City Recorder
Springdale	Administrative Hearing Officer: variances, land use decisions	\$800	Darci Carlson, Town Clerk
St. George	Board of Adjustment	\$100	Christina Fernandez
West Valley City	Administrative Law Judge: code enforcement	\$95	Erik Bunderson, City Attorney

Exhibit B

Administrative Hearing Officer Appeals— Proposed Appeal Fees (2017)

Administrative Hearing Officer Appeals-Proposed Appeal Fees (2017)

City Code Provision	Decision Type	Decision Maker	Appeal Authority	Civil Penalty	Proposed Fee*
1-27-5	zoning decisions	Zoning Administrator/ CD Director	Administrative Hearing Officer	NA	\$150
2-4-3(1)(a), 7-1-9(1)(a)	zoning decisions	staff	Administrative Hearing Officer	NA	\$150
2-4-3(1)(b), 7-1-9(1)(b)	variances	NA	Administrative Hearing Officer	NA	\$150
2-4-3(2)	nonconforming use decisions	Zoning Administrator/ CD Director	Administrative Hearing Officer	NA	\$150
5-1-29	business license revocation	City Recorder	Administrative Hearing Officer	NA	\$150
6-5b-8	dangerous animal decisions	police chief	Administrative Hearing Officer	NA	\$75
7-25-32	sign decisions	CD Director	Administrative Hearing Officer	NA	\$150
8-11-17(4)	POTW pretreatment decisions	PW Director	Administrative Hearing Officer	NA	\$500
8-16-10	special event permit decisions	Mayor	Administrative Hearing Officer	NA	\$25
9-4-16	water restriction violation citations	Finance/PD	Administrative Hearing Officer	\$25/\$100/\$250	\$25
10-3-32	parking citations	PD	Administrative Hearing Officer	\$25	\$25

*Appeal Fee to be refunded upon successful appeal

TOOELE CITY CORPORATION

ORDINANCE 2017-28

AN ORDINANCE OF TOOELE CITY AMENDING TOOELE CITY CODE SECTION 11-1-4 REGARDING COMMERCIAL HANDBILLS.

WHEREAS, Tooele City has been inundated with advertising materials stuffed in green plastic bags and thrown from vehicles onto lawns, driveways, sidewalks, park strips, gutters, and streets; and,

WHEREAS, the advertising materials are known colloquially as “green bags” and identify themselves by the moniker “Money Bag” (hereinafter individually and collectively “Green Bags”); and,

WHEREAS, members of the City Council have first-hand knowledge that some Green Bags are being thrown onto the property of disabled persons who have difficulty bending to the ground, or who cannot bend to the ground, to pick up the unrequested, unwanted Green Bags and throw them away; and,

WHEREAS, the website www.moneybagutah.com provides a mechanism where a person can opt out of receiving the Green Bags, but not without providing personal identifying information, including all of the following: name, address, phone number, and email address (see Exhibit A); and,

WHEREAS, in an effort to assist Tooele City residents to be informed about their ability to opt out of receiving the Green Bags, the Administration provides opt-out information in its monthly publication Ninety North Main, mailed to all utility account holders and available on the City’s website (see Exhibit B); and,

WHEREAS, members of the City Council and Administration have first-hand knowledge of persons having opted out multiple times, both by computer and by phone, but the Green Bags are still thrown onto their properties; and,

WHEREAS, members of the City Council and the Administration have received numerous complaints from Tooele City residents who do not want to receive the Green Bags but upon whose properties the Green Bags are repeatedly thrown; and,

WHEREAS, members of the City Council and the Administration have received numerous complaints about, and have personally observed, how the Green Bags are cluttering up gutters and defiling yards, driveways, and other public and private properties, and creating an unsightly condition, constituting both litter and a nuisance (see one such complaint attached as Exhibit C); and,

WHEREAS, members of the City Council and the Administration have not received any calls or comments from any Tooele City Residents appreciating or wanting to receive the Green Bags; and,

WHEREAS, the Green Bags appear to be published and distributed by Utah Media Group, a Utah DBA with the same address as Mediaone of Utah, another DBA, whose registered agent is the Newspaper Agency Company, LLC, affiliated with both the Deseret News and the Salt Lake Tribune (see Exhibit D); and,

WHEREAS, the websites mediaoneutah.com and utahmediagroup.com provide the phone numbers of (801) 204-6500 (main number) and (801) 204-6100 (circulation) to contact Utah Media Group and opt out of receiving Green Bags, which numbers Tooele City has, in turn, provided to the public through Ninety North Main, as referenced above; and,

WHEREAS, Grantsville City has provided the name of David Gifford, the phone numbers (801) 698-1104 and (801) 204-6152, and the email address dgifford@utahmediagroup.com for those who wish to opt out of receiving Green Bags in Grantsville City, and Mr. Gifford has confirmed that he is the State Circulation Manager for Utah Media Group (see Exhibits E and F).

WHEREAS, U.C.A. Section 76-10-2701 criminalizes littering, and subsection (3) requires "a person distributing commercial handbills, leaflets, or other advertising [to] take whatever measures are reasonably necessary to keep the material from littering public or private property" (see Exhibit G); and,

WHEREAS, the observation of the City Council and Administration is that those distributing the Green Bags are not taking any of the measures required by U.C.A. Section 76-10-2701(3), quoted above; and,

WHEREAS, further, U.C.A. Section 76-10-2701 provides enabling authority to Utah cities so that "A municipality within its corporate limits . . . may enact local ordinances to carry out the provisions of this section"; and,

WHEREAS, U.C.A. Section 76-10-2702 provides that "A person who violates any of the provisions of Section 76-10-2701 is guilty of a class C misdemeanor and shall be fined not less than \$100 for each violation" (see Exhibit H); and,

WHEREAS, U.C.A. Section 10-8-24 provides to municipalities enabling authority to regulate litter in public streets, sidewalks, parks, and other public property (see Exhibit I); and,

WHEREAS, in 1964, the Provo City Council passed Ordinance 643, enacting Chapter 9.13 of the Provo City Code, a comprehensive litter regulation, including the regulation of commercial handbills, the chapter being known as the Provo City Anti-Litter Chapter (see Exhibit J); and,

WHEREAS, similar to U.C.A. Section 76-10-2702, violations of Provo City Code Chapter 9.13 are punishable as class C misdemeanors; and,

WHEREAS, given the experience of the City Council, the legislative body of Tooele City, the City Council deems it desirable as a matter of legislative policy to regulate the

distribution of commercial handbills and similar advertising materials in order to protect the general welfare of Tooele City and its residents, including the prevention of litter, nuisances, unsightly conditions, and injury to disabled residents, among other reasonably debatable reasons; and,

WHEREAS, drawing from the Provo City ordinance, the Administration recommends that Tooele City Code Section 11-1-4 be amended to regulate the act of distributing commercial handbills, and be punishable as an Infraction (see Exhibit K); and,

WHEREAS, the present Ordinance and the proposed amendments to Section 11-1-4 are not intended to regulate speech, commercial or otherwise, but rather the act of throwing, depositing, or attaching a specific type of item onto property; further, the fact that a person must read the item thrown, deposited, or attached to determine if it is a commercial handbill does not mean that the ordinance is treating one kind of speech differently than another type of speech, or addressing speech at all, but rather simply identifying one kind of item as offensive, not based on its message or content, but based on the manner in which it is thrown, deposited, or attached onto property; and further, it is not the message or content that creates the nuisance, unsightly condition, and potential injury, but the manner in which it is thrown, deposited, or attached, and the resulting nuisance, unsightly condition, and injury; and,

WHEREAS, as further evidence that this Ordinance is not intended to regulate speech, the City Council observes that the same message contained in the Green Bags can be delivered lawfully to the same properties as the Green Bags through the U.S. mail, as are other commercial handbills (i.e., commercial handbills published and distributed by the Tooele *Transcript-Bulletin*), or by personal delivery to property owners with their permission (i.e., person-to-person as opposed to being thrown on deposited on the ground); and,

WHEREAS, for purposes of constitutional law, this Ordinance has a non-discriminatory purpose and is intended to have a non-discriminatory effect; and,

WHEREAS, in discussing the Utah Media Group in the above recitals, this Ordinance is not intended to target, disparage, or highlight a particular business, but rather merely to point out one example in support of the legislative policy actions being enacted by this Ordinance; and,

WHEREAS, the City Council finds that if items other than commercial handbills are being be thrown, deposited, or attached to public or private properties to the extent that they create litter, a nuisance, unsightly conditions, injury to vulnerable populations, or other deleterious conditions or effects, Section 11-1-4 can be further amended to include those items:

NOW, THEREFORE, BE IT ORDAINED BY THE TOOEELE CITY COUNCIL that

1. Tooele City Code Section 11-1-4 is hereby amended as shown in Exhibit K; and,
2. The City Recorder, in consultation with the City Attorney, is hereby directed to notify Utah Media Group and Mediaone Utah of the enactment of the amended Section 11-1-4.

This Ordinance is necessary for the immediate preservation of the peace, health, safety, or welfare of Tooele City and shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Ordinance is passed by the Tooele City Council this _____ day of _____, 2017.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

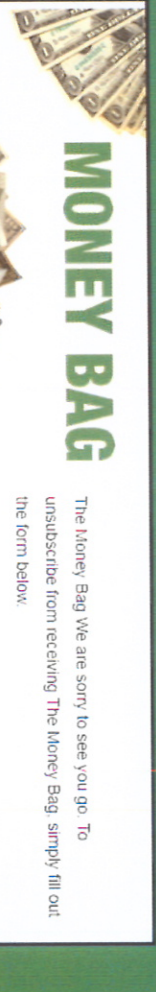
Approved as to Form:



Roger Evans Baker, City Attorney

Exhibit A

Money Bag Opt-Out Webpage



The Money Bag We are sorry to see you go To unsubscribe from receiving The Money Bag simply fill out the form below.

All fields are required.

Name:
Address:
City:
Zip:
Phone:
Email:

Capcha: 

By submitting an order, you are requesting weekly delivery of The Money Bag be canceled. Delivery of The Money Bag will continue until canceled.

Exhibit B

Excerpt from Ninety North Main



24th Annual
 American Heritage Festival
 Mountain Man Rendezvous &
 Black Powder Fun Shoot
 September 22 - 24, 2017
 Tooele City Complex (Dow James)
 438 West 400 North, Tooele

- Traders • Shooters • Activities for the Whole Family
- Games • Food • Dutch Oven Cook-off • Archery • Candy Cannon

For more information call: (801) 719-9330, (801) 330-0421, or (801) 554-0527

Tooele Rock & Gem
 "Artistry In Gems"

ANNUAL ROCK & GEM SHOW

September 22, 23 & 24, 2017

Friday & Saturday 10 AM - 7 PM, Sunday 10 AM - 5 PM



Dow James Building
 438 West 400 North
 Tooele, Utah

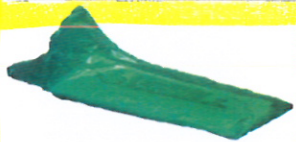
FREE - No Admission Fee
Door Prize Tickets 4 for \$1.00

- Free Admission • Fossils • Rocks & Gems • Door Prizes • Displays • Jewelry • Demonstrations • Vendors • Silent Auction



Relay for Life®
 September 8th, 2017 • 6 p.m.—12:00 a.m.
 Scholar Academy | 928 N. 100 E., Tooele

Relay For Life®, the American Cancer Society's signature event, is a fun-filled overnight experience designed to bring together those who have been touched by cancer. Find more info. at www.relayforlife.org/tooeleut.



GREEN BAGS: Tooele City is not involved in the distribution of the green "newspaper" bags being delivered each week to residents' driveways. To cancel delivery service, contact Utah Media Group at (801) 204-6100 or (801) 204-6500 or go online to www.moneybagutah.com.



FULFILLING OUR PROMISES
 TO THE MEN AND WOMEN WHO SERVED

The local chapter of the Disabled American Veterans (DAV) meets the 3rd Thursday of each month. The Executive Committee meetings are at 7:00 p.m. and the general meetings are at 8:00 p.m. Both meetings are held at the Tooele Pioneer Museum located at 47 E. Vine St., Tooele (rear

basement entrance). No meetings are held in July or December.

For more information, contact Commander James G. Yale at jimjulieyale@msn.com or call 435-849-0521 or call Adjutant Penny Larsen at 801-644-6002.

Serving American Veterans & their families. All veterans & spouses welcome!



September is National Preparedness Month!

Now is a time to prepare yourself and those in your care for emergencies and disasters. If you've seen the news recently, you know that emergencies can happen unexpectedly in communities just like ours, to people just like us. We've seen tornado outbreaks, river



2017 Disasters Don't Plan Ahead. **YOU CAN.**

floods, flash floods, historic earthquakes, tsunamis, and even water main breaks and power outages in U.S. cities affecting millions of people for days at a time.

Police, fire and rescue may not always be able to reach you quickly in an emergency or disaster. The most important step you can take in helping your local responders is being able to take care of yourself and those in your care; the more people who are prepared, the quicker the community will recover.

This September, please prepare and plan in the event you must go for three days without electricity, water service, access to a supermarket, or local services for several days. Just follow these four steps:

*Stay Informed: Information is available from federal, state, local, tribal, and territorial resources. Access Ready.gov to learn what to do before, during, and after an emergency.

*Make a Plan: Discuss, agree on, and document an emergency plan with those in your care. For sample plans, see Ready.gov. Work together with neighbors, colleagues, and others to build community resilience.

*Build a Kit: Keep enough emergency supplies on hand — water, nonperishable food, first aid, prescriptions, flashlight, and battery-powered radio — for you and those in your care.

*Get Involved: There are many ways to get involved especially before a disaster occurs. The whole community can participate in programs and activities to make their families, homes and places of worship safer from risks and threats. Community leaders agree that the formula for ensuring a safer homeland consists of volunteers, a trained and informed public, and increased support of emergency response agencies during disasters.

For more information, check out: Ready.gov or tciem.org.



NO-COST Workshops Open to all Job Seekers!

These high-quality workshops provide up-to-date job-search techniques to prepare you to compete in the job market.

RESUMÉ WRITING: September 12th • 1:00 - 3:30 pm

INTERVIEWING SKILLS: Sept. 26th • 1:00 - 3:30 pm

⇒ Register at jobs.utah.gov, or speak with an employment counselor at the Dept. of Workforce Services Office.

⇒ Classes held at Dept. of Workforce Services Employment Center (305 N. Main St., Tooele).

⇒ Questions or more info., contact Tera Porter @ 435-833-7322.

Exhibit C

Public Complaint about Green Bags

T0: The Tooele City Mayor's Office present and future.

I know for a fact your office has received complaints on the dreaded (Green Bags). Which are littering our city. I have also witnessed this myself.

Questions:

- 1) Do businesses have a get out of jail free card for littering our neighborhoods?
- 2) Is it that your office doesn't want to set precedence over this subject? (What you say? You Gussed it. (The Little Green Bags).
- 3) Is it you do not know what businesses to go after?
(Hint #1) They are listed inside (The Little Green Bags). Which litter our streets weekly?
(Hint #2) Seems to me you have a signed confession. Where you say? You gussed it inside (The Little Green Bag).
- 4) What you say no proof. Oh my. Think about that answer.
(Hint #1) Weekly a company prints them.
(Hint #2) Weekly someone pays for delivery.
(Hint #3) Signed company's confession. (In The Little Green Bag)
(Hint #4) Corporate finger prints in each (Little Green Bag).
Of what you say? You gussed littering our streets with (The Little Green Bags).

If out of all the complaint's sent to the Mayor's Office. Are not reliable enough witnesses in this matter. We have the following agencies with officers and investigators. Which live and patrol our fair city. Such as Utah Highway Patrol, Sheriff's Department, and Tooele City Police Department. Chances are they have witnessed this activity themselves. Or can be advised to investigate this crime. And it is a crime.

I would imagine somewhere in the oath of the Mayor's Office. The Mayor was sworn in to protect, serve, and enforce Federal, State, and City Laws. They were also elected by (We The People) into office. Which tax payers voted and appointed the individual into the Mayor's Office. Now where have I heard the statement (We the People) before?

When I see the statement, which was printed in Tooele City Bulletin. Delivered to our homes each month. By chance if you do not have a copy of this bulletin. I have one. Which id be more than happy to send to your office. Put out by Tooele City Corporation 90 N. Main St, Tooele UT 84074 Phone 435-843-2100 WWW.tooelecity.org Dated Volume XV111, issue 9 September 2017, page 3 Titled Green Bags. I felt that I had to voice my opinion.

Please do not take any part of this letter in the wrong way. It is not meant in a threat or malicious behavior toward any individual/person or government office.

I appreciate the effort/ initiative your office attempted to show on how we can stop the deliveries of the paper. But I feel the office is missing the point. The point in my view, it is a crime. Think We have officers issuing citations for children suppling drinks for not having a business license, Think Tooele City, City Mayors Office stated absolute no watering on Sundays (yet it's on every Sunday at the court house). I feel it is your responsibility to put an end of un-wanted Green Bags/paper littering our neighborhoods

and city streets. If you want the peoples support then listen to what we are saying. If you need help the following codes may apply.

- 1) UT CODE 41-6a-1712 (#3)

Thank you for your time and effort, I believe and hope this letter will help you understand what I believe to be the view of what we the people are trying to get across to The Tooele City Mayors office.

Exhibit D

Corporate Information about:
Utah Media Group
Mediaone of Utah
Newspaper Agency Company, LLC

UTAH MEDIA GROUP

[Update this Business](#)

Entity Number: 9358762-0151

Company Type: DBA

Address: 4770 S 5600 W WEST VALLEY CITY, UT 84118

State of Origin:

Registered Agent: BRENT LOW

Registered Agent Address:

4770 S 5600 W

WEST VALLEY CITY, UT 84118

[View Management Team](#)

Status: Active

[Purchase Certificate of Existence](#)

Status: Active as of 03/24/2015

Renew By: 03/31/2018

Status Description: Good Standing

The "Good Standing" status represents that a renewal has been filed, within the most recent renewal period, with the Division of Corporations and Commercial Code.

Employment Verification: Not Registered with Verify Utah

History

[View Filed Documents](#)

Registration Date: 03/24/2015

Last Renewed: N/A

Additional Information

NAICS Code: 5111 **NAICS Title:** 5111-Newspaper, Periodical, Book, and Da

[<< Back to Search Results](#)

Search by:

Business Name:

MEDIAONE OF UTAH

[Update this Business](#)

Entity Number: 6389374-0151

Company Type: DBA

Address: 4770 S 5600 W PO BOX 704005 West Valley City, UT 84170

State of Origin:

Registered Agent: NEWSPAPER AGENCY COMPANY, LLC

Registered Agent Address:

4770 S 5600 W PO BOX 704005

West Valley City, UT 84170

[View Management Team](#)

Status: Active

[Purchase Certificate of Existence](#)

Status: Active as of 11/14/2006

Renew By: 11/30/2018

Status Description: Good Standing

The "Good Standing" status represents that a renewal has been filed, within the most recent renewal period, with the Division of Corporations and Commercial Code.

Employment Verification: Not Registered with Verify Utah

History

[View Filed Documents](#)

Registration Date: 11/14/2006

Last Renewed: 10/26/2015

Additional Information

NAICS Code: 5111 **NAICS Title:** 5111-Newspaper, Periodical, Book, and Da

[<< Back to Search Results](#)

Search by:

Business Name:

NEWSPAPER AGENCY COMPANY, LLC

[Update this Business](#)

Entity Number: 6225373-0160

Company Type: LLC - Domestic

Address: 4770 S 5600 W West Valley City, UT 841704005

State of Origin:

Registered Agent: BRENT LOW

Registered Agent Address:

4770 S 5600 W

WEST VALLEY CITY, UT 84118

[View Management Team](#)

Status: Active

[Purchase Certificate of Existence](#)

Status: Active as of 05/23/2006

Renew By: 05/31/2018

Status Description: Good Standing

The "Good Standing" status represents that a renewal has been filed, within the most recent renewal period, with the Division of Corporations and Commercial Code.

Employment Verification: Not Registered with Verify Utah

History

[View Filed Documents](#)

Registration Date: 05/23/2006

Last Renewed: 04/12/2017

Additional Information

NAICS Code: 5111 **NAICS Title:** 5111-Newspaper, Periodical, Book, and Da

Doing Business As

MEDIAONE OF UTAH

UTAH MEDIA GROUP

[<< Back to Search Results](#)

Search by:

Business Name:

Exhibit E

Grantsville Green Bag Information

FROM THE
MAYOR'S DESK:
Mayor Brent K. Marshall
September 2016

If you wish to complain about the green newspaper bags delivered to the driveways in our city, contact David Gifford. The phone number for his office is (801) 204-6152, his home phone number is (801) 698-1104, and his email is dgifford@utahmediagroup.com.

With school now in session we want to remind everyone to make sure you slow down and take extra precautions during school hours. When a school bus is stopped with the flashers on, it is against the law to pass it. Citations will be issued. You never know when a child is going to dart out from the front of the bus. Citations will also be issued for anyone speeding in a school zone. We make the children our priority and so should you. They are the future of our City.

The Tooele Applied Technology College (TATC) 2016 ATV Roundup Scholarship Fundraiser will be held on Saturday, September 24, 2016 at Stockton Park beginning at 8:00 a.m. Come join the fun with an ATV/UTV ride to Jacob City. Ride entry starts at \$25 per person with all proceeds donated to the TATC Scholarship Fund. *Children 10 and under are free*. Entry includes light breakfast, lunch, t-shirt, and one entry to the prize drawing. For information about sponsorship and registration visit www.atv2016tmc.eventbrite.com or call (435) 248-1800.

The Utah State University - Tooele recruiter will be at the Grantsville Library the first Tuesday of every month from 2:00 p.m. to 7:00 p.m. Whether you are a high school student or it's been a few years since you attended school, stop by and ask questions about: General Admissions process and requirements, programs information, what to expect in college, how to succeed in college, financial aid and scholarships, ways to pay for college, college life and how to balance everything, and college information in general (not only from USU).

We are selling cemetery lots located in the extension east of the current cemetery. For more information, contact Kristy Clark at (435) 884-4601 or email her at kclark@grantsvilleut.gov.

Let's Make History Again 2016 will be held on Saturday, October 1, 2016 at the Pit Stop in Tooele. On September 13, 2014, history was made at the Pit Stop in Tooele, Utah. With the help of their sponsors, a free concert was provided, featuring seven bands, including two famous national acts. The public was asked to bring non-perishable food items as a donation to the Food Bank. The event brought in just over 10,000 pounds of food, making the event the largest "one day, one location" food drive ever in the history of food drive hosted in the state of Utah. If your company would like to team up with The Pit Stop and make a donation, contact Danny Marz at (801) 388-1825 or visit www.rockinnorthernutah.com. If you want to attend the concert and make a food donation, don't forget it will be held on October 1, 2016 at the Pit Stop in Tooele.

This year's Light Parade will be held on Saturday, November 26th. We encourage all citizens to participate. Start thinking of how you would like to decorate your vehicle, trailer, or float. We will be offering a prize for the best lighting features and design. If you have any questions, please call City Hall at (435) 884-3411.

Grantsville City has partnered with Xpress Bill Pay (www.xpressbillpay.com) to provide you with a simple way to pay your utility bill quickly and securely. Use the app or any internet device 24-7, with the option/capability to set up automatic payments. Contact the City at (435) 884-3411 for more information.

In an effort to keep our city clean and friendly, please do not place bulk garbage items at the curb until the night prior to your bulk pick up day. Please do your part to keep your yard free from overgrown weeds and piles of junk. If your neighbor is having trouble maintaining their yard, give them a helping hand. In order to be sure your bulk garbage items are picked up, please email kclark@grantsvilleut.gov or mboulard@grantsvilleut.gov with your address the Friday prior to your pick up day. We will report this to Ace Disposal.

Exhibit F

David Gifford Email

Roger Baker

From: David Gifford <dgifford@utahmediagroup.com>
Sent: Tuesday, October 10, 2017 10:56 AM
To: Roger Baker
Subject: RE: Money Bag Opt-Out

www.moneybagutah.com

You can subscribe or unsubscribe here.

David Gifford | State Circulation Manager
o: 801.204.6152 | e: dgifford@utahmediagroup.com

Utah Media Group

PUBLISHING | DIGITAL | EVENTS | SOLUTIONS
Exclusive advertising agency for Deseret News & The Salt Lake Tribune

From: Roger Baker [mailto:RogerB@TooeleCity.org]
Sent: Tuesday, October 03, 2017 4:56 PM
To: dgifford@utahmediagroup.com
Subject: Money Bag Opt-Out

Mr. Gifford:

I received your email address from Grantsville City. Can you provide information about the Money Bag program and what a person can do to opt-out from receiving the Money Bag green bag advertising materials. Thank you.

Roger Baker
Tooele City Attorney

Exhibit G

U.C.A. Section 76-10-2701

76-10-2701 Destructive or injurious materials on parks, recreation areas, waterways, or other public or private lands -- Enforcement officers -- Litter receptacles required.

- (1) A person may not throw, deposit, or discard, or permit to be dropped, thrown, deposited, or discarded on any park, recreation area, or other public or private land, or waterway, any glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash or garbage, paper or paper products, or any other substance which would or could mar or impair the scenic aspect or beauty of the land in the state whether under private, state, county, municipal, or federal ownership without the permission of the owner or person having control or custody of the land.
- (2) A person who drops, throws, deposits, or discards, or permits to be dropped, thrown, deposited, or discarded, on any park, recreation area, or other public or private land or waterway any destructive, injurious, or unsightly material shall:
 - (a) immediately remove the material or cause it to be removed; and
 - (b) deposit the material in a receptacle designed to receive the material.
- (3) A person distributing commercial handbills, leaflets, or other advertising shall take whatever measures are reasonably necessary to keep the material from littering public or private property.
- (4) A person removing a wrecked or damaged vehicle from a park, recreation area, or other public or private land shall remove any glass or other injurious substance dropped from the vehicle in the park, recreation area, or other public or private land.
- (5) A person in charge of a construction or demolition site shall take reasonable steps to prevent the accumulation of litter at the construction or demolition site.
- (6) A law enforcement officer as defined in Section 53-13-103, within the law enforcement officer's jurisdiction:
 - (a) shall enforce the provisions of this section;
 - (b) may issue citations to a person who violates any of the provisions of this section; and
 - (c) may serve and execute all warrants, citations, and other processes issued by any court in enforcing this section.
- (7) An operator of a park, campground, trailer park, drive-in restaurant, gasoline service station, shopping center, grocery store parking lot, tavern parking lot, parking lots of industrial firms, marina, boat launching area, boat moorage and fueling station, public and private pier, beach, and bathing area shall maintain sufficient litter receptacles on the premises to accommodate the litter that accumulates.
- (8) A municipality within its corporate limits and a county outside of incorporated municipalities may enact local ordinances to carry out the provisions of this section.

Enacted by Chapter 22, 2008 General Session

Exhibit H

U.C.A. Section 76-10-2702

76-10-2702 Penalty for littering on a park, recreation area, waterway, or other public or private land.

- (1) A person who violates any of the provisions of Section 76-10-2701 is guilty of a **class C misdemeanor** and shall be fined not less than **\$100** for each violation.
- (2) The sentencing judge may require that the offender devote at least four hours in cleaning up:
 - (a) litter caused by the offender; and
 - (b) existing litter from a safe area designated by the sentencing judge.

Enacted by Chapter 22, 2008 General Session

Exhibit I

U.C.A. Section 10-8-24

10-8-24 Litter in streets.

[Cities] They may regulate and prevent the throwing or depositing of ashes, offal, dirt, garbage or any offensive matter in, and prevent injury or obstruction to, any street, sidewalk, avenue, alley, park or public ground.

No Change Since 1953

Exhibit J

Provo City Ordinance 643 (1964)

ROLL CALL - - -		
VOTING	YES	NO
JAMES E. FERGUSON		
Mayor	X	
J. EARL WIGNALL		
Commissioner	X	
ANAGENE D. MEECHAM		
Commissioner	X	
RESULTS:	3	0

PROVO, UTAH

I move that this ORDINANCE be accepted.

s/ Anagene D. Meecham
Commissioner

I Second the foregoing motion.

s/ J. Earl Wignall
CommissionerORDINANCE NO. 643

AN ORDINANCE PROHIBITING THE THROWING OR DEPOSITING OF LITTER IN PUBLIC PLACES IN THE CITY OF PROVO; REGULATING THE DISTRIBUTION OF COMMERCIAL AND NON-COMMERCIAL HANDBILLS; CONTROLLING THE DEPOSITING OF LITTER ON PRIVATE PREMISES; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

WHEREAS, the Provo City Commission deem it necessary to enact an ordinance controlling the throwing or depositing of litter and the distribution of handbills, within the corporate limits of Provo City, Utah,

Now Therefore, BE IT ORDAINED BY THE CITY COMMISSION OF PROVO CITY, UTAH:

SECTION I:

There is hereby enacted a new Chapter 12.70 to the Revised Ordinances of Provo City, 1964, as amended, which shall read as follows:

12.70.010. Short Title. This Ordinance shall be known and may be cited as the "Provo City Anti-Litter Ordinance."

12.70.020 Definitions. For the purposes of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural number, and words used in the plural number include the singular number. The word "shall" is always mandatory and not merely directory.

(1) "Aircraft" is any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

(2) "Authorized private receptacle" is a litter storage and collection receptacle as required and authorized in Chapters 18.04 and 18.06.

(3) "City" is Provo City, Utah.

(4) "Commercial Handbill" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

(a) Which advertises for sale any merchandise, product, commodity, or thing; or

(b) Which directs attention to any business or merchantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

(c) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this State, or under any ordinance of this City; or

(d) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed, or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

(5) "Garbage" is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(6) "Litter" is "garbage," "refuse," and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create

a danger to public health, safety and welfare.

(7) "Newspaper" is any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

(8) "Non-Commercial Handbill" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

(9) "Park" is a park, reservation, playground, beach, recreation center or any other public area in the City, owned or used by the City and devoted to active or passive recreation.

(10) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(11) "Private Premises" is any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

(12) "Public Place" is any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

(13) "Refuse" is all putrescible and notputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

(14) "Rubbish" is nonputrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

(15) "Vehicle" is every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

12.70.030 Litter in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the City except in public receptacles, in authorized private receptacles for collection, or in official City dumps.

12.70.040 Placement of Litter in Receptacles so as to Prevent Scattering. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

12.70.050 Sweeping Litter into Gutters Prohibited. No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

12.70.060 Merchants' Duty to Keep Sidewalks Free of Litter. No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalk in front of their business premises free of litter.

12.70.070 Litter Thrown by Persons in Vehicles. No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City, or upon private property.

12.70.080 Truck Loads Causing Litter. No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

12.70.090 Litter in Parks. No person shall throw or deposit litter in any park within the City except in public receptacles and in such a manner that the litter

will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

12.70.100 Litter in Lakes and Fountains. No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the City.

12.70.110 Throwing or Distributing Commercial Handbills in Public Places. No person shall throw or deposit any commercial or non-commercial handbill in or upon any sidewalk, street or other public place within the City. Nor shall any person hand out or distribute or sell any commercial handbill in any public place. Provided, however, that it shall not be unlawful on any sidewalk, street, or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any non-commercial handbill to any person willing to accept it.

12.70.120 Placing Commercial and Non-Commercial Handbills on Vehicles. No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

12.70.130 Depositing Commercial and Non-Commercial Handbills on Uninhabited or Vacant Premises. No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

12.70.140 Prohibiting Distribution of Handbills Where Properly Posted. No person shall throw, deposit or distribute any commercial or non-commercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

12.70.150 Distributing Commercial and Non-Commercial Handbills at Inhabited Private Premises. No person shall throw, deposit or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted, as provided in this Ordinance, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by Federal postal law or regulations.

(a) Exemption for Mail and Newspapers. The provisions of this Section shall not apply to the distribution of mail by the United States, nor to newspapers (as defined herein) except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

12.70.160 Dropping Litter From Aircraft. No person in an aircraft shall throw out, drop or deposit within the City any litter, handbill or any other object.

12.70.170 Posting Notices Prohibited. No person shall pose or affix any notice, poster or other paper or device, calculated or attract the attention of the public, to any lamp post, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or require by law.

12.70.180 Litter on Occupied Private Property. No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

12.70.190 Owner to Maintain Premises Free of Litter. The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.

12.70.200 Litter on Vacant Lots. No person shall throw or deposit litter on any open or vacant private property within the City whether owned by such person or not.

12.70.210 Penalties. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined up to \$299.00 or be imprisoned in the Utah County Jail up to six months or be both

so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder:

12.70.220 Separability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

12.70.230 Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION II:

This Ordinance shall take effect 30 days after it is passed or 20 days after it is published, whichever date is later.

PASSED AND ORDERED PUBLISHED BY THE BOARD OF COMMISSIONERS OF PROVO CITY, UTAH, THIS 8TH DAY OF AUGUST, 1978.

s/ James E. Ferguson
JAMES E. FERGUSON, Mayor

ATTEST:

s/ R. Glenn Olsen
R. GLENN OLSEN, City Recorder

Published: Daily Herald
August 14, 1978

*Ordinance No. 644 (see Page 444).

Exhibit K

Proposed Amendments to
T.C.C. Section 11-1-4

11-1-4. Regulation of commercial handbills. Posting of advertisements, messages or written material upon private or public property:

(1) Definition. "Commercial Handbill" means any printed or written material that:

- (a) advertises for sale any merchandise, product, commodity, service, or thing;
- (b) directs attention to any commercial establishment or activity;
- (c) directs attention to any meeting, performance, exhibition, or event; or,
- (d) is predominantly and essentially an advertisement though containing material other than advertising material.

(2) Prohibited acts. It shall be unlawful for any person or business entity to do, or to cause to be done, any of the following:

- (a) to throw or deposit a commercial handbill upon public property, including parks, streets, and sidewalks;
- (b) to throw or deposit a commercial handbill upon private property without the express consent of the property owner;
- (c) to throw a commercial handbill from a moving vehicle;
- (d) to throw or deposit a commercial handbill on vacant or uninhabited property;
- (e) to throw or deposit a commercial handbill on property where any portion of the property is marked with the words "no soliciting," "no trespassing," or similar such words;
- (f) to place a commercial handbill on a vehicle;
- (g) to post, nail, tack, or otherwise attach any commercial handbill or other printed or written material advertisement, message, written material, or other expression upon any privately or publicly owned property without the express prior permission of the owner or the person or agency having control or custody of the property.

(3) Penalty. A violation of this Section shall be an Infraction. (Ord. 2016-08, 05-04-2016) (Ord. 1988-12, 03-16-1988)

11-1-5. Discharge of firearms and other devices within the City limits.

(1) Any person who discharges a firearm within the City limits, without a permit to do so, is guilty of a class B misdemeanor.

(2) Any person who discharges within the City limits any device which is designed to propel projectiles at a high rate of speed, and who creates a substantial risk of injury to persons or property, is guilty of a class B misdemeanor.

(3) Peace officers of the State of Utah, while acting within the scope and line of duty, are exempt from the provisions of this Section, as is any person acting in defense of self, another, or property as permitted by law. (Ord. 1996-18, 06-19-1996) (Ord. 1988-12, 03-16-1988)

11-1-6. Traps prohibited.

(1) Every person who sets a trap is guilty of a Class "B" misdemeanor.

(2) Each separate trap that is set constitutes an individual and separate offense.

(3) As used within this section:

(a) "Set" means:

(i) To cock, open or put a trap in such a condition that it would clamp closed when an object or person touches a trigger device; or,

(ii) To place a trap which has been opened or fixed so that it would close upon the triggering device being touched upon the ground or in a position where a person or animal could become caught therein.

(b) "Trap" means a clamp-like apparatus which is utilized to catch animals, objects or persons when, after being set and the triggering device being activated, clamp-like jaws are designed to come together with force so as to clamp upon the person or object activating the triggering device.

(Ord. 1988-12, 03-16-1988)

11-1-7. Repealed. (Ord 1990-20, 12-11-1990)

11-1-8. Curfew.

(1) It is an Infraction for anyone 17 years of age or younger to be in or on a sidewalk, street, or alley or in any public place between 12:00 a.m. and 5:00 a.m. unless accompanied by a parent or guardian. (Ord. 2010-02, 01-07-2010) (Ord. 1988-12, 03-16-1988)

11-1-9. Possession of contraband by inmates.

(1) Definitions.

(a) "Inmate" means any person in official custody or under commitment to be in official custody at the Tooele County Detention Center (hereinafter "the jail") and includes the following: persons on trusty or work duty status; persons released temporarily for work release, medical treatment, psychological or other counseling, court appearances, or other temporary release conditions; and, persons in the custody of the jail but not yet booked into the jail.

(b) "Contraband" means any item the possession of which affects the safe, efficient, and orderly operation of the jail, and includes but is not limited to cigarettes, other tobacco products, and any medication unless approved by jail medical staff. "Contraband" does not include items listed in Utah Code Annotated 76-8-311.3(2) or 58-37-4 (1953) as amended.

(c) "Possession" means to have on one's person, to have in one's clothing or other personal property, or to have within one's dominion or control.

(d) "Conspire" means that a person agrees with one or more other persons to engage in conduct that would facilitate the possession of contraband by an inmate and commits an overt act in pursuance of the agreement. For purposes of this ordinance, the other person involved may be an inmate.

(e) "Jail" means the Tooele County Detention Center and includes the grounds of the Tooele County Courthouse building upon which the jail is located.

2017 UT 65

IN THE
SUPREME COURT OF THE STATE OF UTAH

JERAMEY MCELHANEY and MARY MCELHANEY,
Appellees,

v.

CITY OF MOAB and MOAB CITY COUNCIL,
Appellants.

No. 20160142
Filed September 21, 2017

On Direct Appeal

Seventh District, Moab
The Honorable Lyle R. Anderson
No. 140700048

Attorneys:

Craig C. Halls, Blanding, for appellees
Christopher G. McAnany, Grand Junction, CO,
for appellants

JUSTICE PEARCE authored the opinion of the Court in which
CHIEF JUSTICE DURRANT, ASSOCIATE CHIEF JUSTICE LEE,
JUSTICE DURHAM and JUSTICE HIMONAS joined.

JUSTICE PEARCE, opinion of the Court:

INTRODUCTION

¶1 The Moab City Council (Council) denied Mary and Jeramey McElhaney's application for a conditional use permit to operate a bed and breakfast in their residential neighborhood. The McElhaney's appealed to the district court, which reversed the Council's decision. Moab City (Moab) and the Council seek our review. We first clarify that, contrary to what we have suggested in some cases, we review the district court's decision and not the Council's. We next conclude that the district court correctly recognized that the Council had not generated findings sufficient to

Opinion of the Court

support its decision but erred by refusing to send the matter back to the Council for the entry of more detailed findings of fact and conclusions of law. Accordingly, we vacate the district court's decision and remand with instructions to the district court to remand the matter back to the Council.

BACKGROUND

¶2 Mary and Jeramey McElhaney (collectively McElhaney) submitted an application for approval of a conditional use permit for a bed and breakfast facility to be located on their property. The McElhaney's property is located in an R-2 residential zone. An R-2 zone allows residential dwellings and limited commercial uses. MOAB, UTAH, MUN. CODE § 17.45.020 (2017). The Moab Municipal Code recognizes that a bed and breakfast facility may be allowed, in some circumstances, as a conditional use in an R-2 zone. *Id.* § 17.09.530(B). The proposed bed and breakfast would be the only commercial property in a cul-de-sac of single-family residences.¹ At the time of their application, the McElhaney's operated a child-care business on the street, which they planned to close once they opened the bed and breakfast.

¶3 In September 2014, the Planning Commission (Commission) convened a public hearing to review the application. Several neighbors voiced their concerns at the hearing. Comments primarily addressed issues of traffic, noise, parking, lighting, storm water drainage, and general incompatibility with the neighborhood. The Commission directed city staff to investigate the concerns and report back. The McElhaney's wrote a letter to the Council to address the concerns raised at the public hearing. They indicated that the bed and breakfast would include off-street parking, decrease traffic once they closed the daycare, be constructed in a way that avoided drainage issues, and ultimately increase property values.

¶4 The city staff investigated the complaints and the McElhaney's proposed solutions. For example, the staff examined the concerns about increased traffic. The staff estimated that a bed

¹ The Council amended Moab Municipal Code section 17.09.531(9)(B)(1) in 2017 to specifically prohibit bed and breakfasts "on a cul-de-sac [or] dead end street." The parties have not asked us to opine on the impact of the amendment on this dispute.

Opinion of the Court

and breakfast would generate up to 8.9 average daily trips per unit – fewer than a single-family residence’s 10 to 12 average daily trips. It also found that the McElhaneys’ plan included sufficient off-street parking to meet the Moab Municipal Code’s requirement.

¶5 The Commission recommended approval of the conditional use permit, subject to the following conditions:

1. The bed and breakfast shall be reviewed each year for code compliance;
2. All lighting shall be downward directed and full cutoff as required by [Moab Municipal Code] 17.09.660(H), Lighting Plan.
3. Fencing and/or landscaping shall be used to buffer the parking area and the entrance from the street. . . .
4. The daycare center will discontinue operations once the bed and breakfast facility is operational.

The Commission found that the McElhaneys could mitigate the negative impact of the bed and breakfast if it abided by these conditions.

¶6 The Council, acting as the land use authority, considered the conditional permit application at a public hearing. Citizens again voiced a number of concerns. Increased noise and traffic were the most frequently aired problems. Many expressed unease that the bed and breakfast would attract tourists with loud Jeeps, utility task vehicles (UTVs), and all-terrain vehicles (ATVs). Nearly everyone who spoke at the Council meeting worried that visitors to the bed and breakfast would drive motorcycles or ATVs up and down the hill past their houses multiple times. Many also feared that the increase in traffic would endanger neighborhood children who frequently play in the streets. Several residents also commented that the presence of a commercial property would alter the integrity and dynamic of the neighborhood. A few people complained of potential light pollution, decreased property values, and possible road deterioration.

¶7 The Council denied the McElhaneys’ application by a 3-1 vote at a Council meeting in November 2014. The Council did not make explicit findings on whether the proposal met the requirements the Moab Municipal Code imposes. However, each councilmember explained the rationale behind his or her vote.

Opinion of the Court

¶8 Councilmember Kirstin Peterson voted against the permit. She suggested that the proposed use did not meet the criteria that it be “consistent with the city of Moab general plan.” See *id.* § 17.09.530(H)(7). She noted that, under Moab’s general plan, “one of the five goals is to restrict commercial development in residential . . . zones,” and she believed that approval of the conditional use permit would effectively “force a commercial business on a residential area that clearly is not interested in creating a commercial zone.” Considering “the unique characteristics of this neighborhood,” Councilmember Peterson said the bed and breakfast is “not an appropriate use.”

¶9 Councilmember Heila Ershadi also voted against the proposal. She stated that the “number one concern” among locals was “the character of the town.” She concluded that because locals worried that “the tourism trade is just taking over and there’s less and less space that belongs to locals,” she could not support the McElhaneys’ proposed use.

¶10 Councilmember Kyle Bailey was the third vote against grant of the permit. Bailey reasoned that “the clear intent of [the minimal negative impact requirement] was to listen to the people in the neighborhoods and to do what the neighborhoods wished.” He stated that the bed and breakfast “is going to be an impact on the neighborhoods and I can’t support this.” Councilmembers Peterson, Ershadi, and Bailey did not speak directly to whether the McElhaneys could mitigate the potential adverse impacts or why the conditions the planning commission recommended would be insufficient to ameliorate the bed and breakfast’s negative effects.²

¶11 Only Councilmember Gregg Stucki voted to approve the McElhaneys’ conditional use permit. He spoke from his experience as a bed and breakfast owner. He first explained that the conditional use permit system operated by “rules that are in place and not our own personal preferences or public opinion.” He addressed “some

² Councilmember Peterson briefly remarked that certain uses might be compatible “only if certain conditions are required that mitigate or eliminate detrimental impacts.” However, she did not comment on how the McElhaneys had failed to propose ways to mitigate potential adverse impacts or the Commission’s mitigation recommendations.

Opinion of the Court

incorrect assumptions . . . about the type of people that frequent [bed and breakfasts].” He opined that “[b]y and large, [bed and breakfast] guests are well educated, they’re successful professionals, they tend to be active, health[-] and environmentally-conscious.” Based on this observation, Stucki said that the McElhaneys would not likely “be able to buck the trend and cater primarily or exclusively to ATV and motorcycle enthusiasts.” He concluded that bed and breakfasts “have not been, nor are they currently a menace or disruption to the regular flow of neighborhoods that some believe they could be.”

¶12 The McElhaneys appealed to the district court. At a hearing before the court, the McElhaneys argued that among the public’s concerns of “appearance, architecture, scale, design, noise, traffic, [and] parking,” the key complaints included “the traffic and the noise.” At the hearing, the judge expressed dismay at the Council’s failure to articulate the basis for its decision. The district court complained that in the Council’s assumed role as fact finder, it didn’t “actually find facts.” Moab responded that it believed the Council had produced an appropriate order, but that if the court identified “any defect in [the decision] process . . . the appropriate remedy . . . is to remand for further findings.”

¶13 The district court overturned the Council’s decision. First, it held that speculative evidence “d[id] not support a finding of undue increase in traffic.” Because the record did not indicate the number of homes on Arches Drive, the court took judicial notice of a Google map.³ The court also found that concerns about increased noise constituted “mere speculation.” It reasoned that any negative noise impact would be effectively mitigated by the McElhaneys’ residence at the bed and breakfast and Moab’s authority to deny renewal of the annual permit. The district court suggested that the permit might have been denied “because of other negative effects that are not ‘clearly minimal.’” But it held that “the City has a responsibility to articulate what those negative effects are likely to be” and concluded that Moab had failed to do so. Because the McElhaneys met specified requirements for obtaining a conditional use permit, and since “[t]he only contrary evidence is not substantial, but speculative only, based

³ The district court opined that it could take judicial notice of the map under Utah Rule of Evidence 201, which allows a court to take judicial notice of a fact that “is not subject to reasonable dispute.” We are not asked to review this decision.

Opinion of the Court

on the expressed fears of neighbors,” the district court overturned the Council’s decision to deny the McElhaneys’ application.

¶14 Moab appeals the district court’s decision. We have jurisdiction under Utah Code section 78A-3-102(3)(j).

STANDARD OF REVIEW

¶15 We have said that “[w]hen a lower court reviews an order of an administrative agency and we exercise appellate review of the lower court’s judgment, we act as if we were reviewing the administrative agency decision directly’ and ‘do not defer, or accord a presumption of correctness, to the lower court’s decision.’” *Carrier v. Salt Lake Cty.*, 2004 UT 98, ¶ 17, 104 P.3d 1208 (citation omitted). The parties disagree about what it means to “review[] the administrative agency decision directly.” *See id.*

¶16 The McElhaneys contend that we should review the Council’s decision and not the district court’s order. Moab, in contrast, attacks the district court’s order and not the underlying Council decision. Moab argues that “[l]ack of deference to a trial court judgment does not mean that the appellate court must ignore the trial court decision.”

¶17 The parties’ difference of opinion nicely frames the two ways in which our case law can be read. If you focus on the part of the standard that states, “we act as if we were reviewing the administrative agency decision directly,” you could be tempted to conclude that we will ignore the district court’s holding and act as if that proceeding never took place. *See id.* (citation omitted). If you focus on the “do not defer, or accord a presumption of correctness, to the lower court’s decision” portion, then the test looks more like how we review a court of appeals decision on a petition for certiorari. *See id.* (citation omitted).

¶18 The statement that we review administrative decisions challenged on appeal “just as if the appeal had come directly from the agency” emerged from our holding in *Bennion v. Utah State Board of Oil, Gas & Mining*, 675 P.2d 1135, 1139 (Utah 1983). There, we analyzed what standard of review we should apply “in reviewing the district court’s judgment” in an appeal of a decision of the Board of Oil, Gas and Mining. *Id.* We noted that “a minority” of courts “affords some deference to the reviewing judgment of the lower court.” *Id.* at 1140. But we opted to follow the majority approach that “gives no presumption of correctness to the intervening court

Opinion of the Court

decision, since the lower court's review of the administrative record is not more advantaged than the appellate court's review." *Id.* at 1139.

¶19 In *Bennion*, we did not analyze whether the order we review is that of the administrative body or of the intermediate court. The cases we relied upon to reach our decision in *Bennion* appear to go both ways on that question. Many of them stood for the proposition that a court should "review the judgment of the [intermediate] court without any presumption of its correctness." *Ala. Pub. Serv. Comm'n v. Nunis*, 39 So. 2d 409, 412 (Ala. 1949); accord *Kelly v. Kansas City*, 648 P.2d 225, 229 (Kan. 1982) ("[I]n reviewing a district court's decision the Supreme Court will, for the purpose of determining whether the district court observed the requirements and restrictions placed upon it, make the same review of the administrative tribunal's actions as does the district court."); *Cook v. Iowa Dep't of Job Serv.*, 299 N.W.2d 698, 701 (Iowa 1980) ("[W]hen this court reviews a decision of a district court . . . the sole question is whether the district court correctly applied the law." (citation omitted)); see also *Gourley v. Bd. of Trs. of S.D. Ret. Sys.*, 289 N.W.2d 251, 255 (S.D. 1980) (reviewing the trial court's order and finding, in part, that "the trial court erred in its ruling on the law" but that the error was harmless).

¶20 But *Bennion* also cited cases that either reviewed directly the administrative body's order or used language that could be interpreted as a mandate to ignore what happened in the district court. See *Urban Council on Mobility v. Minn. Dep't of Nat. Res.*, 289 N.W.2d 729, 733 (Minn. 1980) ("[I]f the record, when considered in its entirety, contains substantial evidence supporting the administrative decision, this court must uphold the agency ruling."); *Wyo. State Dep't of Educ. v. Barber*, 649 P.2d 681, 690 (Wyo. 1982) (analyzing the underlying board decision and concluding that "[t]he Board in no way acted unlawfully, illegally, or in violation of appellee's constitutional rights"); *Merrill v. Dep't of Motor Vehicles*, 458 P.2d 33, 38 (Cal. 1969) (in bank) ("[T]he trial and appellate courts occupy identical positions with regard to the administrative record, and the function of the appellate court, like that of the trial court, is to determine whether that record is free from legal error."); *Smith v. O'Keefe*, 293 N.E.2d 142, 143 (Ill. App. Ct. 1973) ("[T]he principal point in this appeal is whether or not the findings of the Board were against the manifest weight of the evidence."); *N. Las Vegas v. Pub. Serv. Comm'n*, 429 P.2d 66, 68 (Nev. 1967) ("The function of this court is the same when reviewing the action of the district court in such a

Opinion of the Court

matter.”); *Norway Hill Pres. & Prot. Ass’n v. King Cty. Council*, 552 P.2d 674, 679 (Wash. 1976) (en banc) (“[W]e note that an appellate court, upon appeal from a superior court’s application of any particular standard in reviewing an administrative decision, ‘applies the same standard directly to the administrative decision.’” (citation omitted)).

¶21 None of the cases considers the costs and benefits of reviewing either the administrative decision or the intermediate court’s order. *Bennion* similarly did not spend any energy analyzing whether we should review the administrative decision directly and disregard what happened in the intermediate court. And although we framed the question in terms of what standard we apply in “reviewing the district court’s judgment,” we then appear to review directly the Board’s decision. *See Bennion*, 675 P.2d at 1139, 1144 (finding “no abuse of discretion in the Board’s ordering”). But again, what we did seems at odds with what we said. If we truly believed that we were reviewing the administrative decision directly, we should have said as much, rather than adding the qualifying statement that we act “just as if” we were reviewing the agency decision directly. *See id.* at 1140 (emphasis added). Nor would we have needed to say that we neither defer nor presume the correctness of the district court decision because that decision would not be before us. And it appears that since *Bennion*, even though we have said that we review the agency decision directly, we have never stopped to consider whether that is an appropriate reading of *Bennion* or articulated why we would do that. Accordingly, we have never thoughtfully considered the proper approach.

¶22 We have, however, recently analyzed whether, when presented with an appeal from the decision of an agency’s executive director reviewing the actions of an agency board, we review the underlying board’s decision or the director’s. *Utah Physicians for a Healthy Env’t v. Exec. Dir. of the Utah Dep’t of Env’tl. Quality*, 2016 UT 49, ¶ 32, 391 P.3d 148. In *Utah Physicians*, the Utah Division of Air Quality (UDAQ) approved changes at a refinery. *Id.* ¶ 1. The petitioners appealed UDAQ’s decision to the Executive Director, and the Executive Director issued a final order approving the changes. *Id.* On appeal, we declined to directly review UDAQ’s decision and instead reviewed the Executive Director’s decision. *Id.* ¶ 2. We recognized that passing over the Executive Director’s order to review UDAQ’s decision would effectively permit petitioners to circumvent the preservation requirement at the intermediate level.

Opinion of the Court

Id. ¶ 32 n.12. Because “Petitioners failed to preserve seven of their arguments at the intermediate level,” we held they could not “resurrect those claims now.” *Id.*

¶23 We went out of our way in *Utah Physicians* to distinguish that situation from the one presented in this case. We stated that *Bennion* and its progeny were inapplicable there because while *Bennion* presented a case “where the issue of expertise would pit judge against judge, where both are in an equal position to make a determination,” the Executive Director had statutorily recognized technical expertise that we must consider. *Id.* We continue to believe it is an important distinction, but not one that requires us to treat the review of other administrative decisions differently from our review of Department of Environmental Quality decisions. Now that we have been squarely presented with the question of how *Bennion* should be read, we see that the advantages of reviewing the district court’s order for correctness outweigh the benefits of directly reviewing the administrative body’s order without regard to what happened in the intermediate court.

¶24 As we recognized in *Utah Physicians*, disregarding the intermediate court decision undermines the integrity of our appellate process. *See id.* (“[R]egardless of how much deference we extend, any issue still must be preserved at both the fact-finding and intermediate appellate levels.”). Moreover, reviewing the lower court’s decision allows the appeal of administrative decisions to enjoy the same procedural safeguards as other appeals. Before the district court, the parties have an incentive to preserve, develop, narrow, and refine the arguments they may eventually make to an appellate court—an incentive that would not be as potent if the parties could anticipate getting a second, and entirely fresh, appeal of the administrative decision.

¶25 We face similar considerations when we exercise certiorari review. In *Bennion*, we decided to review the underlying administrative decision “since the lower court’s review of the administrative record is not more advantaged than the appellate court’s review.” 675 P.2d at 1139. Likewise, on certiorari review, we review the same record from the district court as the court of appeals. In certiorari cases, “we review the decision of the court of appeals, not of the trial court.” *Platts v. Parents Helping Parents*, 947 P.2d 658, 661 (Utah 1997). We see no reason why the same considerations should not apply to our review of an appeal of a district court’s decision on an administrative order.

Opinion of the Court

¶26 Although this conflicts with what we did, but not necessarily with what we said, in *Bennion*, we clarify that in the appeal of an administrative order, we review the intermediate court's decision. We afford no deference to the intermediate court's decision and apply the statutorily defined standard to determine whether the court correctly determined whether the administrative decision was arbitrary, capricious, or illegal.⁴ See UTAH CODE § 10-9a-801(3) (2016).⁵

ANALYSIS

¶27 Utah's Municipal Land Use Development and Management Act (MLUDMA) empowers municipalities to zone the territory within their boundaries and to regulate land uses. UTAH CODE § 10-9a-501 (2016). MLUDMA defines "conditional use" as a use that "because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts." *Id.* § 10-9a-103(5). The Act provides that conditional uses "shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards." *Id.* § 10-9a-507(2)(a) (emphasis added). Denial of a conditional use is appropriate when "the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards." *Id.* § 10-9a-507(2)(b). "The court shall[] (i) presume that a decision, ordinance, or regulation . . . is valid; and (ii) determine only whether or not the decision,

⁴ Although we take this opportunity to clarify the standard, the outcome of this case would be the same if we reviewed the Council's decision directly. In either scenario, we would conclude that the Council did not produce findings sufficient to permit meaningful review.

⁵ We cite to the version of the Code in effect at the time of the district court's decision. We note that the legislature amended The Municipal Land Use Development and Management Act in 2017, but neither party contends that any amendment should be material to our decision.

Opinion of the Court

ordinance, or regulation is arbitrary, capricious, or illegal.” *Id.* § 10-9a-801(3)(a). “A final decision of a land use authority or an appeal authority is valid if the decision is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.” *Id.* § 10-9a-801(3)(c).

¶28 The McElhaneys’ property is located in an R-2 “single-family and two-family residential” zoning district. MOAB, UTAH, MUN. CODE § 17.45. The R-2 zoning ordinance designation is “characterized by smaller lots and somewhat denser residential environment than the R-1 residential zone” but includes “spacious yards and other residential amenities adequate to maintain desirable residential conditions.” *Id.* § 17.45.010. In an R-2 zoning area, a bed and breakfast facility may be allowed as a conditional use. *Id.* § 17.09.530(B).

¶29 The Moab Municipal Code contains detailed conditions of approval for conditional use permits. *Id.* § 17.09.530(H). It also sets forth specific conditions for approval for proposed bed and breakfasts. *Id.* § 17.09.531(9). The Commission is required to hold a public hearing on any conditional use permit, and it must “convey its recommendation and express its findings to [the] city council.” *Id.* § 17.09.530(F)(3). The Council is required to hold a public hearing before taking any final action on the application. *Id.* § 17.09.530(G)(1). The applicant bears the burden of demonstrating that the criteria have been met, and “failure to meet one or more of the applicable criteria may be cause for denial.” *Id.* § 17.09.530(H). Under the Moab Municipal Code, the Council decides whether the applicant has met the criteria. *See id.*

¶30 At the November 2014 Council meeting, the Council found, by a 3-1 vote, that the McElhaneys had not met their burden. **The Council made no explicit findings that supported its assertions that the proposed use did not meet the conditions of approval set forth in the Moab Municipal Code.** Instead, the councilmembers expressed their concerns as they announced their votes. Councilmember Peterson concluded that the use was **inconsistent** with the Moab general plan by effectively forcing a commercial business in a residential area. *See id.* § 17.09.530(H)(7). Councilmember Bailey asserted that the proposed bed and breakfast would fail to meet the “minimal impact” requirement for overnight rentals. *See id.* § 17.09.531(9)(A)(1). And Councilmember Ershadi expressed her primary concern in maintaining the **“character** of the town” and preserving “space” for locals. She concluded, “I think we need to

Opinion of the Court

take a really hard look at our zoning in general to make sure that local spaces are protected as that." No councilmember spoke explicitly to what "reasonably anticipated detrimental effects" motivated his or her vote. See UTAH CODE § 10-9a-507(2)(a). Nor did any councilmember address whether the McElhaney's could substantially mitigate the reasonably anticipated detrimental effects. Indeed, no councilmember made any reference, when explaining the vote, to the conditions the planning commission believed would reasonably mitigate the adverse impacts.

¶31 MLUDMA instructs that a city council's adjudicative land use decision should be upheld if it is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal. *Id.* § 10-9a-801(3)(a)(ii); *Id.* § 10-9a-801(3)(c); *Bradley v. Payson City Corp.*, 2003 UT 16, ¶ 10, 70 P.3d 47 ("When a land use decision is made as an exercise of administrative or quasi-judicial powers, . . . we have held that such decisions are not arbitrary and capricious if they are supported by 'substantial evidence.'" (citation omitted)). The problem with the decision before us is that in the absence of explicit findings of fact and conclusions of law, the reasoning behind the Council's decision is an amorphous target. What adverse impacts did the Council believe the proposed bed and breakfast would impose on the neighborhood? Did the Council decide that the McElhaney's could not mitigate the potential adverse impacts? In other words, in the absence of a written and factually supported decision, the McElhaney's, the district court, and now we, are left to try to divine what specifically a party seeking to overturn the Council's ultimate determination would have to show was unsupported by substantial evidence in the record.

¶32 And that raises the question, what does MLUDMA require of a municipal body, like a city council, when it renders a land use decision in an adjudicative capacity? MLUDMA does not explicitly address this question, but it provides implicit guidance. MLUDMA provides that "[t]he land use authority . . . 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." UTAH CODE § 10-9a-801(7)(a). A land use authority cannot fulfill the requirement of transmitting its orders and supporting findings to the reviewing court unless such orders and findings exist.

¶33 Moreover, when our legislature references a "substantial evidence" standard, it employs a term of art that has a specialized

Opinion of the Court

meaning in administrative law. *See id.* § 10-9a-801(3)(c). “When the legislature ‘borrows terms of art in which are accumulated the legal tradition and meaning of centuries of practice, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken.’” *Maxfield v. Herbert*, 2012 UT 44, ¶ 31, 284 P.3d 647 (citation omitted).

¶34 The United States Supreme Court has recognized that in an administrative context, “[t]he statutory phrase ‘substantial evidence’ is a ‘term of art,’” which includes within its meaning the requirement “that localities must provide reasons” when they make adjudicative determinations. *T-Mobile S., LLC v. City of Roswell*, 135 S.Ct. 808, 815 (2015) (citation omitted). In *T-Mobile*, a city council denied T-Mobile’s application to build a cell phone tower on residential property. *Id.* at 812–13. While the locality was not explicitly required by statute to issue findings, the governing statute required that “any decision to deny a request to build a tower ‘shall be in writing and supported by substantial evidence contained in a written record.’” *Id.* at 814 (citation omitted). The Court reasoned that when the legislature used the term “substantial evidence,” it invoked appellate courts’ “recognition that ‘the orderly functioning of the process of [substantial-evidence] review requires that the grounds upon which the administrative agency acted be clearly disclosed,’ and that ‘courts cannot exercise their duty of [substantial-evidence] review unless they are advised of the considerations underlying the action under review.’” *Id.* at 815 (alterations in original) (citation omitted). It concluded “that localities must provide reasons when they deny cell phone tower siting applications” that are “clear enough to enable judicial review.” *Id.*

¶35 And although neither we, nor the court of appeals, have availed ourselves of prior opportunities to label substantial-evidence review a term of art, our cases have similarly reasoned that **an administrative agency must “make findings of fact and conclusions of law that are adequately detailed so as to permit meaningful appellate review.”**⁶ *LaSal Oil Co. v. Dep’t of Env’tl. Quality*, 843 P.2d 1045, 1047 (Utah Ct. App. 1992) (citation omitted); *Adams v. Bd. of Review of Indus. Comm’n*, 821 P.2d 1, 4 (Utah Ct. App. 1991); *Hidden*

⁶ In contrast to the Council’s failure to make findings of fact, the Commission generated a five-page document outlining its findings when it recommended approval.

Opinion of the Court

Valley Coal Co. v. Utah Bd. of Oil, Gas & Mining, 866 P.2d 564, 568 (Utah Ct. App. 1993) (“[T]he failure of an agency to make adequate findings of fact in material issues renders its findings ‘arbitrary and capricious’ unless the evidence is ‘clear and uncontroverted and capable of only one conclusion.’”) (alteration in original) (citation omitted). Administrative agencies must “make additional findings of fact that resolve issues which are relevant to the legal standards that will govern the [agency]’s decision.” *Milne Truck Lines, Inc. v. Pub. Serv. Comm’n*, 720 P.2d 1373, 1380 (Utah 1986).⁷

¶36 We have recognized that without sufficiently detailed findings that “disclose the steps by which” an administrative agency reaches its ultimate factual conclusions, “this Court cannot perform its duty of reviewing the [] order in accordance with established legal principles and of protecting the parties and the public from arbitrary and capricious administrative action.” *Id.* at 1378. On appeal, a court can perform its duty only if the council has created “findings revealing the evidence upon which it relies, the law upon which it relies, and its interpretation of the law.” *Adams*, 821 P.2d at 8.

¶37 The court of appeals has applied this logic to require land use authorities to issue findings of fact when denying conditional use permits. In *Davis County v. Clearfield City*, the court of appeals agreed with the trial court’s conclusion that the Clearfield City Council’s denial of a conditional use permit was arbitrary and capricious in part because “the Planning Commission’s refusal to furnish written findings, or at least provide the basis for its decision . . . tended to suggest there was no rational basis for the Planning Commission’s decision.” 756 P.2d 704, 711 (Utah Ct. App. 1988). The court reasoned that “[e]ven if the reasons given . . . by the council might otherwise be legally sufficient, the denial of a permit is arbitrary when the reasons are without sufficient factual basis.” *Id.* (citation omitted). Similarly, in *Ralph L. Wadsworth Construction, Inc. v. West Jordan City*, the court of appeals ruled that the city council failed to support the denial of a conditional use permit with substantial evidence. 2000 UT App 49, ¶ 16, 999 P.2d 1240. The court

⁷ To be sure, this reasoning controls when a municipality acts in an adjudicative capacity. When a municipality legislates, it has no such obligation.

Opinion of the Court

found that while the city council stated that the proposed use might be considered by neighbors to be a nuisance, “the City Council *did not find that appellants’ storage would actually constitute a nuisance.*” *Id.* ¶ 18. Furthermore, the court stated that the city council claimed that the use would be “injurious to the goals of the city” but that the city council had not investigated this claim (which was raised by neighboring property owners), nor had it stated why the use would be injurious. *Id.* ¶ 17.

¶38 Other courts have required land use authorities to issue specific findings. The Supreme Court of Iowa concluded a land use authority needed to make written findings even though “[t]here is no statutory requirement that the board do so.” *Citizens Against Lewis & Clark (Mowery) Landfill v. Pottawattamie Cty. Bd. of Adjustment*, 277 N.W.2d 921, 925 (Iowa 1979). It reasoned that

[t]he practical reasons for requiring administrative findings are so powerful that the requirement has been imposed with remarkable uniformity by virtually all federal and state courts, irrespective of a statutory requirement. The reasons have to do with facilitating judicial review, avoiding judicial usurpation of administrative functions, assuring more careful administrative consideration, helping parties plan their cases for rehearings and judicial review, and keeping agencies within their jurisdiction.

Id. (citation omitted). And a leading treatise has recognized that “[t]he failure to make findings may result in the zoning authority’s decision not being upheld, or a remand of the case for preparation of written findings of fact.” 8A MCQUILLIN MUN. CORP. § 25:369 (3d ed. 2017) (footnotes omitted).

¶39 Here, the Council concluded that the proposed bed and breakfast use did not meet the criteria set forth in Moab’s Municipal Code but prepared no written findings of fact. Various councilmembers rejected the McElhaneys’ application on the basis that (1) the proposed use was inconsistent with Moab’s general plan and (2) the impact generated by the McElhaneys’ proposed use would exceed the “clearly minimal” requirement in the Moab Municipal Code. Under the Moab Municipal Code, these are relevant considerations in assessing the approval of conditional use permits. However, the Council failed to support its conclusions with facts from the record. Further explanation from the Council is needed because without more, it is difficult to see how placing a bed and

Opinion of the Court

breakfast in an area zoned R-2—which specifically permits bed and breakfasts—is inconsistent with Moab’s general plan. Similarly, a reviewing court needs to know which impacts the Council believed would be more than “clearly minimal.” Furthermore, and perhaps more importantly, since we have no visibility into the Council’s thinking on the topic, the Council made no finding at all on whether the McElhaney’s proposals sufficiently “mitigat[ed] the reasonably anticipated detrimental effects of the proposed use.” UTAH CODE § 10-9a-507(2)(a).

¶40 The district court noted, and indeed, complained about the absence of findings. In response, Moab, without conceding a problem with its findings, asked the district court to remand to allow the Council to generate explicit findings. The district court did not. Instead, the district court valiantly attempted to fill the void by parsing the comments neighbors made at Council meetings. The district court also examined Google Maps and drew conclusions about the traffic that the bed and breakfast might bring. We commend the district court for its willingness to take on this project, but it was error because the analysis allowed the district court to base its conclusion on what it believed the Council’s decision relied upon—increased traffic in the neighborhood. The district court framed the issue this way even though no councilmember explicitly cited traffic as the reason for the decision. The district court may have correctly read the tea leaves; traffic was a concern that many neighbors raised. But it was the Council’s responsibility to define the basis for its decision, not the district court’s.

¶41 Simply stated, if a city council is going to sit as an adjudicative body, it needs to produce findings of fact capable of review on appeal. By mandating that a reviewing court must uphold a city council’s decision as long as it is supported by substantial evidence, the legislature has utilized a term of art that presupposes written findings. And as we have noted in the review of other agency decisions, adequately detailed “findings of fact and conclusions of law . . . permit meaningful appellate review.” *LaSal Oil Co.*, 843 P.2d at 1047 (citation omitted). The Council must make additional findings of fact that are relevant to the legal standards that will govern its decision before a court can offer meaningful appellate review.

CONCLUSION

¶42 On an appeal of a district court's review of an administrative decision, we review the district court's decision. The district court correctly concluded that the Council failed to issue findings sufficient to support its denial of the McElhaneys' application for conditional use permit. But the district court erred in overturning the Council's decision without remanding to permit the Council to craft findings of fact and conclusions of law capable of appellate review. We vacate the district court's order and remand for further proceedings consistent with this opinion.

PUBLIC NOTICE

Notice is hereby given that the Tooele City Council will meet in a Business Meeting on Wednesday, October 18, 2017 at the hour of 7:00 P.M. The meeting will be held in the Tooele City Hall Council Room located at 90 North Main Street, Tooele, Utah.

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Mayor's Youth Recognition Awards**
4. **Public Comment Period**
5. **Ordinance 2017 - 24 An Ordinance of Tooele City Enacting Tooele City Code Chapter 3-6 Regarding Enforcement of Title 3 and the Fire Code and Abatement of Title 3 and Fire Code Violations**
Presented by Roger Baker & Fire Chief Bucky Whitehouse
6. **Ordinance 2017 - 25 An Ordinance of Tooele City Enacting Tooele City Code Chapter 3-7 Regarding Nuisance Fire Alarms**
Presented by Roger Baker & Fire Chief Bucky Whitehouse
7. **Resolution 2017-45 A Resolution of the Tooele City Council Reappointing Members of the Administrative Control Board of the North Tooele City Special Service District**
Presented by Roger Baker
8. **Resolution 2017 - 44 A Resolution of the Tooele City Council Accepting the Completed Public Improvements Associated with the Copper Canyon PUD Phase 5 Subdivision**
Presented by Paul Hansen
9. **Recess to RDA Meeting**
10. **Reconvene City Council**
11. **Ordinance 2017-29 An Ordinance Adopting the 1000 North Retail Community Reinvestment Project Area Plan, as Approved by the Redevelopment Agency of Tooele City, Utah, as the Official Community Reinvestment Project Area Plan for the Project Area, and Directing that Notice of the Adoption be Given as Required by Statute**
Presented by Randy Sant
12. **Ordinance 2017-30 An Ordinance Adopting the 1000 North West Industrial Community Reinvestment Project Area Plan, as Approved by the Redevelopment Agency of Tooele City, as the Official Community Reinvestment Project Area Plan for the Project Area, and Directing that Notice of the Adoption be Given as Required by Statute**
Presented by Randy Sant

- 13. Ordinance 2017-31 An Ordinance Adopting the Tooele Business Park Community Reinvestment Project Area Plan, as Approved by the Redevelopment Agency of Tooele City, as the Official Community Reinvestment Project Area Plan for the Project Area, and Directing that Notice of the Adoption be Given as Required by Statute
Presented by Randy Sant**
- 14. Minutes
October 4, 2017**
- 15. Invoices
Presented by Michelle Pitt**
- 16. Adjourn**

Michelle Y. Pitt
Tooele City Recorder

Pursuant to the Americans with Disabilities Act, Individuals Needing Special Accommodations Should Notify Michelle Y. Pitt, Tooele City Recorder, at 843-2110 or michellep@tooelecity.org, Prior to the Meeting.

TOOELE CITY CORPORATION

ORDINANCE 2017-24

AN ORDINANCE OF TOOELE CITY ENACTING TOOELE CITY CODE CHAPTER 3-6 REGARDING ENFORCEMENT OF TITLE 3 AND THE FIRE CODE AND ABATEMENT OF TITLE 3 AND FIRE CODE VIOLATIONS.

WHEREAS, TCC Title 3 (Fire) governs matters relating to the Fire Department (Chapter 3-1), Flammable Liquids (Chapter 3-2), the Fire Code (Chapter 3-3), Fireworks (Chapter 3-4), and the Local Fire Officer (Chapter 3-5); and,

WHEREAS, TCC Section 3-3-1 recognizes that the State of Utah has adopted the International Fire Code (the "Fire Code") as the law of the State of Utah and all the state's political subdivisions, and in turn adopts the latest edition of the Fire Code as an ordinance of Tooele City, including its Appendices B, C, and D; and,

WHEREAS, the edition of the Fire Code currently adopted by the State of Utah (and in turn by Tooele City) is the 2015 Fire Code; and,

WHEREAS, Fire Code Section 106 authorizes the fire department to enter and examine any building, structure, vehicle, or premises for the purpose of enforcing the Fire Code and conducting inspections; and,

WHEREAS, Fire Code Section 109 authorizes the fire department to serve upon property owners and their representatives notices of Fire Code violations, which violations may be pursued in criminal court, civil court, or by abatement; and,

WHEREAS, Fire Code Section 109.4.1 provides as follows:

Abatement of violation. In addition to the imposition of the [criminal and civil] penalties herein described, the fire code official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or **abate a violation**; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy or a structure on or about any premises.

(emphasis added); and,

WHEREAS, the City Administration recognizes the time and resource inefficiencies of enforcing the Fire Code and abating Fire Code violations through criminal and civil court processes, and recommends an administrative procedure for Title 3 and Fire Code enforcement and abatement proceedings; and,

WHEREAS, the City Administration is of the opinion that an administrative enforcement and abatement procedure is the most efficient, effective, and timely

procedure for protecting the public life, health, safety, and welfare from violations of Title 3 and the Fire Code; and,

WHEREAS, in formulating an administrative enforcement and abatement procedure for Title 3 and Fire Code violations, care should be taken to balance the important government purpose of Title 3 and Fire Code enforcement and violation abatement with constitutional property and liberty interests of property owners; and,

WHEREAS, the City Administration, including the Fire Chief, recommends the enactment of the administrative enforcement and abatement procedure attached hereto as Exhibit A; and,

WHEREAS, the City Administration, including the Fire Chief, recommends the establishment of the administrative enforcement and abatement fees attached hereto as Exhibit B:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF TOOELE CITY that:

1. Tooele City Code Chapter 3-6 (Enforcement and Abatement) is hereby enacted as shown in Exhibit A; and,
2. The Fees shown in Exhibit B are hereby incorporated into the Tooele City Fee Schedule.

This Ordinance is necessary for the immediate preservation of the peace, health, safety, and welfare of Tooele City and its residents and businesses and shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Ordinance is passed by the Tooele City Council this ____ day of _____, 2017.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, City Attorney

Exhibit A

Proposed TCC Chapter 3-6

Exhibit B

Proposed Fees

Fire Department

Abatement of Title 3 and Fire Code Violations

Monetary Penalties:	\$100/day for up to 14 days: \$1,400 maximum
First Compliance Inspection Fee:	\$0
Compliance Re-Inspection Fee:	\$50 each
Administrative Appeal Fee:	\$150

CHAPTER 3-6. FIRE CODE: ENFORCEMENT AND ABATEMENT

- 3-6-1. Purpose.**
- 3-6-2. Declaration regarding violations of the Fire Code.**
- 3-6-3. Definitions.**
- 3-6-4. Notice of violation: content, extension.**
- 3-6-5. Notice of violation: service.**
- 3-6-6. Notice of violation: monetary penalties.**
- 3-6-7. Notice of violation: appeal.**
- 3-6-8. Notice of violation: default judgment.**
- 3-6-9. Notice of compliance.**
- 3-6-10. Fire Code order: authority.**
- 3-6-11. Fire Code order: enforcement.**
- 3-6-12. Fire Code order: appeal.**
- 3-6-13. Stipulation agreement.**
- 3-6-14. Recordation.**
- 3-6-15. Withholding permits; appeal.**
- 3-6-16. Abatement: emergency.**
- 3-6-17. Abatement: non-emergency.**
- 3-6-18. Recovery of Monetary Penalties and Costs.**

3-6-1. Purpose.

The purposes of this Chapter include the protection of the public life, health, safety, and general welfare, and the implementation of City administrative procedures for the protection of the public life, health, safety, and general welfare through the enforcement of this Title 3 (Fire) and of the International Fire Code and through the abatement of violations of this Title 3 and of the International Fire Code.

3-6-2. Declaration regarding violations of the Fire Code.

It is hereby declared that violations of the Fire Code operate contrary to the purposes of this Chapter and constitute a threat to the public life, health, safety, and general welfare.

3-6-3. Definitions.

(1) The definitions of the Fire Code are incorporated herein.

(2) In the event of a conflict between the definitions of the Fire Code and the definitions in this Section, the Fire Code definitions shall govern.

(3) Subject to subsection (2), the following terms shall have the following definitions.

“Abatement” means any action or proceeding commenced or pursued by the City to remove, alleviate, enforce, or correct a violation of Title 3 or the Fire Code.

“Abatement costs” means actual costs incurred by the City to accomplish an abatement, but not including

monetary penalties.

“Abatement period” means the 14-day period, beginning upon service of a notice of violation, within which the violation described in a notice of violation is required to be corrected.

“Administrative hearing officer” means an administrative hearing officer appointed under Chapter 1-28.

“Association” means any business entity, including, without limitation, a corporation, partnership, limited liability company, or business, but not an individual.

“Compliance inspection” means an inspection conducted by a Fire Department inspector to determine compliance with Title 3 or the Fire Code through the correction of the violation described in a notice of violation.

“Department” means the Tooele City Fire Department.

“Fire Chief” means the chief of the Tooele City Fire Department.

“Fire Code” means the International Fire Code as adopted by Tooele City pursuant to Section 3-3-1.

“Fire Code order” means an order issued by an administrative hearing officer pursuant to this Chapter.

“Fire Code performance bond” means a cash bond required by an administrative hearing officer and posted by a responsible person to gain compliance with Title 3, the Fire Code, or a Fire Code order.

“Fire Code tax lien” means a lien recorded with the Tooele County Recorder and County Treasurer, as applicable, to facilitate the collection of all monetary penalties and abatement costs, including administrative fees, filing fees, and other reasonable and related costs.

“Fire Department inspector” means those persons authorized by the Fire Code, the Fire Chief, and Title 3 to perform compliance inspections.

“Good cause” means incapacitating illness or accident, death of a parent, sibling, or child, lack of proper notice, or unavailability due to unavoidable and non-preventable emergency or circumstance.

“Imminent fire hazard” means any condition that creates a present and immediate fire danger to the public life, health, safety, or welfare.

“Inspection” means a compliance inspection.

“Monetary penalties” means the civil fines accrued for failure to complete an abatement. Monetary penalties do not include appeal filing fees, compliance reinspection fees, or abatement costs.

“Notice of compliance” means a document issued by the City confirming that a responsible person has corrected the violations described in a notice of violation, has paid all fees, penalties, and costs associated with the notice of violation, and otherwise has fully complied with the requirements of Title 3 and the Fire Code, all as determined by an officer or

inspector.

“Notice of violation” means a document prepared and issued by an officer that informs a responsible person of a violation of Title 3 or the Fire Code, and that contains an order to correct the violation.

“Officer” means a fire code officer as defined in the Fire Code, to include the Fire Chief, authorized delegates, and fire department inspectors.

“Penalty” means monetary penalties, abatement costs, and other costs related to an abatement.

“Responsible person” means any property owner, occupant, or other person or association with control over property who allows, permits, causes, or maintains a violation of Title 3 or the Fire Code to exist upon the property owned, occupied, or controlled. “Responsible person” includes the Fire Code definition of “owner.” Use of the singular “person” in this Chapter includes the plural “persons.”

“Violation” means any violation of Title 3 or the Fire Code.

3-6-4. Notice of violation: content, extension.

(1) An abatement is commenced by the service of a notice of violation.

(2) Content. A notice of violation shall indicate the following:

- (a) the nature of the violation;
- (b) the street address and parcel number for the property upon which the violation exists;
- (c) the name of the property owner of record according to the records of the Tooele County Recorder;
- (d) the date of the violation;
- (e) the monetary penalties associated with the violation;
- (f) the corrective action required;
- (g) the abatement period;
- (h) the contact information for the officer with whom the notice of violation may be discussed;
- (i) the procedure for obtaining a notice of compliance; and,
- (j) the procedure for filing an appeal.

(3) Extension. A responsible person may request an extension of the abatement period by submitting a written request to the Department during the abatement period. An officer may approve an extension of up to 30 days if doing so does not appear to create an imminent fire hazard. An approved extension shall result in an amended notice of violation which establishes a new abatement period. An extension request shall state and affirm the following:

(a) the responsible person understands that the extension is conditioned upon the responsible person’s waiver of the right to appeal the notice of violation;

(b) the responsible person is actively engaged in the corrective action required by the notice of violation; and,

(c) the responsible person is unable to complete the corrective action during the abatement period due to circumstances that are unusual, extraordinary, or outside the responsible person’s control.

3-6-5. Notice of violation: service.

(1) A notice of violation shall be served by one or more of the following methods:

(a) regular U.S. mail, first-class postage prepaid, to both

(i) the last known address of a responsible person as found in the records of the Tooele County Recorder; and,

(ii) the address of the property subject to the notice of violation; or,

(b) certified U.S. mail, return receipt requested, to the last known address of a responsible person as found in the records of the Tooele County Recorder; or,

(c) personal delivery to a responsible person; or,

(d) posting of the notice of violation upon the property or premises which is the subject of the notice of violation.

(2) Service by regular U.S. mail shall be deemed made on the third day after the date of mailing.

3-6-6. Notice of violation: monetary penalties.

(1) The monetary penalties associated with an abatement shall be established by resolution of the Tooele City Council.

(2) The monetary penalties associated with a notice of violation shall accrue daily until the earlier of the following occurs:

(a) the abatement period ends;

(b) a notice of compliance is issued by an officer;

(c) a Fire Code order halting, modifying, or suspending the monetary penalties is issued.

(3) Accrued monetary penalties (but not abatement costs) associated with a notice of violation shall be suspended upon:

(a) the responsible person causing the violation described in the notice of violation to be corrected during the abatement period;

(b) the responsible person requesting a compliance inspection from the City during the abatement period; and,

(c) a notice of compliance being issued in response to the request for inspection.

(4) The suspension of monetary penalties

associated with a notice of violation shall continue and become permanent if during the 12 months immediately following the date of the notice of compliance there is no recurrence of substantially the same violation at the same property.

(5) If a responsible person fails to correct the violation described in a notice of violation during the abatement period, or if the responsible person commits or allows substantially the same violation to occur during the 12 months immediately following the date of a notice of compliance, all monetary penalties that began to accrue daily on the date of the original notice of violation shall be owed in full to the City and shall continue to accrue for each and every subsequent day of continuing violation for a new abatement period.

(6) In the event of multiple responsible persons associated with a notice of violation, default judgment, or Fire Code order, all responsible persons shall be jointly and severally liable for correction of violations, for compliance with any Fire Code orders, and for payment of any monetary penalties, abatement costs, and other associated costs.

3-6-7. Notice of violation: appeal.

(1) A responsible person served with a notice of violation may appeal to the administrating hearing officer.

(2) An appeal resulting in a Fire Code order that upholds some but not all of the violations described in a notice of violation shall have the effect of amending the notice of violation and resetting the date of the notice of violation and the abatement period.

(3) A Fire Code order that amends a notice of violations pursuant to this Section is not appealable to the administrative hearing officer.

3-6-8. Notice of violation: default judgment.

(1) A responsible person who fails to request a compliance inspection during the abatement period and who does not timely appeal the notice of violation is deemed to have waived any administrative appeal rights associated with a notice of violation and shall be subject to the entry of default judgment upholding the notice of violation. The default judgment shall direct the abatement and impose the monetary penalties, fees, and costs associated therewith.

(2) A default judgment shall be issued by the administrative hearing officer upon officer affidavit that a responsible person both failed to request a timely compliance inspection and failed to make a timely appeal.

(3) A copy of a signed default judgment shall be served on all affected responsible persons by any method of service allowed for a notice of violation.

(4) A responsible person adversely affected by a

default judgment may appeal the default judgment to the administrative hearing officer. The administrative hearing officer may set aside a default judgment only upon a written finding of good cause shown by the appealing responsible person.

(5) Following the issuance of a default judgment and the failure to timely appeal the default judgment, or following the issuance of a Fire Code order upholding the default judgment, the City may forthwith proceed to abate the violation described in the default judgment, and may forthwith proceed to collect all accrued monetary penalties and costs associated with the abatement.

3-6-9. Notice of compliance.

(1) It shall be the duty of a responsible person served with a notice of violation to request a City compliance inspection when the described violation has been abated, weather during or after the abatement period.

(2) It is prima facie evidence that the violation is continuing if no compliance inspection is requested.

(3) An officer shall perform the requested compliance inspection. If an officer finds that the violation for which the notice of violation was issued has been abated fully, an officer shall issue a notice of compliance to the responsible person requesting the compliance inspection.

(4) A notice of compliance shall be deemed effective upon the day of the inspection that determined full compliance. No further monetary penalties shall accrue after this date unless the same or a similar violation occurs within the 12 months immediately following the notice of compliance.

(5) If, following a request for compliance inspection, the City declines to issue a notice of compliance due to a continuing violation, it remains the duty of the responsible person to request a compliance reinspection once abatement is completed.

(6) The first compliance inspection shall not require the payment of a fee. All compliance reinspections shall require the payment of a fee established by the City Council.

(7) If the City declines to issue a notice of compliance, an officer shall provide a written explanation to the responsible party requesting the compliance inspection.

(8) A responsible person may appeal the denial of a notice of compliance to the administrative hearing officer.

(9) A request for compliance inspection or reinspection shall toll the accrual of monetary penalties until the issuance of written reasons for the denial of a notice of compliance or until the occurrence of substantially the same or violation with the 12 months

immediately following the notice of violation.

3-6-10. Fire Code order: authority.

In addition to the authority granted under Chapter 1-28 of this Code, the administrative hearing officer shall have authority to do the following:

(1) upon appeal, to uphold, modify, or reject a notice of violation, and to issue a Fire Code order to that effect;

(2) upon appeal, to uphold, modify, or reject a notice of compliance, and to issue a Fire Code order to that effect;

(3) upon officer affidavit, to issue a default judgment;

(4) upon appeal, to uphold, modify, or reject a default judgment, and to issue a Fire Code order to that effect;

(5) upon appeal, to uphold, modify, suspend, dismiss, or order the payment of monetary penalties associated with a notice of violation, and to issue a Fire Code order to that effect;

(6) upon appeal, to establish a payment plan for payment of monetary penalties and abatement costs associated with a notice of violation, and to issue a Fire Code order to that effect;

(7) to make written findings of fact and conclusions of law associated with a Fire Code order;

(8) to issue a Fire Code order requiring a responsible person to post a cash Fire Code performance bond and to sign an associated bond agreement;

(9) to issue a Fire Code order for the return of all or a portion of the cash Fire Code performance bond to the posting responsible person;

(10) to incorporate a stipulation agreement into a Fire Code order;

(11) to declare a Fire Code tax lien fully satisfied, and to issue a Fire Code order to that effect; and,

(12) to issue any other lawful Fire Code order regarding any aspect of abatement.

3-6-11. Fire Code order: enforcement.

The City may use all lawful means to enforce a Fire Code order and to recover all abatements costs associated with such enforcement.

3-6-12. Fire Code order: appeal.

A responsible person subject to a Fire Code order may appeal to the administrative hearing officer.

3-6-13. Stipulation agreement.

The City may enter into a stipulation agreement with a responsible person to resolve a notice of violation. A signed stipulation agreement shall be

delivered to the administrative hearing officer, who shall issue a Fire Code order incorporating the stipulation agreement. By entering into a stipulation agreement, a responsible person waives all administrative and judicial appeals associated with the notice of violation. The form of the stipulation agreement shall be approved by the City Attorney.

3-6-14. Recordation.

(1) If a violation continues to exist after the abatement period, and the notice of violation has not been appealed, an officer may record the notice of violation, together with any default judgment and Fire Code order, with the office of the Tooele County Recorder. This recordation is not a lien against property, but a notice concerning any continuing violation found upon the property.

(2) If a notice of compliance or Fire Code order finding compliance is issued after a notice of violation, default judgment, or Fire Code order has been recorded, the officer shall cause the notice of compliance or Fire Code order finding compliance to be recorded with the office of the Tooele County Recorder. This recordation shall have the effect of updating and nullifying a previously recorded notice of violation, default judgment, or Fire Code order to which it relates.

(3) Notice of any recordation shall be mailed to the owners of the real property against which a recordation has been made in the same manner as provided for the mailing of a notice of violation. The failure to serve such notice shall not be grounds to void the recordation or the documents recorded.

3-6-15. Withholding permits; appeal.

(1) During the pendency of any unresolved notice of violation or Fire Code order, the City may withhold from a responsible person subject to the notice or order any permit, license, or land use approval associated with the property upon which the violation continues. The withholding shall continue until the issuance of a notice of compliance or Fire Code order finding compliance.

(2) The withholding of a permit, license, or land use approval pursuant to authority of this Section may be appealed to the administrative hearing officer.

3-6-16. Abatement: emergency.

(1) The City is authorized to summarily abate an imminent fire hazard.

(2) Whenever the Fire Chief determines that an imminent fire hazard exists, the Fire Chief or delegate may issue a written emergency order directing one or more of the following actions:

(a) order the immediate vacation of any owners, tenants, and occupants, and prohibit occupancy

until all imminent fire hazards have been abated;

(b) post the property or premises as unsafe, substandard, or dangerous;

(c) board, fence, and otherwise secure any property or premises;

(d) raze, grade, and otherwise remove structures and objects on the property to the extent necessary to remove any imminent fire hazard;

(e) make emergency repairs; and,

(f) take any other reasonable action to eliminate an imminent fire hazard or to protect the public from an imminent fire hazard.

(3) A notice of violation shall be served upon a responsible person associated with an imminent fire hazard. The notice shall describe the nature of the imminent fire hazard. Service is not required prior to taking steps to abate an imminent fire hazard.

(4) City personnel and agents may enter property or premises without a warrant to the extent necessary to abate an imminent fire hazard.

(5) The City shall pursue only the minimum level of abatement necessary to abate an imminent fire hazard under this Section. Once an imminent fire hazard is abated sufficiently to constitute a violation that is not an imminent fire hazard, the City shall follow the procedures of this Chapter for non-emergency abatement.

(6) A responsible person shall be liable for all abatement costs and other costs associated with the abatement of an imminent fire hazard.

(7) Promptly after an emergency abatement, an officer shall notify a responsible person of the abatement actions taken, the itemized costs for those actions, and the location of any seized and removed personal property.

(8) A responsible person may appeal the costs of an emergency abatement to the administrative hearing officer.

3-6-17. Abatement: non-emergency.

(1) If a responsible person fails to abate a violation within the abatement period or within the deadline established in a Fire Code order, the Department is authorized to abate the violation.

(2) The Department and its officers and agents have authority to enter upon any property or premises as may be necessary to abate a violation. Such entry onto a private property or premises shall be accompanied by a warrant, be done in a reasonable manner, and be based upon probable cause. However, no warrant shall be required where a responsible person's consent is voluntarily given.

(3) A responsible person shall be liable for all abatement costs associated with the abatement. If the Department undertakes preparatory or other steps to

perform an abatement, but the responsible person completes the abatement before the Department begins or completes the abatement, the responsible person shall remain responsible for the City's preparatory and other costs.

(4) Promptly after an abatement, an officer shall notify a responsible person of the abatement actions taken, the itemized costs for those actions, the deadlines for paying those costs, and the location of any seized and removed personal property.

(5) A responsible person may appeal the costs of an abatement to the administrative hearing officer.

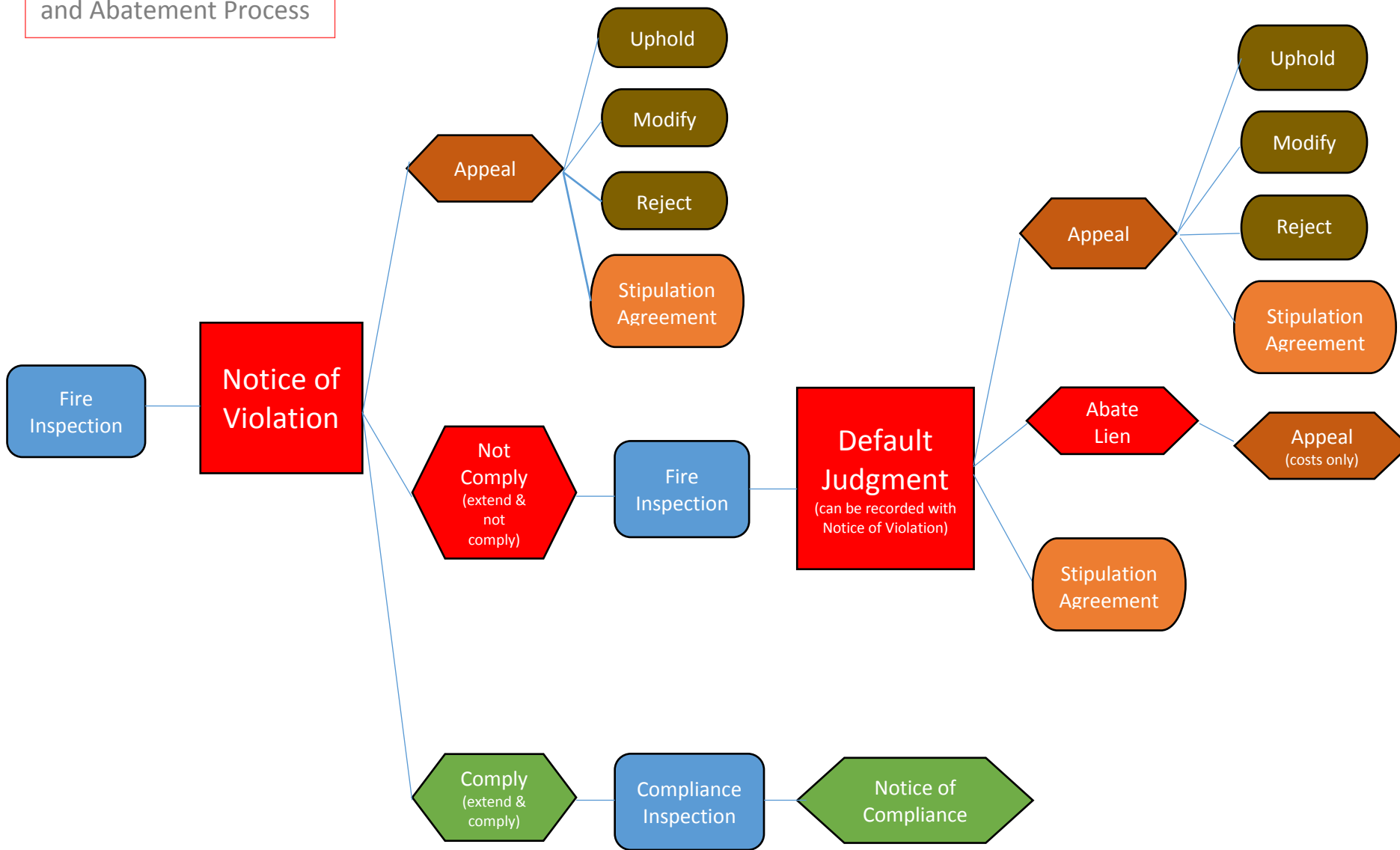
3-6-18. Recovery of Monetary Penalties and Costs.

(1) As provided in U.C.A. Sections 10-11-3 and -4, as amended, and after established deadlines for the payment of monetary penalties and abatement costs have passed, an officer may file and record with the Tooele County Recorder and Treasurer a Fire Code tax lien and an itemized statement of all such penalties and costs.

(2) Upon full payment of all amounts owing under a Fire Code tax lien, or upon the entry of a Fire Code order or judicial order declaring the lien amount satisfied, the City shall file and record an appropriate notice of satisfaction and/or lien release.

(3) The City may pursue all lawful means to recover all penalties, fees, and costs imposed or incurred pursuant to this Chapter.

Summary of Proposed
Fire Code Enforcement
and Abatement Process



Notice of Violation

Date:
Case #:
Parcel #:
Responsible Person(s):
Address of Violation:
Address of Record:
Date of Fire Inspection:

Summary of Violations

City Code/Fire Code Section	Description	Corrective Action Required

Deadline for Compliance:

Monetary Penalties; Compliance Inspection: A Monetary Penalty of **\$100.00 per day** will be assessed for the above-described violations. This penalty will begin to accrue on the date of the Notice of Violation and continue to accrue daily for 14 days (the Abatement Period) or until the violations are corrected, whichever is earlier. If you correct the violations and request a compliance inspection before the Deadline, the City will provide a Notice of Compliance and suspend all accrued Monetary Penalties. If, however, you fail to correct the violations by the Deadline, the Monetary Penalties will be **\$1,400.00**. You are responsible to request the compliance inspection.

Extension: If you need additional time to bring your property into compliance, you may submit to the Fire Department **before** the Deadline a written request for extension. An extension may be granted only if it will not create an imminent fire hazard.

Appeal: You may appeal this Notice of Violation in writing. Your appeal must be delivered to the City Recorder within **10 days** after the Notice of Violation is personally delivered or posted on the property, or within **13 days** after the post-mark if the Notice of Violation is mailed.

Default Judgment: If you do not correct the violations and do not timely appeal the Notice of Violation, a Default Judgment will entered against you. Further, the City may proceed to abate the violations, charge you for all abatement costs, and record a lien against the property.

Officer name:
Officer email:

Default Judgment

Date:
Case #:
Parcel #:
Responsible Person(s):
Address of Violation:
Address of Record:
Date of Fire Inspection:

Summary of Abatement Actions

Date	Abatement Actions

Affirmed Monetary Penalties: The responsible person(s) has failed to request a compliance inspection and has failed to timely appeal the Notice of Violation. The amount of the accrued Monetary Penalties is \$_____. All Monetary Penalties shall be paid to Tooele City Corporation at the Finance Department at 90 North Main Street, Tooele.

Appeal: You may appeal this Default Judgment in writing. Your appeal must be delivered to the City Recorder within **10 days** after the Default Judgment is personally delivered or posted on the property, or within **13 days** after the post-mark if the Default Judgment is mailed.

This Default Judgment does not relieve any responsible person of the obligation to correct the violations. The City has the continuing authority to abate the violations. This Default Judgment may be recorded against the property and may become a lien against the property.

IT IS SO ORDERED this ____ day of _____, 20__.

Administrative Hearing Officer

Subscribed and sworn before me this ____ day of _____, 20__:

Notary, State of Utah, Tooele County
My commission expires on _____.

Attached: Notice of Violation

Notice of Compliance

Date:
Case #:
Parcel #:
Responsible Person(s):
Address of Violation:
Address of Record:
Date of Compliance Inspection:

Compliance Observations

Date	Compliance Observations

On the date above, a Fire Department Inspector or Officer inspected the address of the violation.

**Be it known by all that the violations enumerated
in the Notice of Violation have been corrected.**

A recurrence of substantially the same violation at the above-referenced property within 12 months of this Notice of Compliance may result in a new Notice of Violation and in the assessment of any Monetary Penalties suspended as a result of this Notice of Compliance.

Nothing in this Notice of Compliance limits the City from ascertaining and prosecuting other violations of law.

Officer name:

TOOELE CITY CORPORATION

ORDINANCE 2017-25

AN ORDINANCE OF TOOELE CITY ENACTING TOOELE CITY CODE CHAPTER 3-7 REGARDING NUISANCE FIRE ALARMS.

WHEREAS, public safety, including fire safety, is a matter of vital public concern and a priority of the City Administration; and,

WHEREAS, Tooele City operates a volunteer fire department with a high level of professionalism and training, and which enjoys an excellent fire insurance rating due to department response times, equipment, and training; and,

WHEREAS, false alarms and nuisance alarms consume significant City and personal resources of Tooele City's firefighters, put a strain on equipment, materials, and personnel, divert public safety attention away from real public safety needs, and put personnel at risk through the necessary response to fire alarms and potential fire hazards; and,

WHEREAS, TCC Title 3 (Fire) governs matters relating to the Fire Department (Chapter 3-1) and the Fire Code (Chapter 3-3); and,

WHEREAS, TCC Section 3-3-1 recognizes that the State of Utah has adopted the International Fire Code (the "Fire Code") as the law of the State of Utah and all the state's political subdivisions, and in turn adopts the latest edition of the Fire Code as an ordinance of Tooele City, including its Appendices B, C, and D; and,

WHEREAS, the edition of the Fire Code currently adopted by the State of Utah (and in turn by Tooele City) is the 2015 Fire Code; and,

WHEREAS, Fire Code Section 106 authorizes the fire department to enter and examine any building, structure, vehicle, or premises for the purpose of enforcing the Fire Code and conducting inspections; and,

WHEREAS, Fire Code Section 109 gives the fire department broad authority to bring administrative and other actions to enforce the provisions of the Fire Code; and,

WHEREAS, other Utah jurisdictions have enacted ordinances to address persistent false and nuisance fire alarms that consume resources and put the public safety at increased risk; and,

WHEREAS, the City Administration is of the opinion that an administrative procedure is the most efficient, effective, and timely procedure for protecting the public safety by dealing with false and nuisance fire alarms; and,

WHEREAS, in formulating an administrative enforcement procedure for dealing with false and nuisance alarms, care should be taken to balance the important government purpose of public safety enforcement with constitutional property and liberty interests of property owners; and,

WHEREAS, the City Administration, including the Fire Chief, recommends the enactment of the administrative enforcement procedure attached hereto as Exhibit A for dealing with false and nuisance alarms; and,

WHEREAS, the City Administration, including the Fire Chief, recommends the establishment of the fees attached hereto as Exhibit B:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF TOOELE CITY that:

1. Tooele City Code Chapter 3-7 (Fire Alarms) is hereby enacted as shown in Exhibit A; and,
2. The Fees shown in Exhibit B are hereby incorporated into the Tooele City Fee Schedule.
3. Severability. If any section, subsection, sentence, clause, phrase, or term of the new Chapter 3-7 is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Chapter.

This Ordinance is necessary for the immediate preservation of the peace, health, safety, and welfare of Tooele City and its residents and businesses and shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Ordinance is passed by the Tooele City Council this ____ day of _____, 2017.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, City Attorney

Exhibit A

Proposed Tooele City Code Chapter 3-7 (Fire Alarms)

Exhibit B

Proposed Fees

Fire Department False and Nuisance Fire Alarms

1-2 alarms in 1 year:	no charge
3-5 alarms in 1 year:	\$100 each
6 or more alarms in 1 year:	\$250 each
Late fees and interest:	see TCC Section 3-7-6
Authorization to Reconnect inspection fee:	\$50 per inspection
Fire watch costs:	actual costs
Appeal to Fire Department enforcement official:	\$50
Appeal to Administrative Hearing Officer:	\$150

CHAPTER 3-7. FIRE ALARMS

- 3-7-1. Purpose and scope.
- 3-7-2. Definitions.
- 3-7-3. Maintenance, testing, and inspection.
- 3-7-4. Fire alarm system activation and response.
- 3-7-5. Intentional false alarm - penalty.
- 3-7-6. Notice and fees for repeated false alarms.
- 3-7-7. Disconnection of fire alarm system - occupancy - fire watch - reconnection.
- 3-7-8. Fire watch.
- 3-7-9. Appeals.
- 3-7-10. Collection of fees and costs
- 3-7-11. Government immunity.

3-7-1. Purpose and scope.

(1) The purpose of this Chapter is to require owners to properly use and maintain the operational effectiveness of fire alarm systems in order to improve their reliability and eliminate or reduce false fire alarms and nuisance fire alarms. The requirements of this Chapter shall be in addition to, and not in place of, any requirements imposed by the international fire code as adopted by the city.

(2) This Chapter governs fire alarm systems designed to summon the Tooele City fire department, notices and orders regarding such alarms, the establishment of a fire watch, and the assessment of fees and costs.

3-7-2. Definitions.

As used in this Chapter, the following words and terms shall have the following meanings:

Adopted Codes - The codes adopted by Tooele City pursuant to Chapter 3-3 and Title 4 of this Code.

Disconnection, and Disconnect - The disconnection, deactivation, or taking out of service of a fire alarm system.

Enforcement Official - The fire chief and his or her designated representatives.

Fees and costs - Monetary charges, payable to Tooele City, to defray the expenses associated with responding to false fire alarms, nuisance fire alarms, inspections, testing, and fire watch.

Fire Alarm, False - The activation of any fire alarm system that results in a response by the fire department and that:

(1) is caused by the negligence or intentional misuse of the fire alarm system by the owner, tenant, or occupant of a premises, or an employee or agent thereof; or,

(2) is not caused by heat, smoke, fire, or water flow.

Fire Alarm, Habitual - The occurrence of 6 or more nuisance fire alarms or false fire alarms, or a combination of the two, in any 365-day period.

Fire Alarm, Nuisance - The activation of any fire alarm system, which results in a fire department response and that:

(1) is caused by mechanical failure, lack of maintenance, malfunction, or improper installation; or,

(2) for which emergency officials cannot determine the cause of the alarm.

Fire Alarm System - A system, or a portion of a system or combination system, consisting of components and circuits arranged to monitor and/or announce the status of a fire alarm, suppression system activation, or signal initiating device that initiate a response.

Fire Department - The Tooele City fire department.

Fire Watch - An enforcement program whereby an enforcement official assigned to a premises for the purpose of protecting a building or structure, or its occupants, from an emergency fire-related situation. A fire watch may involve special actions beyond routine fire department staffing. A special action may include persons trained in fire prevention and detection, the use of fire extinguishing systems, or the activation of fire alarms.

Owner - Any person who owns the premises in which a fire alarm system is installed. In the event such premises are leased to a third party, the term Owner shall mean both the owner of the property and the tenant in possession of the premises, and any responsibilities for the fire alarm system and fees assessed hereunder shall be joint and several for both the owner and the tenant.

Premises - Any building or structure, or combination of buildings and structures, in which a fire alarm system is installed. For purposes of this Chapter, the term Premises shall not mean single-family or two-family residential buildings.

Reconnection, and Reconnect - The reconnection, reactivation, or return to service of a fire alarm system.

Serve, or Service - Personal delivery or delivery via regular U.S. mail to both the physical address of the premises and to the address of the record owner of the premises if different than the physical address of the premises. Service is deemed effective upon personal delivery or 3 days after mailing.

3-7-3. Maintenance, testing, and inspection.

(1) The owner of a premises shall ensure that all fire alarm systems on a premises are periodically maintained as dictated by the manufacturer's specifications and the adopted codes.

(2) The owner shall ensure that all fire alarm systems on a premises are tested and inspected at least

once per year and in accordance with the adopted codes.

3-7-4. Fire alarm system activation and response.

(1) The owner of a premises shall be responsible for all activations of a fire alarm system thereon.

(2) A fire department response to the activation of a fire alarm system shall be deemed to result when any officer or member of the fire department is dispatched to the premises where the fire alarm system has been activated.

3-7-5. Intentional false alarm - penalty.

A person who, knowingly or intentionally, makes a false report of a fire, activates a false fire alarm, or tampers with or removes any part of a fire alarm system is guilty of a class B misdemeanor.

3-7-6. Notice and fees for repeated false alarms.

(1) The first and second fire alarm system activations in any 365-day period, deemed by the enforcement official to be nuisance fire alarms and/or false fire alarms, shall result in the enforcement official serving a Notice of False Alarm to the owner of the premises where the fire alarm system has been activated. The notice will indicate the fire alarm system activation, direct the owner to correct the cause of the false or nuisance fire alarm, and provide a warning that subsequent alarms may result in the assessment of fees.

(2) More than 2 fire alarm system activations within any 365 day period, deemed by the enforcement official to be nuisance fire alarms and/or false fire alarms, shall result in the enforcement official serving a Notice of Repeated False Alarms to the owner of the premises where the fire alarm system has been activated. The notice will indicate the assessment of fees against the owner in the amounts stated in the Tooele City fee schedule.

(3) Should any fee assessed pursuant to this Section remain unpaid in excess of 60 days from the date of the Notice of Repeated False Alarms, a late payment penalty shall be imposed equal to 10% of the amount due. In addition, for each calendar month beyond the due date that a payment is late, compound interest of 2% shall accrue monthly until the fees, plus penalties and interest, are paid in full.

3-7-7. Disconnection of fire alarm system - occupancy - fire watch - reconnection.

(1) At the discretion of the enforcement official, and in the event that a premises experiences habitual fire alarms, a written Order to Disconnect may be served upon the owner specifying the date on which the owner shall be required to disconnect the fire alarm system.

(2) Each premises affected by the disconnection of the fire alarm system shall be required to establish a fire watch that meets the requirements of the enforcement official until the fire alarm system has been reconnected.

(3) The enforcement official shall have the authority to temporarily suspend the occupancy certificate of a premises under fire watch until all repairs are made to the fire alarm system or if the fire watch is not maintained to the satisfaction of the enforcement official.

(4) A fire alarm system may be reconnected upon a finding by the enforcement official that the owner of the premises has taken necessary corrective action to remedy the cause of the habitual fire alarms at the premises. The owner shall have the burden of showing that adequate corrective action has been taken by making a request for reconnection.

(5) The owner shall be responsible for all inspection and/or testing fees and costs incurred in determining whether the fire alarm system is ready for reactivation. The enforcement official shall not authorize or approve of reconnection until the owner has paid such fees and costs in full.

(6) Follow service of an Order to Disconnect, reconnection of a fire alarm system shall be pursuant to an Authorization to Reconnect issued by the enforcement official.

3-7-8. Fire watch.

(1) In the event the enforcement official orders a fire watch instituted as a result of a fire alarm system being disconnected, pursuant to an Order to Disconnect, such a fire watch may be at the following levels or may provide specific fire watch requirements at the discretion of the enforcement official:

(A) Level I: Continuous monitoring of the premises for signs of smoke or fire for purposes of notifying the fire department. This may be effectively carried out through one or more approved employees of the building owner, security guards, or fire department personnel, at the discretion of the enforcement official.

(B) Level II: Continuous monitoring of the premises for signs of smoke or fire for the purpose of notifying the fire department and assisting with evacuation. This may be effectively carried out through one or more approved employees of the building owner, security guards, or fire department personnel, in the discretion of the enforcement official. These individuals must be familiar with the existing fire alarm systems, fire protection systems, fire suppression systems, water systems, and evacuation plans relative to the premises.

(C) Level III: Continuous monitoring of the premises for signs of smoke or fire for the purpose of

notifying the fire department, assisting with evacuation, and fire extinguishment/hazard mitigation. One or more fire department personnel shall be required, and an emergency action plan may also be required, in the discretion of the enforcement official.

(2) The owner shall be responsible for paying all fees and costs associated with establishing a fire watch.

3-7-9. Appeals.

(1) An owner may appeal any of the following to the enforcement official:

- (A) a Notice of Repeated False Alarms;
- (B) an Order to Disconnect;
- (C) the refusal to issue an Authorization to Reconnect;
- (D) the costs associated with an Authorization to Reconnect or a fire watch.

(2) All appeals shall be in writing and shall set forth the reasons for the appeal.

(3) All appeals shall be filed with the City Recorder within 10 days of service of the Notice or Order being appealed. Appeals filed after this deadline are untimely and shall not be heard.

(4) All appeals shall be accompanied with the payment of an appeal fee as set forth in the Tooele City fee schedule. Appeal fees will be returned to the owner if the Notice or Order being appealed is not upheld on appeal.

(5) The appeal of a Notice of Repeated False Alarms stays the assessment of fees until the enforcement official makes a final written decision upholding the Notice. The appeal of an Order to Disconnect stays the requirement to disconnect until the enforcement official makes a final written decision upholding the Order.

(6) An appeal decision of the enforcement officer may be appealed, with 10 days of service of the decision, to the Administrative Hearing Officer pursuant to Chapter 1-28 of this Code. Appeals filed after the appeal deadline are untimely and shall not be heard.

3-7-10. Collection of fees and costs.

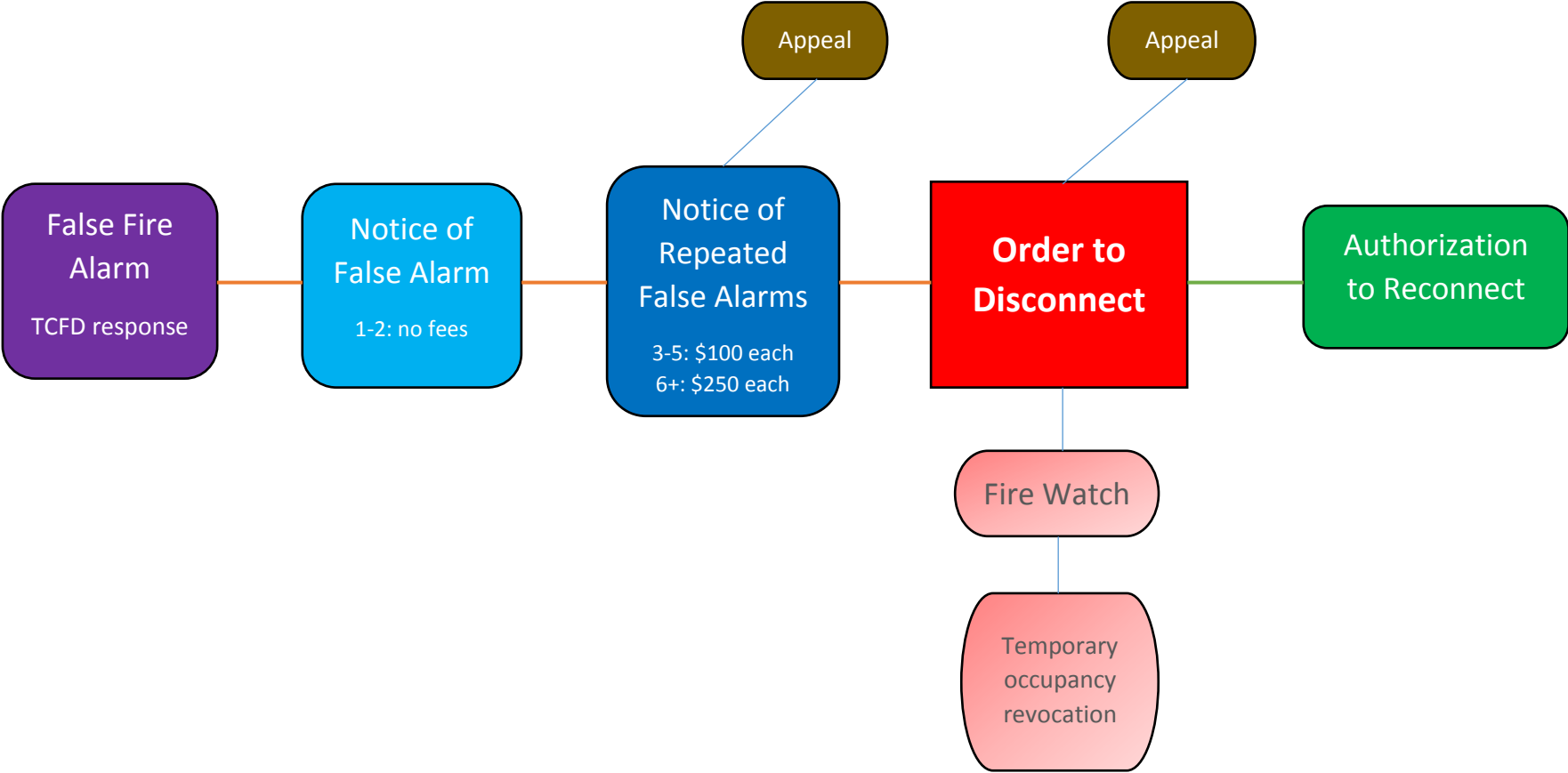
Tooele City is authorized to use all lawful means to collect fees, costs, penalties, and interest assessed under this Chapter, including requiring payment through the City utility bill.

3-7-11. Government immunity.

The inspection of fire alarm systems, the establishment of fire watches, or any other action provided for in this Chapter is not intended to, nor will it, create a contract, duty, or obligation, either expressed or implied, of fire department response, nor create a special relationship between an owner and the

fire department. Any and all liability and damages resulting from the failure to respond to a notification or to take any other action as provided for herein is hereby disclaimed, and governmental immunity as provided by law is hereby retained. Tooele City, its officers, employees, and agents, shall not assume any duty or responsibility for the installation, operation, repair, effectiveness, or maintenance of any fire alarm system or the maintenance of a fire watch, those duties or responsibilities belonging solely to the owner of the premises.

TCC Chapter 3-7: Fire Alarms
Implementation Flow Chart



Notice of False Alarm

Date of Notice:

Case #:

Premises Parcel #:

Premises Owner:

Address of Premises:

Owner Address of Record:

Dates	Description of Fire Department Responses to False or Nuisance Alarms

Notice to Correct: The Owner is hereby notified of the false or nuisance fire alarms described above and of the requirement to correct the causes of the alarms.

Notice of Fees: The first and second responses by the Tooele City Fire Department in a 365-day period to false or nuisance fire alarms at the Premises will not result in the assessment of fees. However, additional responses during a 365-day period will result in a Notice of Repeated False Alarms and the assessment of fees. For **3-5** false or nuisance alarms in a 365-day period, the fee will be **\$100** for each fire department response. For **6 or more** false or nuisance alarms in a 365-day period (Habitual Fire Alarms), the fee will be **\$250** for each fire department response.

Fee Assessment under this Notice: (\$0)

Order to Disconnect: Habitual Fire Alarms may result in an Order to Disconnect the fire alarm system on the Premises, which will also result in the temporary revocation of the occupancy permit for the Premises.

Appeal: This Notice is not appealable.

Enforcement Official name:

Enforcement Official email:

Notice of Repeated False Alarms

Date of Notice:
 Case #:
 Premises Parcel #:
 Premises Owner:
 Address of Premises:
 Owner Address of Record:

Notice Summary

Dates	Description of Fire Department Responses to False or Nuisance Alarms

Notice of Fees: The first and second responses by the Tooele City Fire Department in a 365-day period to false or nuisance fire alarms at the Premises will not result in the assessment of fees. However, additional responses during a 365-day period will result in a Notice of Repeated False Alarms and the assessment of fees. For **3-5** false or nuisance alarms in a 365-day period, the fee will be **\$100** for each fire department response. For **6 or more** false or nuisance alarms in a 365-day period (Habitual Fire Alarms), the fee will be **\$250** for each fire department response.

Fee Assessment under this Notice: (\$_____)

Order to Disconnect: Habitual Fire Alarms may result in an Order to Disconnect the Fire Alarm System on the Premises, which will also result in the temporary revocation of the occupancy permit for the Premises.

Appeal: The Owner may appeal this Notice to the Fire Chief or designee by filing a written appeal with the Tooele City Recorder within 13 days after this Notice is mailed. The appeal must state the reasons for the appeal. Appeals filed after the 13 days are untimely and shall not be heard.

Enforcement Official name:
 Enforcement Official email:

Order to Disconnect

Date of Order:
Case #:
Premises Parcel #:
Premises Owner:
Address of Premises:
Owner Address of Record:

Summary of Findings

Dates	Findings Regarding Habitual Fire Alarms and Requiring Disconnection

Order to Disconnect. As a result of Habitual Fire Alarms (6 or more false or nuisance fire alarms in any 365-day period), detailed above, the Owner is hereby ordered to disconnect or deactivate the Fire Alarm System at the above-referenced Premises no later than 5:00 p.m. on _____ [date].

Fire Watch. The Premises is hereby declared under Fire Watch, the requirements of which shall be established by the Enforcement Official. The Premises will remain under Fire Watch until the Fire Alarm System has been returned to service pursuant to an Authorization to Reconnect.

Occupancy Permit Suspended. Notice is hereby given that the occupancy permit for the Premises is hereby temporarily suspended for so long as the Premises is under Fire Watch and until all outstanding repairs are made to the Fire Alarm System necessary for its reactivation.

Order to Vacate. The Owner is hereby ordered to vacate the Premises of employees and patrons until such time as an Authorization to Reconnect is issued by the Enforcement Official. An Authorization to Reconnect may be issued only upon a finding by the Enforcement Official that the Owner of the Premises has taken all necessary corrective action to remedy the cause of the Habitual Fire Alarms at the Premises. The Owner shall have the burden of showing that adequate corrective action has been taken by making a request for reactivation. The Premises may not be occupied until the issuance by the Enforcement Official of an Authorization to Reconnect.

Fees and Costs: The Owner shall be responsible for any inspection and/or testing fees and costs in determining whether a Fire Alarm System is ready for reactivation. The Owner shall also be responsible for any costs associated with the Fire Watch. Such fees and costs shall be detailed in the Authorization to Reconnect. An Authorization to Reconnect shall not be issued until such fees and costs are paid in full.

Appeal: The Owner may appeal this Order to Disconnect to the Fire Chief or designee by filing a written appeal with the Tooele City Recorder within 10 days after the Order is served in person or within 13 days after the Order is mailed. The appeal must state the reasons for the appeal. Appeals filed after these deadlines are untimely and shall not be heard.

Enforcement Official name: _____

Enforcement Official email: _____

Fire Watch

Date:
 Case #:
 Premises Parcel #:
 Premises Owner:
 Address of Premises:
 Owner Address of Record:
 Fire Watch Level (check one):

- Level 1**
- Level 2**
- Level 3**

The Tooele City Fire Department hereby institutes a Fire Watch for the Premises as determined by the Enforcement Official, based on the findings of the Order to Disconnect dated _____.

Fire Watch Requirements

Fire Watch Requirements	Compliance Deadline

Enforcement Official name: _____
 Enforcement Official email: _____

Authorization to Reconnect

Date of Authorization:
 Case #:
 Premises Parcel #:
 Premises Owner:
 Address of Premises:
 Owner Address of Record:

Summary of Findings

Dates	Findings Regarding Repairs to Fire Alarm System Allowing its Reconnection

In light of the above-described findings regarding repairs made to the Fire Alarm System on the Premises, the Owner is hereby authorized to reconnect the Fire Alarm System and to occupy the Premises.

Fees and Costs: The Owner shall be responsible for the following inspection, testing, and other fees and costs in determining whether the Fire Alarm System was ready for reactivation, and associated with the Fire Watch. This Authorization to Reconnect shall not be issued until such fees and costs are paid in full.

Dates	Fees and Costs: Inspections, Testing, Fire Watch, Etc.

Appeal: The Owner may appeal the Fees and Costs detailed in this Authorization to Reconnect to the Fire Chief or designee by filing a written appeal with the Tooele City Recorder within 10 days after the Authorization is served in person or within 13 days after the Authorization is mailed. The appeal must state the reasons for the appeal. Appeals filed after these deadlines are untimely and shall not be heard.

Enforcement Official name: _____
 Enforcement Official email: _____

TOOELE CITY CORPORATION

RESOLUTION 2017-45

A RESOLUTION OF THE TOOELE CITY COUNCIL REAPPOINTING MEMBERS OF THE ADMINISTRATIVE CONTROL BOARD OF THE NORTH TOOELE CITY SPECIAL SERVICE DISTRICT.

WHEREAS, the Tooele City Council created the North Tooele City Special Service District (“District”) on June 16, 1999, pursuant to Sections 17A-2-1301 through 17A-2-1332, Utah Code (since renumbered to U.C.A. Title 17D, Chapter 1); and,

WHEREAS, the aforementioned Utah Code sections allow for the establishment of an administrative control board (“Board”) for the District, the powers of that Board being specified by the Utah Code and by the governing authority of the District, which is the Tooele City Council; and,

WHEREAS, the term of board members is generally four years (U.C.A. Section 17D-1-304); and,

WHEREAS, the terms of Jed Winder, Erick Brondum, Michael Maloy, and Maresa Manzione will expire on December 31, 2017, and they have expressed an interest in being reappointed for an additional four-year term:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that Jed Winder, Erick Brondum, Michael Maloy, and Maresa Manzione are hereby reappointed to serve as a members of the Administrative Control Board of the North Tooele City Special Service District, for terms ending December 31, 2021, as further indicated below:

Name	Term of Service	Length of Service
Jed Winder	01-01-18 to 12-31-21	since 03-19-08
Erick Brondum	01-01-18 to 12-31-21	since 01-01-06
Michael Maloy	01-01-18 to 12-31-21	since 06-05-02
Maresa Manzione	01-01-18 to 12-31-21	since 04-20-11
Jeff Hammer	01-18-17 to 12-31-20	since 01-18-17
Katrina Call	06-30-17 to 12-31-20	since 06-30-17
Travis Brady	08-16-17 to 12-31-20	since 08-16-17

This Resolution shall become effective immediately 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 _____, 2017.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form: _____
Roger Evans Baker, City Attorney

TOOELE CITY CORPORATION

RESOLUTION 2017-44

A RESOLUTION OF THE TOOELE CITY COUNCIL ACCEPTING THE COMPLETED PUBLIC IMPROVEMENTS ASSOCIATED WITH THE COPPER CANYON PUD PHASE 5 SUBDIVISION.

WHEREAS, Tooele City previously approved a subdivision final plat for the Copper Canyon PUD phase 5 subdivision; and,

WHEREAS, Tooele City Code §7-19-35 requires that public improvements constructed in connection with an approved subdivision be accepted by Resolution of the City Council following verification by the City Engineer or the Director of Public Works and Community Development that all the public improvements have been satisfactorily completed in accordance with the approved engineering plans and specifications and City standards; and,

WHEREAS, the required verification associated with the subject project has been provided by way of the Certificate of Completion of Public Works attached as Exhibit A; and,

WHEREAS, Copper Canyon 5, through Phoenix of Copper Canyon, LLC, has a proper bond agreement with Tooele City:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the completed public improvements associated with the Copper Canyon PUD phase 5 subdivision are hereby accepted.

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

Approved this ____ day of _____, 2017.

TOOELE CITY COUNCIL

(For)

(Against)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

ABSTAINING: _____

MAYOR OF TOOELE CITY

(For)

(Against)

_____	_____
-------	-------

ATTEST:

Michelle Y. Pitt
Tooele City Recorder

S E A L

Approved as to Form: _____
Roger Evans Baker, Tooele City Attorney

Exhibit A

Certificate of Completion of Public Works

TOOELE CITY CORPORATION
 90 NORTH MAIN
 TOOELE, UTAH 84074
 (435) 843-2130



Certificate of Completion of Public Works

(Start of One-Year Warranty)

Date: 10/10/2017

Permit No: 2160196	Public Work Elements*	Completed	Not Required
Project Name: Copper Canyon Ph.5	Culinary Water	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Address:	Secondary Water	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Sewer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Storm Drain / Pond	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Roads	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Owner/Developer: Bach Homes	Curb & Gutter	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11650 South State Street	Sidewalk	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Draper, UT 84020	Street Lights	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Landscaping	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Other:		

* Note: The above Public Work Elements are general in nature. See Public Works for detailed descriptions and comments:

Based upon review of documentation provided by the Developer/Owner, inspection records on file with the Community Development Department and upon site review, all public improvements for the above referenced project have been satisfactorily completed in accordance with the approved construction plans and specifications and Tooele City Standards. It is hereby recommended that the one year warranty period commence for this project. Responsibility for maintenance and protection of all public work items remains with the Developer/Owner during the warranty period.

Recommended By	Title	Date
	Civil Inspector	10/10/2017
	City Engineer	10-10-17
	Community Development / Public Works	10/12/17

Acknowledged and Accepted _____
 City Council, Chair _____ Date _____

Scheduled Date for End of Warranty Final inspection: 10/10/2018

TOOELE CITY CORPORATION
90 NORTH MAIN
TOOELE, UTAH 84074
(435) 843-2130

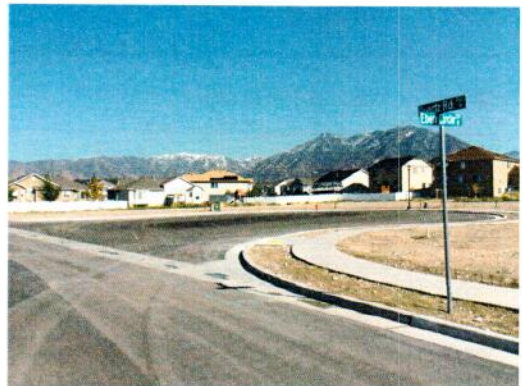


Certificate of Completion of Public Works
(Start of One-Year Warranty)

Permit No: 2160196
Page 2 of 2



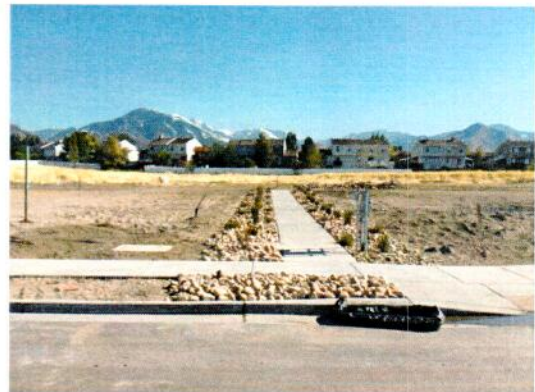
Quartz looking West



Quartz and Eben Circle



Quartz looking West at curve



Walking trail south side



Walking trail north side



Quartz and Yampa

PUBLIC NOTICE

Notice is hereby given that the Tooele City Redevelopment Agency will meet in a Business Meeting on Wednesday, October 18, 2017, at Approximately 7:30 P.M. The meeting will be held in the Tooele City Hall Council Room located at 90 North Main Street, Tooele, Utah.

1. Open RDA Meeting
2. **PUBLIC HEARING** to Consider Adoption of the Community Reinvestment Plan for the 1000 North Retail Community Reinvestment Project Area
Presented by Randy Sant
3. **PUBLIC HEARING** to Consider Adoption of the Community Reinvestment Plan for the 1000 North West Industrial Community Reinvestment Project Area
Presented by Randy Sant
4. **PUBLIC HEARING** to Consider Adoption of the Community Reinvestment Plan for the Tooele Business Park Community Reinvestment Project Area
Presented by Randy Sant
5. RDA Resolution 2017-08 A Resolution of the Redevelopment Agency of Tooele City, Utah ("RDA") Adopting an Official Project Area Plan for 1000 North Retail Community Reinvestment Project Area
Presented by Randy Sant
6. RDA Resolution 2017-09 A Resolution of the Redevelopment Agency of Tooele City, Utah ("RDA") Adopting an Official Project Area Plan for 1000 North West Industrial Community Reinvestment Project Area
Presented by Randy Sant
7. RDA Resolution 2017-10 A Resolution of the Redevelopment Agency of Tooele City, Utah ("RDA") Adopting an Official Project Area Plan for Tooele Business Park Community Reinvestment Project Area
Presented by Randy Sant
8. Adjourn RDA
9. Reconvene City Council

Michelle Y. Pitt
Tooele City Recorder/RDA Secretary

Pursuant to the Americans with Disabilities Act, Individuals Needing Special Accommodations Should Notify Michelle Y. Pitt, Tooele City Recorder, at 843-2110 or michellep@tooelecity.org, Prior to the Meeting.

REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH

RESOLUTION 2017-08

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH (“RDA”) ADOPTING AN OFFICIAL PROJECT AREA PLAN FOR 1000 NORTH RETAIL COMMUNITY REINVESTMENT PROJECT AREA.

WHEREAS, the Redevelopment Agency of Tooele City, Utah (the "Agency") was created to transact the business and exercise the powers provided for in the current Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C of the Utah Code Ann. 1953, as amended (the "Act"); and,

WHEREAS, Tooele City, (the “City”) has a planning commission and has adopted a general plan pursuant to applicable law; and,

WHEREAS, the Agency, by Resolution, has authorized the preparation of a draft project area plan as provided in Section 17C-5-103 of the Act, and the Plan has been prepared as provided in Section 17C-5-105 of the Act; and,

WHEREAS, pursuant to Section 17C-5-104 of the Act, the Agency has (a) prepared a draft 1000 North Retail Community Reinvestment Project Area Plan (the “Project Area Plan” or “Plan”) and (b) made the draft Project Area Plan available to the public at the Agency’s offices during normal business hours for 30 days prior to the date of adoption of the Plan; and,

WHEREAS, the Agency provided notice of the public hearing in compliance with Sections 17C-1-805, 806, 808, and 809; and,

WHEREAS, the Agency has held a public hearing on the draft Project Area Plan and at that Plan hearing (a) allowed public comment on the draft Project Area Plan and whether the draft Project Area Plan should be revised, approved or rejected, and (b) received all written and heard all oral objections to the draft Project Area Plan; and,

WHEREAS, after holding the public hearing, and at the same meeting, the Agency considered the oral and written objections to the draft Project Area Plan, and whether to revise, approve or reject the draft Project Area Plan:

NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH:

Section 1. Adoption of Project Area Plan. It has become necessary and desirable to adopt the draft Project Area Plan as the official Project Area Plan for the Project Area. The draft Project Area Plan, in the form attached hereto as **Exhibit C**, and together with any changes to the draft Project Area Plan as may be indicated in the minutes of this meeting (if any), is hereby designated and adopted as the official Project Area Plan for the Project Area. The Agency shall submit the Project Area Plan, together with a copy of this Resolution, to the Tooele City Council requesting

that the Project Area Plan be adopted by ordinance, by the legislative body of Tooele City in accordance with the provisions of the Act.

Section 2. Legal Description of the Project Area Boundaries. The legal description of the boundaries of the Project Area covered by the Project Area Plan is attached hereto and incorporated herein as **Exhibit A**. A map of the Project Area is attached and incorporated herein as **Exhibit B**.

Section 3. Agency's Purposes and Intent. The Agency's purposes and intent with respect to the Project Area are to accomplish the following:

- A. Provide essential governmental services to the Project Area by providing a mechanism to develop public infrastructure within or to serve the Project Area.
- B. Encourage and accomplish appropriate private development and community development activities within the Project Area.
- C. Provide for the strengthening of the tax base and economic health of the community.

Section 4. Project Area Plan Incorporated by Reference. The Project Area Plan, together with supporting documents, in the form attached as **Exhibit C**, and together with any changes to the draft Project Area Plan as may be indicated in the minutes of this meeting (if any), is hereby incorporated herein by reference, and made a part of this Resolution. Copies of the Project Area Plan shall be filed and maintained in the office of the Agency and the City Recorder for public inspection.

Section 5. Agency Board Findings. The Agency Board hereby determines and finds as follows:

The adoption of the Project Area Plan will:

- A. Satisfy a public purpose by, among other things, encouraging and accomplishing appropriate community development and reinvestment activities within the Project Area;
- B. Provide a public benefit in the form of, among other things, increased development activity within the boundaries of the Agency, including in particular within the Project Area, that is desirable and will enhance the tax base of all taxing entities within the Project Area;
- C. Be economically sound and feasible; in that the revenue needed for the implementation of the Project Area Plan will come from incremental property taxes generated by new private development within the Project Area, all as further shown and supported by the analysis contained in the Project Area Plan;
- D. Conform to the City's general plan in that, among other things, the Project Area Plan provides that all development in the Project Area is to be in accordance with the City's zoning ordinances and requirements, and the development activities contemplated by the Project Area Plan are in harmony with the City's general plan; and,

E. Promote the public peace, health, safety and welfare of the citizens of the City.

Section 6. Financing. Subject to any limitations required by currently existing law (unless a limitation is subsequently eliminated), this Resolution hereby specifically incorporates all of the provisions of the Act that authorize or permit the Agency to receive funding for the Project Area and that authorize the various uses of such funding by the Agency, and to the extent greater (or more beneficial to the Agency) authorization for receipt of funding by the Agency or use thereof by the Agency is provided by any amendment of the Act or by any successor provision, law or act, those are also specifically incorporated herein. It is the intent of this Resolution that the Agency shall have the broadest authorization and permission for receipt of and use of sales tax, tax increment and other funding as is authorized by law, whether by existing or amended provisions of law. This Resolution also incorporates the specific provisions relating to funding of community reinvestment project areas permitted by Chapter 5 of the Act.

Section 8. Effective Date. This Resolution shall take effect immediately upon adoption, and pursuant to the provisions of the Act, the Project Area Plan shall become effective upon adoption by Ordinance of the legislative body of the City.

IN WITNESS WHEREOF, the Governing Board of the Redevelopment Agency of Tooele City, has approved, passed and adopted this Resolution this 18th day of October, 2017.

REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH

(For)

(Against)

ABSTAINING: _____

ATTEST:

Michelle Y. Pitt, RDA Secretary

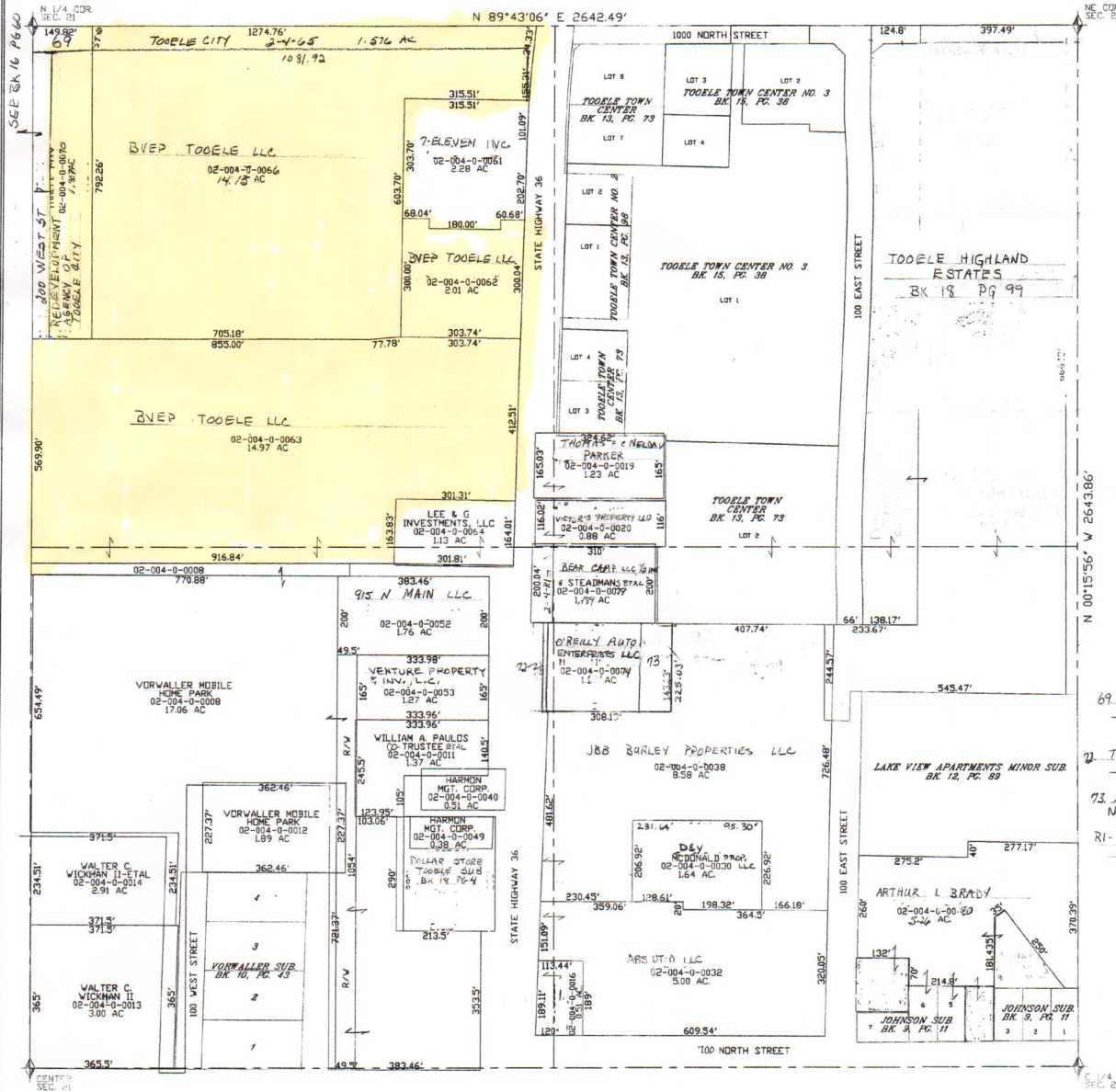
S E A L

Approved as to Form: _____
Roger Evans Baker, RDA Attorney

EXHIBIT A – LEGAL DESCRIPTION OF THE PROJECT AREA

EXHIBIT B – MAP OF THE PROJECT AREA

EXHIBIT C – PROJECT AREA PLAN



SCALE: 1"=200'

This plat was created pursuant to Utah Code annotated 1953, as amended, Section 17-21-21, solely for the purposes set forth therein and is based upon information provided by recorded deeds. Tooele County assumes no liability for errors, omissions, variations, gaps or overlaps which may vary with an actual survey.

- 1. JOAN M DAHL 2-4-16 0.51 AC
- 69. TOOELE CITY CORD 2-4-69 0.213 AC
- 70. TOOELE CITY CORD 2-4-72 0.029
- 73 BRUCE & LYNDIA STEADMAN NOLAN & CHRISTIE STEADMAN 2-4-73 0.41 AC
- R1- UDOT 2-4-81 0.251 AC

ORIGINATED BY: TOOELE COUNTY RECORDER

DATE: 6/16/06

REVISIONS: 80
4/17/61 2-4-80 8/20/15

NE 1/4 SEC. 21 T3S, R4W, SLB&M

SCALE: 1"=200"

1000 NORTH RETAIL COMMUNITY DEVELOPMENT RENVESTMENT DRAFT PROJECT AREA PLAN

Redevelopment Agency of Tooele City

September 2017

TABLE OF CONTENTS

SECTION 1: INTRODUCTION	3
SECTION 2: DEFINITIONS.....	3
SECTION 3: DESCRIPTION OF COMMUNITY REINVESTMENT PROJECT AREA.....	4
SECTION 4: PROJECT AREA CHARACTERISTICS AND HOW THEY WILL BE AFFECTED BY COMMUNITY DEVELOPMENT.....	5
SECTION 5: STANDARDS THAT WILL GUIDE COMMUNITY DEVELOPMENT.....	5
SECTION 6: HOW THE PURPOSES OF THE STATE LAW WOULD BE ATTAINED BY COMMUNITY DEVELOPMENT.....	6
SECTION 7: HOW THE PLAN IS CONSISTENT WITH THE COMMUNITY'S GENERAL PLAN	6
SECTION 8: DESCRIPTION OF THE SPECIFIC PROJECTS THAT ARE THE OBJECT OF THE PROPOSED COMMUNITY DEVELOPMENT	6
SECTION 9: WAYS IN WHICH PRIVATE DEVELOPERS WILL BE SELECTED.....	6
SECTION 10: REASONS FOR THE SELECTION OF THE PROJECT AREA	7
SECTION 11: DESCRIPTIONS OF THE PHYSICAL, SOCIAL AND ECONOMIC CONDITIONS EXISTING IN THE AREA.....	7
SECTION 12: DESCRIPTIONS OF SOME INCENTIVES OFFERED TO PRIVATE ENTITIES FOR FACILITIES LOCATED IN THE PROJECT AREA.....	7
SECTION 13: PLAN RESTRICTIONS.....	8
SECTION 14: TECHNIQUES TO ACHIEVE THE PURPOSES OF THE COMMUNITY DEVELOPMENT AND RENEWAL ACT, AND THIS PLAN.	8
SECTION 15: PROPOSED METHOD OF FINANCING	10
SECTION 16: PROVISIONS FOR AMENDING THE COMMUNITY DEVELOPMENT PLAN	11
SECTION 17: NECESSARY AND APPROPRIATE ANALYSIS.....	11

SECTION 1: INTRODUCTION

The Redevelopment Agency of Tooele City (the "Agency"), following consideration of the needs and desires of Tooele City (the "City") and its residents, as well as the City's capacity for new development, has prepared this Project Area Plan (the "Plan") for the 1000 North Retail Community Development Reinvestment Project Area (the "Project Area"). This Plan is the result of an evaluation of the type of development that would provide significant economic development return for the City and adequate return on the investment to the City and the developer. The Plan is envisioned to define the methods and means of development for the Project Area from its current state, to a higher and better use. The City has determined that it is in the best interest of its residents to assist in the development of the Project Area. It is the purpose of this Plan to set forth the objectives of this development, its scope, its mechanism, and its value to the residents of the City and other taxing districts.

The Project is being undertaken as a community reinvestment project pursuant to certain provisions of Chapters 1 and 5 of the Utah Limited Purpose Local Government Entities - Community Reinvestment Agency Act (the "Act", Utah Code Annotated ("UCA") Title 17C). The requirements of the Act, including notice and hearing obligations, have been undertaken as part of the establishment of the Project Area.

SECTION 2: DEFINITIONS

As used in this plan

- 2.1 "Act" means Title 17C of the Utah Code Annotated ("UCA") 1953, as amended: the Utah Limited Purpose Local Government Entities - Community Reinvestment Agency Act, as amended, or such successor law or act as may from time to time be enacted.
- 2.2 "Agency" means the Redevelopment Agency of Tooele City, created and operating pursuant to UCA 17C-1-101 and its predecessor or successor statutes, as designated by Tooele City to act as the redevelopment agency.
- 2.3 "Agencies Board" means the governing body of Tooele City
- 2.4 "Base Taxable Value" has the same meaning that it bears in the Act (UCA 17C-1-102(8)). "Base Taxable Value" is synonymous with "Base Year Taxable Value", "Base Year Value", and "Base Value".
- 2.5 "Base Tax Amount" means a sum equal to the tax revenue arising from the Project Area during the Base Year, which is calculated as the product of the Base Taxable Value and the certified tax rate in effect during the Base Year.

- 2.6 "Base Year" means the Tax Year during which the Project Area Budget is approved pursuant to UCA 17C-1-102 (9) (a).
- 2.7 "Bond" means any bonds, notes, interim certificates, or other obligations issued by an agency.
- 2.8 "City" means Tooele City, a political subdivision of the State of Utah.
- 2.9 "County" means Tooele County, a political subdivision of the State of Utah.
- 2.10 "Comprehensive General Plan" or "General Plan" means the general plan adopted by the City under the provisions of UCA 10-9a-401
- 2.11 "Community Development" means development activities within a community, including the encouragement, promotion, or provision of development.
- 2.12 "Community Reinvestment Project Area Plan" means a project area plan, as defined by UCA 17C-1-102(21) of the Act, designed to foster project area development, as defined in UCA 17C-1-102 (47) of the Act, developed by the Agency and adopted by ordinance of the governing body of the City, to guide and control community development undertakings in a specific project area.
- 2.13 "Governing Body" means (a) in reference to the Redevelopment Agency of Tooele City; the Board of the Agency, or (b) if used in reference to Tooele City, the City Council of Tooele City.
- 2.14 "Project Area" means the 1000 North Retail Community Reinvestment Project Area, as selected by resolution of the Agency.
- 2.15 "Property Taxes" includes all levies on an ad valorem basis upon land, real property, personal property, or any other property, tangible or intangible.
- 2.16 "Taxing Entities" means the public entities, including the state, county, city, school district, special district, or other public body, which levy property taxes on any parcel or parcels of property located within the Joint Project Area.
- 2.17 "Tax Increment" means that portion of the levied taxes each year in excess of the base tax amount, which excess amount is paid into a special fund of the Agency, pursuant to UCA 17C-1-102(60)(a) and Part 5 of UCA Chapter 17C-1, as amended.
- 2.18 "Tax Year" means the 12 month period between sequential tax role equalizations (November 1st through October 31st) of the following year, e.g., the Nov. 1, 2016- Oct. 31, 2017 tax year).

SECTION 3: DESCRIPTION OF COMMUNITY REINVESTMENT PROJECT AREA

The Project Area lies entirely within the boundaries of the City and is located along SR 36 and 1000 North. The property encompasses approximately 57 acres of land, as delineated in the office of the Utah County Recorder.

The Project Area encompasses all of the parcels outlined and attached hereto in APPENDIX A.

A map of the Project Area is attached hereto in APPENDIX B.

SECTION 4: PROJECT AREA CHARACTERISTICS AND HOW THEY WILL BE AFFECTED BY COMMUNITY DEVELOPMENT

LAND USES IN THE PROJECT AREA

The Project Area currently consists primarily of vacant underutilized land. The Project Area is designated for commercial, office and residential use. This Plan is consistent with the General Plan of the City and promotes economic activity by virtue of the land uses contemplated.

Any zoning change, amendment or conditional use permit necessary to the successful development contemplated by this Plan shall be undertaken in accordance with the requirements of the revised Ordinances of the City, and all other applicable laws including all goals and objectives in the City General Plan.

LAYOUT OF PRINCIPAL STREETS IN THE PROJECT AREA

The layout of principle streets within the Project Area are outlined in APPENDIX B.

POPULATION IN THE PROJECT AREA

The Project Area was laid out in order to create the least amount of disruption to existing residential structures. Currently there is no housing or population existing within the Project Area.

BUILDING INTENSITIES IN THE PROJECT AREA

Any new development within the Project Area will be required to meet all current or amended zoning requirements and design or development standards. The proposed development could include approximately 150,000 square feet of commercial space, and up to 312 residential units. There could be additional commercial or residential development constructed in the project area. .

SECTION 5: STANDARDS THAT WILL GUIDE COMMUNITY DEVELOPMENT

DEVELOPMENT OBJECTIVES

The Agency and City desire to maintain a high-quality mixed use development as a focal point to the City. The Agency and City want to guide development in order to ensure development standards blend harmoniously with the character of the City.

DESIGN OBJECTIVES

Development within the Project Area will be held to the highest quality design and construction standards, subject to (1) appropriate elements of the City General Plan; (2) the planning and zoning ordinances of the City; (3) other applicable building codes and ordinances of the City; (4) and Agency review to ensure consistency with this Plan.

All development will be accompanied by site plans, development data, and other appropriate material clearly describing the development, including land coverage, setbacks, heights, off-street parking to be provided, and any other data determined to be necessary, or requested by, the City or the Agency.

All development shall provide an attractive environment, blend harmoniously with the adjoining areas, and provide for the optimum amount of open space and well-landscaped area in relation to the new buildings. In addition, it shall maintain maximum availability of off-street parking, and comply with the provisions of this Plan.

APPROVALS

The Agency may have the right to approve the design and construction documents of any development within the Project Area to ensure that any development within the Project Area is consistent with this Project Area Plan.

SECTION 6: HOW THE PURPOSES OF THE STATE LAW WOULD BE ATTAINED BY COMMUNITY DEVELOPMENT

It is the intent of the Agency, with possible assistance from the City and in participation with potential developers and property owners, to accomplish the goals and objectives of this Project Area Plan, which will include the development contemplated within this Plan. This development will include the construction of public infrastructure, and the appropriate use of incentives permitted under the Act, to maximize the development within the Project Area which will be beneficial to the citizens of the City. This development will strengthen the community tax base and increase employment opportunities, which are objectives of the Community Reinvestment Act, and the State of Utah.

SECTION 7: HOW THE PLAN IS CONSISTENT WITH THE COMMUNITY'S GENERAL PLAN

This Plan and the development contemplated within the Project Area shall conform to the City General Plan and land use regulations.

SECTION 8: DESCRIPTION OF THE SPECIFIC PROJECTS THAT ARE THE OBJECT OF THE PROPOSED COMMUNITY DEVELOPMENT

The City has received a proposal for the development of the property within the Project Area. The proposed development will include commercial and multi storey residential, which will meet the objectives of the Agency for development and financial participation .These objectives include pursuing development of vacant parcels of property within the Project Area, land assemblage and installation and upgrade of public utilities in the Project Area, which will result in an economic increase to the Agency and City.

SECTION 9:WAYS IN WHICH PRIVATE DEVELOPERS WILL BE SELECTED TO UNDERTAKE THE COMMUNITY DEVELOPMENT

The City and Agency will select or approve such development, as solicited or presented to the Agency and City, that meets the development objectives set forth in this Plan. The City and Agency retain the right to approve or reject any such development plan(s) that, in their judgment, do not meet the development intent

for the Project Area. The City and Agency may choose to solicit development through an RFP or RFQ process, through targeted solicitation to specific industries, from inquiries to the City, and/or from other such references and referrals.

The City and Agency will ensure that all development conforms to this plan and is approved by the City. All potential developers will need to provide a thorough development plan including sufficient financial information to provide the City and Agency with confidence in the sustainability of the development and the developer. Such a review may include a series of studies and reviews including reviews of the Developers financial statements, third-party verification of benefit of the development to the City, appraisal reports, etc.

Any participation between the Agency and developers and property owners shall be by an approved agreement.

SECTION 10: REASONS FOR THE SELECTION OF THE PROJECT AREA

This community reinvestment project area was selected by the Agency as an area within the City that presents an opportunity to strengthen the economic base of the City, and fulfill a public need through the investment of private capital. Boundaries of the Project Area were determined by the Agency after a review of a study area by members of the City staff, and consultant.

SECTION 11: DESCRIPTIONS OF THE PHYSICAL, SOCIAL AND ECONOMIC CONDITIONS EXISTING IN THE AREA

The Project Area consists of approximately 57 acres of property as shown in the Project Area Map. The Agency wants to encourage development and improvements as applicable, to increase the economic conditions within the Project Area that will provide a revenue source to assist the City in meeting its budget goal and requirements of providing necessary services to its citizens. Currently the property is vacant within the Project Area, and there are no significant physical or social conditions that need to be addressed.

SECTION 12: DESCRIPTIONS OF SOME INCENTIVES OFFERED TO PRIVATE ENTITIES FOR FACILITIES LOCATED IN THE PROJECT AREA

The following describes incentives which the Agency intends to offer within the Project Area to developers, participants, and property owners as incentives to improve and develop property within the Project Area:

1. The Agency intends to use the tax increment approved by agreement with the Taxing Entities for public infrastructure improvements, construction of certain offsite improvements, removal of any impediments that would hinder the development required by this Plan, costs associated with permitting and entitling the property and other improvements as approved by the Agency.
2. Payments will be made to the developers as contemplated for improvements and developments as outlined and approved in the required development/participation agreement.
3. Expenditures approved and outlined in the adopted Project Area Budget

Except where the Agency issue Bonds or otherwise borrows or receives funds, the Agency expect to pay the City, developers, or participants for the agreed amounts, in the agreed upon time frame to the extent the tax increment funds are received and available.

SECTION 13: PLAN RESTRICTIONS

13.1 Eminent Domain

This Community Reinvestment Project Area Plan does not allow the Agency to acquire real property through the use of eminent domain.

13.2 Tax Increment

Use of tax increment is subject to approval of the Agency Project Area Budget through an interlocal agreement with any Taxing Entity that levies a certified tax rate within the Project Area. The use of tax increment is essential in meeting the objectives of this Plan.

SECTION 14: TECHNIQUES TO ACHIEVE THE PURPOSES OF THE COMMUNITY REINVESTMENT AGENCY ACT, AND THIS PLAN.

The Agencies will meet the purpose of the Community Reinvestment Agency Act, and this plan by implementing the following objectives:

14.1 Acquisition of Real Property

The Agency may acquire, but is not required to acquire, real property located in the Project Area, by gift, devise, exchange, purchase, or any other lawful method. The Agency is authorized to acquire any other interest in real property less than fee title such as leasehold interests, easements, and rights of way. The Agency shall not acquire real property without the consent of the owner.

14.2 Acquisition of Personal Property

Generally personal property shall not be acquired. However, where necessary in the execution of this Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means.

14.3 Cooperation with the Community and Public Bodies

The community and certain public bodies are authorized by state law to aid and cooperate, with or without consideration, in the planning, undertaking, construction, operation or implementation of this Project. The Agency shall seek the aid and cooperation of such public bodies in order to accomplish the purposes of Community Development and the highest public good, including approval of the Project Area Budget, and participation in the funding of the Project Area by an interlocal agreement.

14.4 Property Management

During such time that property, if any, in the Project Area is owned by the Agency, such property shall be under the management and control of the Agency. Such property may be rented or leased by the Agency pending its disposition for economic development purposes.

14.5 Property Disposition and Development

The Agency is authorized to demolish and clear buildings, structures, and other improvements from any real property in the Project Area as necessary to carry out the purposes of this Community Reinvestment Plan. The Agency is authorized to install and construct, or to cause to be installed and constructed, public improvements, public facilities, and public utilities, within and without the Project Area, not prohibited by law, which are necessary to carry out this Community Reinvestment Plan; and in accordance with the terms and conditions of any existing agreements with the private developers and the approved Project Area Budget and interlocal agreements. The Agency is authorized to prepare or to cause to be prepared as building sites, any real property in the Project Area. The Agency is also authorized to rehabilitate or to cause to be rehabilitated, any building or structures that may remain in the Project Area.

For the purposes of this Plan, the Agency is authorized to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber by mortgage, deed, trust, or otherwise dispose of any interest in real property. The Agency is authorized to dispose of real property by, leases or sales, by negotiation with or without public bidding. All real property acquired by the Agency in the Project Area shall be sold or leased to public or private persons or entities for development for the uses permitted in the Plan. Real property may be conveyed by the Agency to the City or any other public body without charge. The Agency shall reserve such controls in the disposition and development documents as may be necessary to prevent transfer, retention or use of property for speculative purposes and to ensure that the development is carried out pursuant to this Community Reinvestment Plan. All purchasers or lessees of property shall be made obligated to use the property for the purposes designated in this Community Reinvestment Plan, to begin and complete development of property within a period of time, which the Agency fix as reasonable, and to comply with other conditions which the Agency deem necessary to carry out the purposes of this Plan.

14.6 Development

The objectives of the Plan are to be accomplished through the Agency encouragement of, and assistance to, private enterprise in carrying out project development activities. To provide adequate safeguards to ensure that the provisions of this Plan will be carried out, any real property sold, leased or conveyed by the Agency, as well as any property subject to participation agreements, shall be made subject to the provisions of this Plan by leases, deeds, contracts, agreements, declarations of restrictions, provisions of the City ordinances, conditional use permits, or other means. Where appropriate, as determined by the Agency, such documents or portions thereof shall be recorded in the Office of the County Recorder. The leases, deeds, contracts, agreements, and declarations of restrictions may contain restrictions, covenants, covenants running with land, rights of reverter, conditions subsequent, equitable servitudes, or any other provisions necessary to carry out this Plan.

To the extent now or hereafter permitted by law, the Agency is authorized to pay for, develop, or construct any building, facility, structure, or other improvement either within or without the Project Area for

themselves or any public body or public entity to the extent that such improvement would be a benefit to the Project Area. During the period of development in the Project Area, the Agency shall ensure that the provisions of this Plan, and of other documents formulated by the Agency pursuant to this Plan, are being observed, and that development in the Project Area is proceeding in accordance with development documents and time schedules. Plans for development by owners or developers, both public and private, may be submitted to the City for approval and architectural review. All Project Area development, requiring financial participation by the Agency, must conform to this Plan and all applicable federal, state, and local laws.

SECTION 15: PROPOSED METHOD OF FINANCING

15.1 Authorization

The Agency is authorized to finance this project with financial assistance from the Taxing Entities, City, property tax increments which accrue within the Project Area, interest income, Agency bonds, or any other available source of revenue.

15.2 Tax Increment

Briefly stated, the tax increments that will be available under this Plan are determined in the following manner. After this Plan is adopted, the total taxable value of property within the Project Area is determined using the taxable values shown on the last equalized assessment roll prior to the adoption of the Plan. For purposes of this Plan, the base year value last equalized shall be January 1, 2017. This provides a base figure. To the extent the taxable values of property within the Project Area increase above this base figure, application of prevailing tax rates to the increased property value above the base figure yields "tax increments." These tax increments arise only with respect to property located in the Project Area. Other Taxing Entities continue to be entitled to receive the tax revenue that result from application of prevailing tax rates up to the base figure of taxable property value. In accordance with law, the Agency will prepare a Project Budget outlining the expense and revenue for this Project. Once adopted by the Agency, the Agency will be required to obtain the consent by an interlocal agreement with each Taxing Entity allowing the Agency to take any portion of the available tax increment.

15.3 Collection Period

The applicable length of time, or number of years for which the Agency is to be paid tax increment shall be subject to the approved interlocal agreement.

Pursuant to the Community Reinvestment Agency Act, taxes levied upon taxable property within the Project Area each year by or for the benefit of the State of Utah, and the Taxing Entities after the effective date of the ordinance approving this Plan, shall be paid to the Agency in accordance with the terms and conditions of the approved interlocal agreement.

15.4 Cities Funding or Loans

Operating capital for administration and developer participation in the Project has been, and may be, provided by the City until adequate tax increments or other funds are available, or sufficiently assured to

repay the loans and/or to permit borrowing adequate working capital from sources other than the City. Advances and loans from the City or the Agency may bear a reasonable rate of interest.

SECTION 16: PROVISIONS FOR AMENDING THE COMMUNITY DEVELOPMENT PLAN

This Plan may be amended, or modified, any time by the means of the procedures established in the Act, its successor statutes, or any other procedure established by law.

SECTION 17: NECESSARY AND APPROPRIATE ANALYSIS

Authority to take action or enter into agreements under this Plan shall be vested exclusively in the Agency Governing Board. The Agency Governing Board shall be authorized to delegate this authority pursuant to resolutions approved by the Board. The administration and enforcement of this Plan, and any documents implementing this Plan, shall be performed by the Agency and/or the City.

The provisions of this Plan, or other documents entered into pursuant to this Plan, may also be enforced by litigation by either the Agency or the City. Such remedies may include, but are not limited to, specific performance, damages, re-entry, injunctions, or any other remedies appropriate to the purposes of this Plan. In addition, agreements or any recorded provisions which are expressly for the benefit of owners of property in the project Area may be enforced by such owners.

The particulars of any contemplated development will be set out in a participation agreement between the Agency and the participant requesting assistance.

Before any future development agreement or participation agreement under the Plan may be entered into and/or executed by the Agency, the Agency may hold a public hearing on the proposed agreement. The Agency may prepare, or require the developer/participant to prepare a feasibility analysis, and a necessary and appropriate analysis with respect to all new projects being proposed, and with respect to the ongoing feasibility of the overall Project being implemented pursuant to this Plan. The purpose of this provision is to assure that the feasibility, necessity, appropriateness, the nature, extent of, and need for any public subsidy or other assistance, and the likely public benefit of new projects is reviewed on their own merits and in the context of implementing this Plan as a whole before any particular projects are approved, thereby assuring that substantial and effective measures are being taken, or have been taken, that are reasonably designed to mitigate any harm, damage, or disadvantage as may be suffered as a result of development within the Project Area by owners of property, or tenants within the Project Area.

APPENDIX A: MAP

REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH

RESOLUTION 2017-09

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH (“RDA”) ADOPTING AN OFFICIAL PROJECT AREA PLAN FOR 1000 NORTH WEST INDUSTRIAL COMMUNITY REINVESTMENT PROJECT AREA.

WHEREAS, the Redevelopment Agency of Tooele City, Utah (the "Agency") was created to transact the business and exercise the powers provided for in the current Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C of the Utah Code Ann. 1953, as amended (the "Act"); and,

WHEREAS, Tooele City, (the “City”) has a planning commission and has adopted a general plan pursuant to applicable law; and,

WHEREAS, the Agency, by Resolution, has authorized the preparation of a draft project area plan as provided in Section 17C-5-103 of the Act, and the Plan has been prepared as provided in Section 17C-5-105 of the Act; and,

WHEREAS, pursuant to Section 17C-5-104 of the Act, the Agency has (a) prepared a draft 1000 North West Industrial Community Reinvestment Project Area Plan (the “Project Area Plan” or “Plan”) and (b) made the draft Project Area Plan available to the public at the Agency’s offices during normal business hours for 30 days prior to the date of adoption of the Plan; and,

WHEREAS, the Agency provided notice of the public hearing in compliance with Sections 17C-1-805, 806, 808, and 809; and,

WHEREAS, the Agency has held a public hearing on the draft Project Area Plan and at that Plan hearing (a) allowed public comment on the draft Project Area Plan and whether the draft Project Area Plan should be revised, approved or rejected, and (b) received all written and heard all oral objections to the draft Project Area Plan; and,

WHEREAS, after holding the public hearing, and at the same meeting, the Agency considered the oral and written objections to the draft Project Area Plan, and whether to revise, approve or reject the draft Project Area Plan:

NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH:

Section 1. Adoption of Project Area Plan. It has become necessary and desirable to adopt the draft Project Area Plan as the official Project Area Plan for the Project Area. The draft Project Area Plan, in the form attached hereto as **Exhibit C**, and together with any changes to the draft Project Area Plan as may be indicated in the minutes of this meeting (if any), is hereby designated and adopted as the official Project Area Plan for the Project Area. The Agency shall submit the Project Area Plan, together with a copy of this Resolution, to the Tooele City Council requesting

that the Project Area Plan be adopted by ordinance, by the legislative body of Tooele City in accordance with the provisions of the Act.

Section 2. Legal Description of the Project Area Boundaries. The legal description of the boundaries of the Project Area covered by the Project Area Plan is attached hereto and incorporated herein as **Exhibit A**. A map of the Project Area is attached and incorporated herein as **Exhibit B**.

Section 3. Agency's Purposes and Intent. The Agency's purposes and intent with respect to the Project Area are to accomplish the following:

- A. Provide essential governmental services to the Project Area by providing a mechanism to develop public infrastructure within or to serve the Project Area.
- B. Encourage and accomplish appropriate private development and community development activities within the Project Area.
- C. Provide for the strengthening of the tax base and economic health of the community.

Section 4. Project Area Plan Incorporated by Reference. The Project Area Plan, together with supporting documents, in the form attached as **Exhibit C**, and together with any changes to the draft Project Area Plan as may be indicated in the minutes of this meeting (if any), is hereby incorporated herein by reference, and made a part of this Resolution. Copies of the Project Area Plan shall be filed and maintained in the office of the Agency and the City Recorder for public inspection.

Section 5. Agency Board Findings. The Agency Board hereby determines and finds as follows:

The adoption of the Project Area Plan will:

- A. Satisfy a public purpose by, among other things, encouraging and accomplishing appropriate community development and reinvestment activities within the Project Area;
- B. Provide a public benefit in the form of, among other things, increased development activity within the boundaries of the Agency, including in particular within the Project Area, that is desirable and will enhance the tax base of all taxing entities within the Project Area;
- C. Be economically sound and feasible; in that the revenue needed for the implementation of the Project Area Plan will come from incremental property taxes generated by new private development within the Project Area, all as further shown and supported by the analysis contained in the Project Area Plan;
- D. Conform to the City's general plan in that, among other things, the Project Area Plan provides that all development in the Project Area is to be in accordance with the City's zoning ordinances and requirements, and the development activities contemplated by the Project Area Plan are in harmony with the City's general plan; and,

E. Promote the public peace, health, safety and welfare of the citizens of the City.

Section 6. Financing. Subject to any limitations required by currently existing law (unless a limitation is subsequently eliminated), this Resolution hereby specifically incorporates all of the provisions of the Act that authorize or permit the Agency to receive funding for the Project Area and that authorize the various uses of such funding by the Agency, and to the extent greater (or more beneficial to the Agency) authorization for receipt of funding by the Agency or use thereof by the Agency is provided by any amendment of the Act or by any successor provision, law or act, those are also specifically incorporated herein. It is the intent of this Resolution that the Agency shall have the broadest authorization and permission for receipt of and use of sales tax, tax increment and other funding as is authorized by law, whether by existing or amended provisions of law. This Resolution also incorporates the specific provisions relating to funding of community reinvestment project areas permitted by Chapter 5 of the Act.

Section 8. Effective Date. This Resolution shall take effect immediately upon adoption, and pursuant to the provisions of the Act, the Project Area Plan shall become effective upon adoption by Ordinance of the legislative body of the City.

IN WITNESS WHEREOF, the Governing Board of the Redevelopment Agency of Tooele City, has approved, passed and adopted this Resolution this 18th day of October, 2017.

REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH

(For)

(Against)

ABSTAINING: _____

ATTEST:

Michelle Y. Pitt, RDA Secretary

S E A L

Approved as to Form: _____
Roger Evans Baker, RDA Attorney

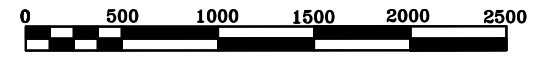
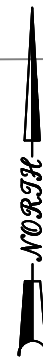
EXHIBIT A – LEGAL DESCRIPTION OF THE PROJECT AREA

EXHIBIT B – MAP OF THE PROJECT AREA

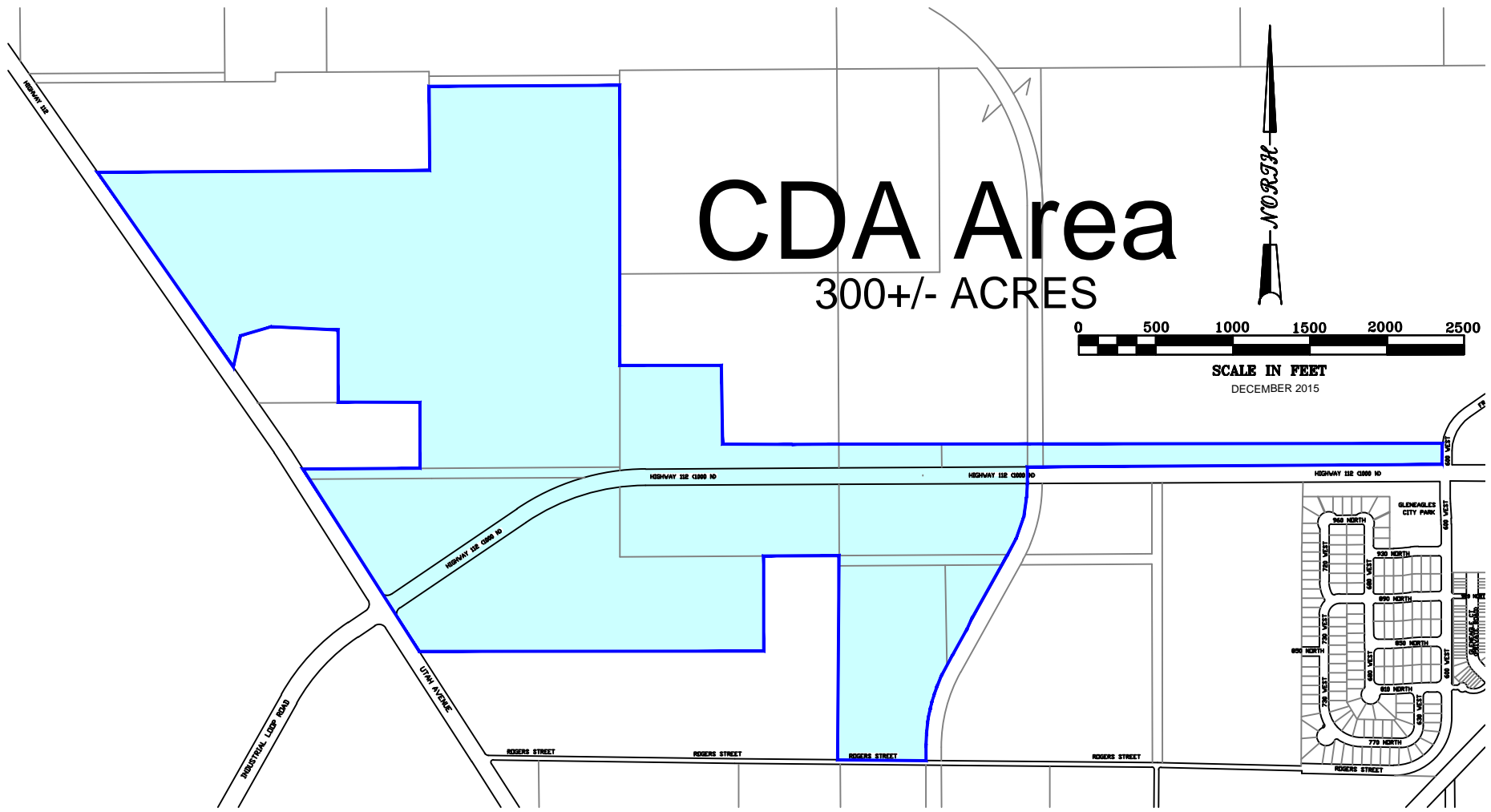
EXHIBIT C – PROJECT AREA PLAN

CDA Area

300+/- ACRES



SCALE IN FEET
DECEMBER 2015



1000 NORTH WEST INDUSTRIAL COMMUNITY DEVELOPMENT REINVESTMENT DRAFT PROJECT AREA PLAN

Redevelopment Agency of Tooele City

September 2017

TABLE OF CONTENTS

SECTION 1: INTRODUCTION	3
SECTION 2: DEFINITIONS.....	3
SECTION 3: DESCRIPTION OF COMMUNITY REINVESTMENT PROJECT AREA.....	4
SECTION 4: PROJECT AREA CHARACTERISTICS AND HOW THEY WILL BE AFFECTED BY COMMUNITY DEVELOPMENT.....	5
SECTION 5: STANDARDS THAT WILL GUIDE COMMUNITY DEVELOPMENT.....	5
SECTION 6: HOW THE PURPOSES OF THE STATE LAW WOULD BE ATTAINED BY COMMUNITY DEVELOPMENT.....	6
SECTION 7: HOW THE PLAN IS CONSISTENT WITH THE COMMUNITY'S GENERAL PLAN	6
SECTION 8: DESCRIPTION OF THE SPECIFIC PROJECTS THAT ARE THE OBJECT OF THE PROPOSED COMMUNITY DEVELOPMENT	6
SECTION 9: WAYS IN WHICH PRIVATE DEVELOPERS WILL BE SELECTED.....	6
SECTION 10: REASONS FOR THE SELECTION OF THE PROJECT AREA	7
SECTION 11: DESCRIPTIONS OF THE PHYSICAL, SOCIAL AND ECONOMIC CONDITIONS EXISTING IN THE AREA.....	7
SECTION 12: DESCRIPTIONS OF SOME INCENTIVES OFFERED TO PRIVATE ENTITIES FOR FACILITIES LOCATED IN THE PROJECT AREA.....	7
SECTION 13: PLAN RESTRICTIONS.....	8
SECTION 14: TECHNIQUES TO ACHIEVE THE PURPOSES OF THE COMMUNITY DEVELOPMENT AND RENEWAL ACT, AND THIS PLAN.	8
SECTION 15: PROPOSED METHOD OF FINANCING	10
SECTION 16: PROVISIONS FOR AMENDING THE COMMUNITY DEVELOPMENT PLAN	11
SECTION 17: NECESSARY AND APPROPRIATE ANALYSIS.....	11

SECTION 1: INTRODUCTION

The Redevelopment Agency of Tooele City (the "Agency"), following consideration of the needs and desires of Tooele City (the "City") and its residents, as well as the City's capacity for new development, has prepared this Project Area Plan (the "Plan") for the 1000 North West Industrial Community Development Reinvestment Project Area (the "Project Area"). This Plan is the result of an evaluation of the type of development that would provide significant economic development return for the City and adequate return on the investment to the City and the developer. The Plan is envisioned to define the methods and means of development for the Project Area from its current state, to a higher and better use. The City has determined that it is in the best interest of its residents to assist in the development of the Project Area. It is the purpose of this Plan to set forth the objectives of this development, its scope, its mechanism, and its value to the residents of the City and other taxing districts.

The Project is being undertaken as a community reinvestment project pursuant to certain provisions of Chapters 1 and 5 of the Utah Limited Purpose Local Government Entities - Community Reinvestment Agency Act (the "Act", Utah Code Annotated ("UCA") Title 17C). The requirements of the Act, including notice and hearing obligations, have been undertaken as part of the establishment of the Project Area.

SECTION 2: DEFINITIONS

As used in this plan

- 2.1 "Act" means Title 17C of the Utah Code Annotated ("UCA") 1953, as amended: the Utah Limited Purpose Local Government Entities - Community Reinvestment Agency Act, as amended, or such successor law or act as may from time to time be enacted.
- 2.2 "Agency" means the Redevelopment Agency of Tooele City, created and operating pursuant to UCA 17C-1-101 and its predecessor or successor statutes, as designated by Tooele City to act as the redevelopment agency.
- 2.3 "Agencies Board" means the governing body of Tooele City
- 2.4 "Base Taxable Value" has the same meaning that it bears in the Act (UCA 17C-1-102(8)). "Base Taxable Value" is synonymous with "Base Year Taxable Value", "Base Year Value", and "Base Value".
- 2.5 "Base Tax Amount" means a sum equal to the tax revenue arising from the Project Area during the Base Year, which is calculated as the product of the Base Taxable Value and the certified tax rate in effect during the Base Year.

- 2.6 "Base Year" means the Tax Year during which the Project Area Budget is approved pursuant to UCA 17C-1-102 (9) (a).
- 2.7 "Bond" means any bonds, notes, interim certificates, or other obligations issued by an agency.
- 2.8 "City" means Tooele City, a political subdivision of the State of Utah.
- 2.9 "County" means Tooele County, a political subdivision of the State of Utah.
- 2.10 "Comprehensive General Plan" or "General Plan" means the general plan adopted by the City under the provisions of UCA 10-9a-401
- 2.11 "Community Development" means development activities within a community, including the encouragement, promotion, or provision of development.
- 2.12 "Community Reinvestment Project Area Plan" means a project area plan, as defined by UCA 17C-1-102(21) of the Act, designed to foster project area development, as defined in UCA 17C-1-102 (47) of the Act, developed by the Agency and adopted by ordinance of the governing body of the City, to guide and control community development undertakings in a specific project area.
- 2.13 "Governing Body" means (a) in reference to the Redevelopment Agency of Tooele City; the Board of the Agency, or (b) if used in reference to Tooele City, the City Council of Tooele City.
- 2.14 "Project Area" means the 1000 North West Industrial Community Reinvestment Project Area, as selected by resolution of the Agency.
- 2.15 "Property Taxes" includes all levies on an ad valorem basis upon land, real property, personal property, or any other property, tangible or intangible.
- 2.16 "Taxing Entities" means the public entities, including the state, county, city, school district, special district, or other public body, which levy property taxes on any parcel or parcels of property located within the Joint Project Area.
- 2.17 "Tax Increment" means that portion of the levied taxes each year in excess of the base tax amount, which excess amount is paid into a special fund of the Agency, pursuant to UCA 17C-1-102(60)(a) and Part 5 of UCA Chapter 17C-1, as amended.
- 2.18 "Tax Year" means the 12 month period between sequential tax role equalizations (November 1st through October 31st) of the following year, e.g., the Nov. 1, 2016- Oct. 31, 2017 tax year).

SECTION 3: DESCRIPTION OF COMMUNITY REINVESTMENT PROJECT AREA

The Project Area lies entirely within the boundaries of the City and is located along the western end of 1000 north. The property encompasses approximately 275 acres of land, as delineated in the office of the Tooele County Recorder.

The Project Area encompasses all of the parcels outlined and attached hereto in APPENDIX A.

A map of the Project Area is attached hereto in APPENDIX B.

SECTION 4: PROJECT AREA CHARACTERISTICS AND HOW THEY WILL BE AFFECTED BY COMMUNITY DEVELOPMENT

LAND USES IN THE PROJECT AREA

The Project Area currently consists primarily of vacant underutilized land. The Project Area is designated for commercial, office and industrial uses. This Plan is consistent with the General Plan of the City and promotes economic activity by virtue of the land uses contemplated.

Any zoning change, amendment or conditional use permit necessary to the successful development contemplated by this Plan shall be undertaken in accordance with the requirements of the revised Ordinances of the City, and all other applicable laws including all goals and objectives in the City General Plan.

LAYOUT OF PRINCIPAL STREETS IN THE PROJECT AREA

The layout of principle streets within the Project Area are outlined in APPENDIX B.

POPULATION IN THE PROJECT AREA

The Project Area was laid out in order to create the least amount of disruption to existing residential structures. Currently there is no housing or population existing within the Project Area.

BUILDING INTENSITIES IN THE PROJECT AREA

Any new development within the Project Area will be required to meet all current or amended zoning requirements and design or development standards. The proposed development within the project area would include light industrial, research and technology commercial or office development. The total amount of square footage that could be developed within the project area cannot be determined at this time. The building density will be based on current or amended land use requirements or other ordinances that may be in place regarding building intensities. All buildings are required to be constructed to current and applicable building codes.

SECTION 5: STANDARDS THAT WILL GUIDE COMMUNITY DEVELOPMENT

DEVELOPMENT OBJECTIVES

The Agency and City desire to maintain a high-quality development as a focal point to the City. The Agency and City want to guide development in order to ensure development standards blend harmoniously with the character of the City, and will work with developers, site consultants and property owners to meet these objectives.

DESIGN OBJECTIVES

Development within the Project Area will be held to the highest quality design and construction standards, subject to (1) appropriate elements of the City General Plan; (2) the planning and zoning ordinances of the City;

(3) other applicable building codes and ordinances of the City; (4) and Agency review to ensure consistency with this Plan.

All development will be accompanied by site plans, development data, and other appropriate material clearly describing the development, including land coverage, setbacks, heights, off-street parking to be provided, and any other data determined to be necessary, or requested by, the City or the Agency.

All development shall provide an attractive environment, blend harmoniously with the adjoining areas, and provide for the optimum amount of open space and well-landscaped area in relation to the new buildings. In addition, comply with the provisions of this Plan.

APPROVALS

The Agency may have the right to approve the design and construction documents of any development within the Project Area to ensure that any development within the Project Area is consistent with this Project Area Plan.

SECTION 6: HOW THE PURPOSES OF THE STATE LAW WOULD BE ATTAINED BY COMMUNITY DEVELOPMENT

It is the intent of the Agency, with possible assistance from the City and in participation with potential developers and property owners, to accomplish the goals and objectives of this Project Area Plan, which will include the development contemplated within this Plan. This development will include the construction of public infrastructure, and the appropriate use of incentives permitted under the Act, to maximize the development within the Project Area which will be beneficial to the citizens of the City. This development will strengthen the community tax base and increase employment opportunities, which are objectives of the Community Reinvestment Act, and the State of Utah.

SECTION 7: HOW THE PLAN IS CONSISTENT WITH THE COMMUNITY'S GENERAL PLAN

This Plan and the development contemplated within the Project Area shall conform to the City General Plan and land use regulations. If the City General Plan is amended, those amendments shall also apply to this Plan, including any design standards that might be developed for the Project Area.

SECTION 8: DESCRIPTION OF THE SPECIFIC PROJECTS THAT ARE THE OBJECT OF THE PROPOSED COMMUNITY DEVELOPMENT

The City has not received any proposal for the development of the property within the Project Area, at the time this Plan was prepared and adopted by the Agency. The Agency will ensure that any future plans for development within the Project Area, will meet the objectives of the Agency for development and financial participation. These objectives include pursuing development of vacant parcels of property within the Project Area, land assemblage and installation and upgrade of public utilities in the Project Area, complying with all applicable ordinances and codes, and meeting all required objectives of this Plan.

SECTION 9:WAYS IN WHICH PRIVATE DEVELOPERS WILL BE SELECTED TO UNDERTAKE THE COMMUNITY DEVELOPMENT

The City and Agency will select or approve such development, as solicited or presented to the Agency and City, that meets the development objectives set forth in this Plan. The City and Agency retain the right to approve or reject any such development plan(s) that, in their judgment, do not meet the development intent for the Project Area. The City and Agency may choose to solicit development through an RFP or RFQ process, through targeted solicitation to specific industries, from inquiries to the City, and/or from other such references and referrals.

The City and Agency will ensure that all development conforms to this plan and is approved by the City. All potential developers will need to provide a thorough development plan including sufficient financial information to provide the City and Agency with confidence in the sustainability of the development and the developer. Such a review may include a series of studies and reviews including reviews of the Developers financial statements, third-party verification of benefit of the development to the City, appraisal reports, etc.

Any participation between the Agency and developers and property owners shall be by an approved agreement.

SECTION 10: REASONS FOR THE SELECTION OF THE PROJECT AREA

This community reinvestment project area was selected by the Agency as an area within the City that presents an opportunity to strengthen the economic base of the City, and fulfill a public need through the investment of private capital. Boundaries of the Project Area were determined by the Agency after a review of a study area by members of the City staff, and consultant.

SECTION 11: DESCRIPTIONS OF THE PHYSICAL, SOCIAL AND ECONOMIC CONDITIONS EXISTING IN THE AREA

The Project Area consists of approximately 275 acres of property as shown in the Project Area Map. The Agency wants to encourage development and improvements as applicable, to increase the economic conditions within the Project Area that will provide a revenue source to assist the City in meeting its budget goal and requirements of providing necessary services to its citizens. Currently the property is vacant within the Project Area, and there are no significant physical or social conditions that need to be addressed.

SECTION 12: DESCRIPTIONS OF SOME INCENTIVES OFFERED TO PRIVATE ENTITIES FOR FACILITIES LOCATED IN THE PROJECT AREA

The following describes incentives which the Agency intends to offer within the Project Area to developers, participants, and property owners as incentives to improve and develop property within the Project Area:

1. The Agency intends to use the tax increment approved by agreement with the Taxing Entities for public infrastructure improvements, construction of certain offsite improvements, removal of any

impediments that would hinder the development required by this Plan, costs associated with permitting and entitling the property and other improvements as approved by the Agency.

2. Payments will be made to the developers, as contemplated for improvements and developments as outlined and approved in the required development/participation agreement.
3. The expenditures approved and outlined in the adopted Project Area Budget, except where the Agency issue Bonds or otherwise borrows or receives funds, are expected to be paid by the Agency to the City, developers, or participants for the agreed amounts, in the agreed upon time frame ,to the extent the tax increment funds are received and available.

SECTION 13: PLAN RESTRICTIONS

13.1 Eminent Domain

This Community Reinvestment Project Area Plan does not allow the Agency to acquire real property through the use of eminent domain.

13.2 Tax Increment

Use of tax increment is subject to approval of the Agency Project Area Budget through an interlocal agreement with any Taxing Entity that levies a certified tax rate within the Project Area. The use of tax increment is essential in meeting the objectives of this Plan.

SECTION 14: TECHNIQUES TO ACHIEVE THE PURPOSES OF THE COMMUNITY REINVESTMENT AGENCY ACT, AND THIS PLAN.

The Agencies will meet the purpose of the Community Reinvestment Agency Act, and this plan by implementing the following objectives:

14.1 Acquisition of Real Property

The Agency may acquire, but is not required to acquire, real property located in the Project Area, by gift, devise, exchange, purchase, or any other lawful method. The Agency is authorized to acquire any other interest in real property less than fee title such as leasehold interests, easements, and rights of way. The Agency shall not acquire real property without the consent of the owner.

14.2 Acquisition of Personal Property

Generally personal property shall not be acquired. However, where necessary in the execution of this Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means.

14.3 Cooperation with the Community and Public Bodies

The community and certain public bodies are authorized by state law to aid and cooperate, with or without consideration, in the planning, undertaking, construction, operation or implementation of this Project. The Agency shall seek the aid and cooperation of such public bodies in order to accomplish the purposes of Community Reinvestment and the highest public good, including approval of the Project Area Budget, and participation in the funding of the Project Area by an interlocal agreement.

14.4 Property Management

During such time that property, if any, in the Project Area is owned by the Agency, such property shall be under the management and control of the Agency. Such property may be rented or leased by the Agency pending its disposition for economic development purposes.

14.5 Property Disposition and Development

The Agency is authorized to demolish and clear buildings, structures, and other improvements from any real property in the Project Area as necessary to carry out the purposes of this Community Reinvestment Plan. The Agency is authorized to install and construct, or to cause to be installed and constructed, public improvements, public facilities, and public utilities, within and without the Project Area, not prohibited by law, which are necessary to carry out this Community Reinvestment Plan; and in accordance with the terms and conditions of any existing agreements with the private developers and the approved Project Area Budget and interlocal agreements. The Agency is authorized to prepare or to cause to be prepared as building sites, any real property in the Project Area. The Agency is also authorized to rehabilitate or to cause to be rehabilitated, any building or structures that may remain in the Project Area.

For the purposes of this Plan, the Agency is authorized to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber by mortgage, deed, trust, or otherwise dispose of any interest in real property. The Agency is authorized to dispose of real property by, leases or sales, by negotiation with or without public bidding. All real property acquired by the Agency in the Project Area shall be sold or leased to public or private persons or entities for development for the uses permitted in the Plan. Real property may be conveyed by the Agency to the City or any other public body without charge. The Agency shall reserve such controls in the disposition and development documents as may be necessary to prevent transfer, retention or use of property for speculative purposes and to ensure that the development is carried out pursuant to this Community Reinvestment Plan. All purchasers or lessees of property shall be made obligated to use the property for the purposes designated in this Community Reinvestment Plan, to begin and complete development of property within a period of time, which the Agency fix as reasonable, and to comply with other conditions which the Agency deem necessary to carry out the purposes of this Plan.

14.6 Development

The objectives of the Plan are to be accomplished through the Agency encouragement of, and assistance to, private enterprise in carrying out project development activities. To provide adequate safeguards to ensure that the provisions of this Plan will be carried out, any real property sold, leased or conveyed by the Agency, as

well as any property subject to participation agreements, shall be made subject to the provisions of this Plan by leases, deeds, contracts, agreements, declarations of restrictions, provisions of the City ordinances, conditional use permits, or other means. Where appropriate, as determined by the Agency, such documents or portions thereof shall be recorded in the Office of the County Recorder. The leases, deeds, contracts, agreements, and declarations of restrictions may contain restrictions, covenants, covenants running with land, rights of reverted, conditions subsequent, equitable servitudes, or any other provisions necessary to carry out this Plan.

To the extent now or hereafter permitted by law, the Agency is authorized to pay for, develop, or construct any building, facility, structure, or other improvement either within or without the Project Area for themselves or any public body or public entity to the extent that such improvement would be a benefit to the Project Area. During the period of development in the Project Area, the Agency shall ensure that the provisions of this Plan, and of other documents formulated by the Agency pursuant to this Plan, are being observed, and that development in the Project Area is proceeding in accordance with development documents and time schedules. Plans for development by owners or developers, both public and private, may be submitted to the City for approval and architectural review. All Project Area development, requiring financial participation by the Agency, must conform to this Plan and all applicable federal, state, and local laws.

SECTION 15: PROPOSED METHOD OF FINANCING

15.1 Authorization

The Agency is authorized to finance this project with financial assistance from the Taxing Entities, City, property tax increments which accrue within the Project Area, interest income, Agency bonds, or any other available source of revenue.

15.2 Tax Increment

Briefly stated, the tax increments that will be available under this Plan are determined in the following manner. After this Plan is adopted, the total taxable value of property within the Project Area is determined using the taxable values shown on the last equalized assessment roll prior to the adoption of the Plan. For purposes of this Plan, the base year value last equalized shall be January 1, 2017. This provides a base figure. To the extent the taxable values of property within the Project Area increase above this base figure, application of prevailing tax rates to the increased property value above the base figure yields "tax increments." These tax increments arise only with respect to property located in the Project Area. Other Taxing Entities continue to be entitled to receive the tax revenue that result from application of prevailing tax rates up to the base figure of taxable property value. In accordance with law, the Agency will prepare a Project Budget outlining the expense and revenue for this Project. Once adopted by the Agency, the Agency will be required to obtain the consent by an interlocal agreement with each Taxing Entity allowing the Agency to take any portion of the available tax increment.

15.3 Collection Period

The applicable length of time, or number of years for which the Agency is to be paid tax increment shall be subject to the approved interlocal agreement.

Pursuant to the Community Reinvestment Agency Act, taxes levied upon taxable property within the Project Area each year by or for the benefit of the State of Utah, and the Taxing Entities after the effective date of the

ordinance approving this Plan, shall be paid to the Agency in accordance with the terms and conditions of the approved interlocal agreement.

15.4 Cities Funding or Loans

Operating capital for administration and developer participation in the Project has been, and may be, provided by the City until adequate tax increments or other funds are available, or sufficiently assured to repay the loans and/or to permit borrowing adequate working capital from sources other than the City. Advances and loans from the City or the Agency may bear a reasonable rate of interest.

SECTION 16: PROVISIONS FOR AMENDING THE COMMUNITY DEVELOPMENT PLAN

This Plan may be amended, or modified, any time by the means of the procedures established in the Act, its successor statutes, or any other procedure established by law.

SECTION 17: NECESSARY AND APPROPRIATE ANALYSIS

Authority to take action or enter into agreements under this Plan shall be vested exclusively in the Agency Governing Board. The Agency Governing Board shall be authorized to delegate this authority pursuant to resolutions approved by the Board. The administration and enforcement of this Plan, and any documents implementing this Plan, shall be performed by the Agency and/or the City.

The provisions of this Plan, or other documents entered into pursuant to this Plan, may also be enforced by litigation by either the Agency or the City. Such remedies may include, but are not limited to, specific performance, damages, re-entry, injunctions, or any other remedies appropriate to the purposes of this Plan. In addition, agreements or any recorded provisions which are expressly for the benefit of owners of property in the project Area may be enforced by such owners.

The particulars of any contemplated development will be set out in a participation agreement between the Agency and the participant requesting assistance.

Before any future development agreement or participation agreement under the Plan may be entered into and/or executed by the Agency, the Agency may hold a public hearing on the proposed agreement. The Agency may prepare, or require the developer/participant to prepare a feasibility analysis, and a necessary and appropriate analysis with respect to all new projects being proposed, and with respect to the ongoing feasibility of the overall Project being implemented pursuant to this Plan. The purpose of this provision is to assure that the feasibility, necessity, appropriateness, the nature, extent of, and need for any public subsidy or other assistance, and the likely public benefit of new projects is reviewed on their own merits and in the context of implementing this Plan as a whole before any particular projects are approved, thereby assuring that substantial and effective measures are being taken, or have been taken, that are reasonably designed to mitigate any harm, damage, or disadvantage as may be suffered as a result of development within the Project Area by owners of property, or tenants within the Project Area.

APPENDIX A: MAP

REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH

RESOLUTION 2017-10

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH (“RDA”) ADOPTING AN OFFICIAL PROJECT AREA PLAN FOR TOOELE BUSINESS PARK COMMUNITY REINVESTMENT PROJECT AREA.

WHEREAS, the Redevelopment Agency of Tooele City, Utah (the "Agency") was created to transact the business and exercise the powers provided for in the current Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C of the Utah Code Ann. 1953, as amended (the "Act"); and,

WHEREAS, Tooele City (the “City”) has a planning commission and has adopted a general plan pursuant to applicable law; and,

WHEREAS, the Agency, by Resolution, has authorized the preparation of a draft project area plan as provided in Section 17C-5-103 of the Act, and the Plan has been prepared as provided in Section 17C-5-105 of the Act; and,

WHEREAS, pursuant to Section 17C-5-104 of the Act, the Agency has (a) prepared a draft Tooele Business Park Community Reinvestment Project Area Plan (the “Project Area Plan” or “Plan”) and (b) made the draft Project Area Plan available to the public at the Agency’s offices during normal business hours for 30 days prior to the date of adoption of the Plan; and,

WHEREAS, the Agency provided notice of the public hearing in compliance with Sections 17C-1-805, 806, 808, and 809; and,

WHEREAS, the Agency has held a public hearing on the draft Project Area Plan and at that Plan hearing (a) allowed public comment on the draft Project Area Plan and whether the draft Project Area Plan should be revised, approved, or rejected, and (b) received all written and heard all oral objections to the draft Project Area Plan; and,

WHEREAS, after holding the public hearing, and at the same meeting, the Agency considered the oral and written objections to the draft Project Area Plan, and whether to revise, approve, or reject the draft Project Area Plan:

NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH:

Section 1. Adoption of Project Area Plan. It has become necessary and desirable to adopt the draft Project Area Plan as the official Project Area Plan for the Project Area. The draft Project Area Plan, in the form attached hereto as **Exhibit C**, and together with any changes to the draft Project Area Plan as may be indicated in the minutes of this meeting (if any), is hereby designated and adopted as the official Project Area Plan for the Project Area. The Agency shall submit the Project Area Plan, together with a copy of this Resolution, to the Tooele City Council requesting

that the Project Area Plan be adopted by ordinance, by the legislative body of Tooele City in accordance with the provisions of the Act.

Section 2. Legal Description of the Project Area Boundaries. The legal description of the boundaries of the Project Area covered by the Project Area Plan is attached hereto and incorporated herein as **Exhibit A**. A map of the Project Area is attached and incorporated herein as **Exhibit B**.

Section 3. Agency's Purposes and Intent. The Agency's purposes and intent with respect to the Project Area are to accomplish the following:

- A. Provide essential governmental services to the Project Area by providing a mechanism to develop public infrastructure within or to serve the Project Area.
- B. Encourage and accomplish appropriate private development and community development activities within the Project Area.
- C. Provide for the strengthening of the tax base and economic health of the community.

Section 4. Project Area Plan Incorporated by Reference. The Project Area Plan, together with supporting documents, in the form attached as **Exhibit C**, and together with any changes to the draft Project Area Plan as may be indicated in the minutes of this meeting (if any), is hereby incorporated herein by reference, and made a part of this Resolution. Copies of the Project Area Plan shall be filed and maintained in the office of the Agency and the City Recorder for public inspection.

Section 5. Agency Board Findings. The Agency Board hereby determines and finds as follows:

The adoption of the Project Area Plan will:

- A. Satisfy a public purpose by, among other things, encouraging and accomplishing appropriate community development and reinvestment activities within the Project Area;
- B. Provide a public benefit in the form of, among other things, increased development activity within the boundaries of the Agency, including in particular within the Project Area, that is desirable and will enhance the tax base of all taxing entities within the Project Area;
- C. Be economically sound and feasible; in that the revenue needed for the implementation of the Project Area Plan will come from incremental property taxes generated by new private development within the Project Area, all as further shown and supported by the analysis contained in the Project Area Plan;
- D. Conform to the City's general plan in that, among other things, the Project Area Plan provides that all development in the Project Area is to be in accordance with the City's zoning ordinances and requirements, and the development activities contemplated by the Project Area Plan are in harmony with the City's general plan; and,

E. Promote the public peace, health, safety, and welfare of the citizens of the City.

Section 6. Financing. Subject to any limitations required by currently existing law (unless a limitation is subsequently eliminated), this Resolution hereby specifically incorporates all of the provisions of the Act that authorize or permit the Agency to receive funding for the Project Area and that authorize the various uses of such funding by the Agency, and to the extent greater (or more beneficial to the Agency) authorization for receipt of funding by the Agency or use thereof by the Agency is provided by any amendment of the Act or by any successor provision, law, or act, those are also specifically incorporated herein. It is the intent of this Resolution that the Agency shall have the broadest authorization and permission for receipt of and use of sales tax, tax increment, and other funding as is authorized by law, whether by existing or amended provisions of law. This Resolution also incorporates the specific provisions relating to funding of community reinvestment project areas permitted by Chapter 5 of the Act.

Section 8. Effective Date. This Resolution shall take effect immediately upon adoption, and pursuant to the provisions of the Act, the Project Area Plan shall become effective upon adoption by Ordinance of the legislative body of the City.

IN WITNESS WHEREOF, the Governing Board of the Redevelopment Agency of Tooele City, has approved, passed, and adopted this Resolution this 18th day of October, 2017.

REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH

(For)

(Against)

ABSTAINING: _____

ATTEST:

Michelle Y. Pitt, RDA Secretary

S E A L

Approved as to Form: _____
Roger Evans Baker, RDA Attorney

EXHIBIT A – LEGAL DESCRIPTION OF THE PROJECT AREA

EXHIBIT B – MAP OF THE PROJECT AREA

EXHIBIT C – PROJECT AREA PLAN

TOOELE BUSINESS PARK COMMUNITY DEVELOPMENT REINVESTMENT DRAFT PROJECT AREA PLAN

Redevelopment Agency of Tooele City

September 2017

TABLE OF CONTENTS

SECTION 1: INTRODUCTION	3
SECTION 2: DEFINITIONS.....	3
SECTION 3: DESCRIPTION OF COMMUNITY REINVESTMENT PROJECT AREA.....	4
SECTION 4: PROJECT AREA CHARACTERISTICS AND HOW THEY WILL BE AFFECTED BY COMMUNITY DEVELOPMENT.....	5
SECTION 5: STANDARDS THAT WILL GUIDE COMMUNITY DEVELOPMENT.....	5
SECTION 6: HOW THE PURPOSES OF THE STATE LAW WOULD BE ATTAINED BY COMMUNITY DEVELOPMENT.....	6
SECTION 7: HOW THE PLAN IS CONSISTENT WITH THE COMMUNITY'S GENERAL PLAN	6
SECTION 8: DESCRIPTION OF THE SPECIFIC PROJECTS THAT ARE THE OBJECT OF THE PROPOSED COMMUNITY DEVELOPMENT	6
SECTION 9: WAYS IN WHICH PRIVATE DEVELOPERS WILL BE SELECTED.....	6
SECTION 10: REASONS FOR THE SELECTION OF THE PROJECT AREA	7
SECTION 11: DESCRIPTIONS OF THE PHYSICAL, SOCIAL AND ECONOMIC CONDITIONS EXISTING IN THE AREA.....	7
SECTION 12: DESCRIPTIONS OF SOME INCENTIVES OFFERED TO PRIVATE ENTITIES FOR FACILITIES LOCATED IN THE PROJECT AREA.....	7
SECTION 13: PLAN RESTRICTIONS.....	8
SECTION 14: TECHNIQUES TO ACHIEVE THE PURPOSES OF THE COMMUNITY DEVELOPMENT AND RENEWAL ACT, AND THIS PLAN.	8
SECTION 15: PROPOSED METHOD OF FINANCING	10
SECTION 16: PROVISIONS FOR AMENDING THE COMMUNITY DEVELOPMENT PLAN	11
SECTION 17: NECESSARY AND APPROPRIATE ANALYSIS.....	11

SECTION 1: INTRODUCTION

The Redevelopment Agency of Tooele City (the "Agency"), has prepared this Project Area Plan (the "Plan") Tooele Business Park Community Development Reinvestment Project Area (the "Project Area"). This Plan is the result of an evaluation of the type of development that would provide significant economic development return for the City and adequate return on the investment to the City and any participating developer. The Plan is envisioned to define the methods and means of development for the Project Area from its current state, to a higher and better use. The City has determined that it is in the best interest of its residents to assist in the development of the Project Area. It is the purpose of this Plan to set forth the objectives of this development, its scope, its mechanism, and its value to the residents of the City and other taxing districts.

The Project is being undertaken as a community reinvestment project pursuant to certain provisions of Chapters 1 and 5 of the Utah Limited Purpose Local Government Entities - Community Reinvestment Agency Act (the "Act", Utah Code Annotated ("UCA") Title 17C). The requirements of the Act, including notice and hearing obligations, have been undertaken as part of the establishment of the Project Area.

SECTION 2: DEFINITIONS

As used in this plan

- 2.1 "Act" means Title 17C of the Utah Code Annotated ("UCA") 1953, as amended: the Utah Limited Purpose Local Government Entities - Community Reinvestment Agency Act, as amended, or such successor law or act as may from time to time be enacted.
- 2.2 "Agency" means the Redevelopment Agency of Tooele City, created and operating pursuant to UCA 17C-1-101 and its predecessor or successor statutes, as designated by Tooele City to act as the redevelopment agency.
- 2.3 "Agencies Board" means the governing body of Tooele City
- 2.4 "Base Taxable Value" has the same meaning that it bears in the Act (UCA 17C-1-102(8)). "Base Taxable Value" is synonymous with "Base Year Taxable Value", "Base Year Value", and "Base Value".
- 2.5 "Base Tax Amount" means a sum equal to the tax revenue arising from the Project Area during the Base Year, which is calculated as the product of the Base Taxable Value and the certified tax rate in effect during the Base Year.
- 2.6 "Base Year" means the Tax Year during which the Project Area Budget is approved pursuant to UCA 17C-1-102 (9) (a).
- 2.7 "Bond" means any bonds, notes, interim certificates, or other obligations issued by an agency.
- 2.8 "City" means Tooele City, a political subdivision of the State of Utah.

- 2.9 "County" means Tooele County, a political subdivision of the State of Utah.
- 2.10 "Comprehensive General Plan" or "General Plan" means the general plan adopted by the City under the provisions of UCA 10-9a-401
- 2.11 "Community Development" means development activities within a community, including the encouragement, promotion, or provision of development.
- 2.12 "Community Reinvestment Project Area Plan" means a project area plan, as defined by UCA 17C-1-102(21) of the Act, designed to foster project area development, as defined in UCA 17C-1-102 (47) of the Act, developed by the Agency and adopted by ordinance of the governing body of the City, to guide and control community development undertakings in a specific project area.
- 2.13 "Governing Body" means (a) in reference to the Redevelopment Agency of Tooele City; the Board of the Agency, or (b) if used in reference to Tooele City, the City Council of Tooele City.
- 2.14 "Project Area" means the Tooele Business Park Reinvestment Project Area, as selected by resolution of the Agency.
- 2.15 "Property Taxes" includes all levies on an ad valorem basis upon land, real property, personal property, or any other property, tangible or intangible.
- 2.16 "Taxing Entities" means the public entities, including the state, county, city, school district, special district, or other public body, which levy property taxes on any parcel or parcels of property located within the Joint Project Area.
- 2.17 "Tax Increment" means that portion of the levied taxes each year in excess of the base tax amount, which excess amount is paid into a special fund of the Agency, pursuant to UCA 17C-1-102(60)(a) and Part 5 of UCA Chapter 17C-1, as amended.
- 2.18 "Tax Year" means the 12 month period between sequential tax role equalizations (November 1st through October 31st) of the following year, e.g., the Nov. 1, 2016- Oct. 31, 2017 tax year).

SECTION 3: DESCRIPTION OF COMMUNITY REINVESTMENT PROJECT AREA

The property encompasses approximately 207 acres of land, as delineated in the office of the Tooele County Recorder. The property is located at 700 South, and Tooele Boulevard, on the west side of the City. The Project. A map of the Project Area is attached hereto in APPENDIX A.

SECTION 4: PROJECT AREA CHARACTERISTICS AND HOW THEY WILL BE AFFECTED BY COMMUNITY DEVELOPMENT

LAND USES IN THE PROJECT AREA

The Project Area currently consists primarily of vacant underutilized land. The Project Area is designated for office and industrial uses. This Plan is consistent with the General Plan of the City and promotes economic activity by virtue of the land uses contemplated.

Any zoning change, amendment or conditional use permit necessary to the successful development contemplated by this Plan shall be undertaken in accordance with the requirements of the revised Ordinances of the City, and all other applicable laws including all goals and objectives in the City General Plan.

LAYOUT OF PRINCIPAL STREETS IN THE PROJECT AREA

The layout of principle streets within the Project Area are outlined in APPENDIX B.

POPULATION IN THE PROJECT AREA

The Project Area was laid out in order to create the least amount of disruption to existing residential structures. Currently there is no housing or population existing within the Project Area.

BUILDING INTENSITIES IN THE PROJECT AREA

Any new development within the Project Area will be required to meet all current or amended zoning requirements and design or development standards. The proposed development within the project area would include light industrial, research and technology, educational, or office development. The total amount of square footage that could be developed within the project area cannot be determined at this time. The building density will be based on current or amended land use requirements or other ordinances that mat be in place regarding building intensities. All buildings are required to be constructed to current and applicable building codes and design standards.

SECTION 5: STANDARDS THAT WILL GUIDE COMMUNITY DEVELOPMENT

DEVELOPMENT OBJECTIVES

The Agency and City desire to maintain a high-quality development as a focal point to the City. The Agency and City want to guide development in order to ensure development standards blend harmoniously with the character of the City, and will work with developers, site consultants and property owners to meet these objectives.

DESIGN OBJECTIVES

Development within the Project Area will be held to the highest quality design and construction standards, subject to (1) appropriate elements of the City General Plan; (2) the planning and zoning ordinances of the City; (3) other applicable building codes and ordinances of the City; (4) and Agency review to ensure consistency with this Plan.

All development will be accompanied by site plans, development data, and other appropriate material clearly describing the development, including land coverage, setbacks, heights, off, and any other data determined to be necessary, or requested by, the City or the Agency.

All development shall provide an attractive environment, blend harmoniously with the adjoining areas, and provide for the optimum amount of open space and well-landscaped area in relation to the new buildings. In addition, comply with the provisions of this Plan.

APPROVALS

The Agency may have the right to approve the design and construction documents of any development within the Project Area to ensure that any development within the Project Area is consistent with this Project Area Plan. The Agency shall also retain the right to forward its recommendations on design, development and other building standards to the planning commission and City for their consideration.

SECTION 6: HOW THE PURPOSES OF THE STATE LAW WOULD BE ATTAINED BY COMMUNITY DEVELOPMENT

It is the intent of the Agency, with possible assistance from the City and in participation with potential developers and property owners, to accomplish the goals and objectives of this Project Area Plan, which will include the development contemplated within this Plan. This development will include the construction of public infrastructure, and the appropriate use of incentives permitted under the Act, to maximize the development within the Project Area which will be beneficial to the citizens of the City. This development will strengthen the community tax base and increase employment opportunities, which are objectives of the Community Reinvestment Act, and the State of Utah.

SECTION 7: HOW THE PLAN IS CONSISTENT WITH THE COMMUNITY'S GENERAL PLAN

This Plan and the development contemplated within the Project Area shall conform to the City General Plan and land use regulations. If the City General Plan is amended, those amendments shall also apply to this Plan, including any design standards that might be developed for the Project Area.

SECTION 8: DESCRIPTION OF THE SPECIFIC PROJECTS THAT ARE THE OBJECT OF THE PROPOSED COMMUNITY DEVELOPMENT

The City has not received any proposal for the development of the property within the Project Area, at the time this Plan was prepared and adopted by the Agency. The Agency will ensure that any future plans for development within the Project Area, will meet the objectives of the Agency for development and financial participation. These objectives include pursuing development of vacant parcels of property within the Project Area, land assemblage and installation and upgrade of public utilities in the Project Area, complying with all applicable ordinances and codes, and meeting all required objectives of this Plan.

SECTION 9: WAYS IN WHICH PRIVATE DEVELOPERS WILL BE SELECTED TO UNDERTAKE THE COMMUNITY DEVELOPMENT

The City and Agency will select or approve such development, as solicited or presented to the Agency and City, that meets the development objectives set forth in this Plan. The City and Agency retain the right to

approve or reject any such development plan(s) that, in their judgment, do not meet the development intent for the Project Area. The City and Agency may choose to solicit development through an RFP or RFQ process, through targeted solicitation to specific industries, from inquiries to the City, and/or from other such references and referrals.

The City and Agency will ensure that all development conforms to this plan and is approved by the City. All potential developers will need to provide a thorough development plan including sufficient financial information to provide the City and Agency with confidence in the sustainability of the development and the developer. Such a review may include a series of studies and reviews including reviews of the Developers financial statements, third-party verification of benefit of the development to the City, appraisal reports, etc.

Any participation between the Agency and developers and property owners shall be by an approved agreement.

SECTION 10: REASONS FOR THE SELECTION OF THE PROJECT AREA

This community reinvestment project area was selected by the Agency as an area within the City that presents an opportunity to strengthen the economic base of the City, and fulfill a public need through the investment of private capital. Boundaries of the Project Area were determined by the Agency after a review of a study area by members of the City staff, and consultant.

SECTION 11: DESCRIPTIONS OF THE PHYSICAL, SOCIAL AND ECONOMIC CONDITIONS EXISTING IN THE AREA

The Project Area consists of approximately 207 acres of property as shown in the Project Area Map. The Agency wants to encourage development and improvements as applicable, to increase the economic conditions within the Project Area that will provide a revenue source to assist the City in meeting its budget goal and requirements of providing necessary services to its citizens. Currently the property is vacant within the Project Area, and there are no significant physical or social conditions that need to be addressed.

SECTION 12: DESCRIPTIONS OF SOME INCENTIVES OFFERED TO PRIVATE ENTITIES FOR FACILITIES LOCATED IN THE PROJECT AREA

The following describes incentives which the Agency intends to offer within the Project Area to developers, participants, and property owners as incentives to improve and develop property within the Project Area:

1. The Agency intends to use the tax increment approved by agreement with the Taxing Entities for public infrastructure improvements, construction of certain offsite improvements, removal of any impediments that would hinder the development required by this Plan, costs associated with permitting and entitling the property and other improvements as approved by the Agency.
2. Payments will be made to the developers, as contemplated for improvements and developments as outlined and approved in the required development/participation agreement.

3. The expenditures approved and outlined in the adopted Project Area Budget, except where the Agency issue Bonds or otherwise borrows or receives funds, are expected to be paid by the Agency to the City, developers, or participants for the agreed amounts, in the agreed upon time frame ,to the extent the tax increment funds are received and available.

SECTION 13: PLAN RESTRICTIONS

13.1 Eminent Domain

This Community Reinvestment Project Area Plan does not allow the Agency to acquire real property through the use of eminent domain.

13.2 Tax Increment

Use of tax increment is subject to approval of the Agency Project Area Budget through an interlocal agreement with any Taxing Entity that levies a certified tax rate within the Project Area. The use of tax increment is essential in meeting the objectives of this Plan.

SECTION 14: TECHNIQUES TO ACHIEVE THE PURPOSES OF THE COMMUNITY REINVESTMENT AGENCY ACT, AND THIS PLAN.

The Agencies will meet the purpose of the Community Reinvestment Agency Act, and this plan by implementing the following objectives:

14.1 Acquisition of Real Property

The Agency may acquire, but is not required to acquire, real property located in the Project Area, by gift, devise, exchange, purchase, or any other lawful method. The Agency is authorized to acquire any other interest in real property less than fee title such as leasehold interests, easements, and rights of way. The Agency shall not acquire real property without the consent of the owner.

14.2 Acquisition of Personal Property

Generally personal property shall not be acquired. However, where necessary in the execution of this Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means.

14.3 Cooperation with the Community and Public Bodies

The community and certain public bodies are authorized by state law to aid and cooperate, with or without consideration, in the planning, undertaking, construction, operation or implementation of this Project. The Agency shall seek the aid and cooperation of such public bodies in order to accomplish the purposes of Community Reinvestment and the highest public good, including approval of the Project Area Budget, and participation in the funding of the Project Area by an interlocal agreement

14.4 Property Management

During such time that property, if any, in the Project Area is owned by the Agency, such property shall be under the management and control of the Agency. Such property may be rented or leased by the Agency pending its disposition for economic development purposes.

14.5 Property Disposition and Development

The Agency is authorized to demolish and clear buildings, structures, and other improvements from any real property in the Project Area as necessary to carry out the purposes of this Community Reinvestment Plan. The Agency is authorized to install and construct, or to cause to be installed and constructed, public improvements, public facilities, and public utilities, within and without the Project Area, not prohibited by law, which are necessary to carry out this Community Reinvestment Plan; and in accordance with the terms and conditions of any existing agreements with the private developers and the approved Project Area Budget and interlocal agreements. The Agency is authorized to prepare or to cause to be prepared as building sites, any real property in the Project Area. The Agency is also authorized to rehabilitate or to cause to be rehabilitated, any building or structures that may remain in the Project Area.

For the purposes of this Plan, the Agency is authorized to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber by mortgage, deed, trust, or otherwise dispose of any interest in real property. The Agency is authorized to dispose of real property by, leases or sales, by negotiation with or without public bidding. All real property acquired by the Agency in the Project Area shall be sold or leased to public or private persons or entities for development for the uses permitted in the Plan. Real property may be conveyed by the Agency to the City or any other public body without charge. The Agency shall reserve such controls in the disposition and development documents as may be necessary to prevent transfer, retention or use of property for speculative purposes and to ensure that the development is carried out pursuant to this Community Reinvestment Plan. All purchasers or lessees of property shall be made obligated to use the property for the purposes designated in this Community Reinvestment Plan, to begin and complete development of property within a period of time, which the Agency fix as reasonable, and to comply with other conditions which the Agency deem necessary to carry out the purposes of this Plan.

14.6 Development

The objectives of the Plan are to be accomplished through the Agency encouragement of, and assistance to, private enterprise in carrying out project development activities. To provide adequate safeguards to ensure that the provisions of this Plan will be carried out, any real property sold, leased or conveyed by the Agency, as well as any property subject to participation agreements, shall be made subject to the provisions of this Plan by leases, deeds, contracts, agreements, declarations of restrictions, provisions of the City ordinances, conditional use permits, or other means. Where appropriate, as determined by the Agency, such documents or portions thereof shall be recorded in the Office of the County Recorder. The leases, deeds, contracts, agreements, and declarations of restrictions may contain restrictions, covenants, covenants running with land, rights of reverted, conditions subsequent, equitable servitudes, or any other provisions necessary to carry out this Plan.

To the extent now or hereafter permitted by law, the Agency is authorized to pay for, develop, or construct any building, facility, structure, or other improvement either within or without the Project Area for

themselves or any public body or public entity to the extent that such improvement would be a benefit to the Project Area. During the period of development in the Project Area, the Agency shall ensure that the provisions of this Plan, and of other documents formulated by the Agency pursuant to this Plan, are being observed, and that development in the Project Area is proceeding in accordance with development documents and time schedules. Plans for development by owners or developers, both public and private, may be submitted to the City for approval and architectural review. All Project Area development, requiring financial participation by the Agency, must conform to this Plan and all applicable federal, state, and local laws.

SECTION 15: PROPOSED METHOD OF FINANCING

15.1 Authorization

The Agency is authorized to finance this project with financial assistance from the Taxing Entities, City, property tax increments which accrue within the Project Area, interest income, Agency bonds, or any other available source of revenue.

15.2 Tax Increment

Briefly stated, the tax increments that will be available under this Plan are determined in the following manner. After this Plan is adopted, the total taxable value of property within the Project Area is determined using the taxable values shown on the last equalized assessment roll prior to the adoption of the Plan. For purposes of this Plan, the base year value last equalized shall be January 1, 2017. This provides a base figure. To the extent the taxable values of property within the Project Area increase above this base figure, application of prevailing tax rates to the increased property value above the base figure yields "tax increments." These tax increments arise only with respect to property located in the Project Area. Other Taxing Entities continue to be entitled to receive the tax revenue that result from application of prevailing tax rates up to the base figure of taxable property value. In accordance with law, the Agency will prepare a Project Budget outlining the expense and revenue for this Project. Once adopted by the Agency, the Agency will be required to obtain the consent by an interlocal agreement with each Taxing Entity allowing the Agency to take any portion of the available tax increment.

15.3 Collection Period

The applicable length of time, or number of years for which the Agency is to be paid tax increment shall be subject to the approved interlocal agreement.

Pursuant to the Community Reinvestment Agency Act, taxes levied upon taxable property within the Project Area each year by or for the benefit of the State of Utah, and the Taxing Entities after the effective date of the ordinance approving this Plan, shall be paid to the Agency in accordance with the terms and conditions of the approved interlocal agreement.

15.4 Cities Funding or Loans

Operating capital for administration and developer participation in the Project has been, and may be, provided by the City until adequate tax increments or other funds are available, or sufficiently assured to

repay the loans and/or to permit borrowing adequate working capital from sources other than the City. Advances and loans from the City or the Agency may bear a reasonable rate of interest.

SECTION 16: PROVISIONS FOR AMENDING THE COMMUNITY DEVELOPMENT PLAN

This Plan may be amended, or modified, any time by the means of the procedures established in the Act, its successor statutes, or any other procedure established by law.

SECTION 17: NECESSARY AND APPROPRIATE ANALYSIS

Authority to take action or enter into agreements under this Plan shall be vested exclusively in the Agency Governing Board. The Agency Governing Board shall be authorized to delegate this authority pursuant to resolutions approved by the Board. The administration and enforcement of this Plan, and any documents implementing this Plan, shall be performed by the Agency and/or the City.

The provisions of this Plan, or other documents entered into pursuant to this Plan, may also be enforced by litigation by either the Agency or the City. Such remedies may include, but are not limited to, specific performance, damages, re-entry, injunctions, or any other remedies appropriate to the purposes of this Plan. In addition, agreements or any recorded provisions which are expressly for the benefit of owners of property in the project Area may be enforced by such owners.

The particulars of any contemplated development will be set out in a participation agreement between the Agency and the participant requesting assistance.

Before any future development agreement or participation agreement under the Plan may be entered into and/or executed by the Agency, the Agency may hold a public hearing on the proposed agreement. The Agency may prepare, or require the developer/participant to prepare a feasibility analysis, and a necessary and appropriate analysis with respect to all new projects being proposed, and with respect to the ongoing feasibility of the overall Project being implemented pursuant to this Plan. The purpose of this provision is to assure that the feasibility, necessity, appropriateness, the nature, extent of, and need for any public subsidy or other assistance, and the likely public benefit of new projects is reviewed on their own merits and in the context of implementing this Plan as a whole before any particular projects are approved, thereby assuring that substantial and effective measures are being taken, or have been taken, that are reasonably designed to mitigate any harm, damage, or disadvantage as may be suffered as a result of development within the Project Area by owners of property, or tenants within the Project Area.

APPENDIX A: MAP

TOOELE CITY CORPORATION

ORDINANCE 2017-29

AN ORDINANCE ADOPTING THE 1000 NORTH RETAIL COMMUNITY REINVESTMENT PROJECT AREA PLAN, AS APPROVED BY THE REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH, AS THE OFFICIAL COMMUNITY REINVESTMENT PROJECT AREA PLAN FOR THE PROJECT AREA, AND DIRECTING THAT NOTICE OF THE ADOPTION BE GIVEN AS REQUIRED BY STATUTE.

WHEREAS the Board of the Redevelopment Agency of Tooele City, Utah (the “Agency”), having prepared a Project Area Plan (the “Plan”) for the 1000 North Retail Community Reinvestment Project Area (the “Project Area”), attached hereto as **EXHIBIT A**, pursuant to Utah Code Annotated (“UCA”) § 17C-5-105 and having held the required public hearing on the Plan on October 18, 2017, pursuant to UCA § 17C-5-104, adopted the Plan as the Official Community Reinvestment Plan for the Project Area; and,

WHEREAS the Utah Community Reinvestment Agency Act (the “Act”) mandates that, before the community reinvestment project area plan approved by an agency under UCA § 17C-5-104 may take effect, it must be adopted by ordinance of the legislative body of the community that created the agency in accordance with UCA § 17C-5-109:

NOW, THEREFORE, BE IT ORDAINED BY THE TOOELE CITY COUNCIL AS FOLLOWS:

- 1.** The Tooele City Council hereby adopts and designates the Project Area Plan, as approved by the Agency Board, as the official community reinvestment plan for the Project Area (the “Official Plan”).
- 2.** City staff and its consultants are hereby authorized to prepare and to publish or cause to be published the notice required by UCA § 17C-5-110, whereupon the Official Plan shall become effective pursuant to UCA § 17C-5-110(2).
- 3.** Pursuant to UCA § 17C-5-110(5), the Agency may proceed to carry out the Official Plan upon its adoption.
- 4.** This Ordinance is necessary for the immediate preservation of the peace, health, safety, or welfare of Tooele City and shall become effective upon passage and publication of a summary as provided by law, by authority of the Tooele City Chapter.

This Ordinance is necessary for the immediate preservation of the peace, health, safety, and welfare of Tooele City and its residents and businesses and shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Ordinance is passed by the Tooele City Council this ____ day of _____, 2017.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form: _____
Roger Evans Baker, City Attorney

Exhibit A: PROJECT AREA LEGAL DESCRIPTION

TOOELE CITY CORPORATION

ORDINANCE 2017-30

AN ORDINANCE ADOPTING THE 1000 NORTH WEST INDUSTRIAL COMMUNITY REINVESTMENT PROJECT AREA PLAN, AS APPROVED BY THE REDEVELOPMENT AGENCY OF TOOELE CITY, AS THE OFFICIAL COMMUNITY REINVESTMENT PROJECT AREA PLAN FOR THE PROJECT AREA, AND DIRECTING THAT NOTICE OF THE ADOPTION BE GIVEN AS REQUIRED BY STATUTE.

WHEREAS the Board of the Redevelopment Agency of Tooele City (the “Agency”), having prepared a Project Area Plan (the “Plan”) for the 1000 North West Industrial Community Reinvestment Project Area (the “Project Area”), attached hereto as **EXHIBIT A**, pursuant to Utah Code Annotated (“UCA”) § 17C-5-105 and having held the required public hearing on the Plan on October 18, 2017, pursuant to UCA § 17C-5-104, adopted the Plan as the Official Community Reinvestment Plan for the Project Area; and,

WHEREAS the Utah Community Reinvestment Agency Act (the “Act”) mandates that, before the community reinvestment project area plan approved by an agency under UCA § 17C-5-104 may take effect, it must be adopted by ordinance of the legislative body of the community that created the agency in accordance with UCA § 17C-5-109:

NOW, THEREFORE, BE IT ORDAINED BY THE TOOELE CITY COUNCIL AS FOLLOWS:

1. The Tooele City Council hereby adopts and designates the Project Area Plan, as approved by the Agency Board, as the official community reinvestment plan for the Project Area (the “Official Plan”).
2. City staff and its consultants are hereby authorized to prepare and to publish or cause to be published the notice required by UCA § 17C-5-110, whereupon the Official Plan shall become effective pursuant to UCA § 17C-5-110(2).
3. Pursuant to UCA § 17C-5-110(5), the Agency may proceed to carry out the Official Plan upon its adoption.
4. This Ordinance is necessary for the immediate preservation of the peace, health, safety, or welfare of Tooele City and shall become effective upon passage and publication of a summary as provided by law, by authority of the Tooele City Chapter.

This Ordinance is necessary for the immediate preservation of the peace, health, safety, and welfare of Tooele City and its residents and businesses and shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Ordinance is passed by the Tooele City Council this ____ day of _____, 2017.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form: _____
Roger Evans Baker, City Attorney

Exhibit A: PROJECT AREA LEGAL DESCRIPTION

TOOELE CITY CORPORATION

ORDINANCE 2017-31

AN ORDINANCE ADOPTING THE TOOELE BUSINESS PARK COMMUNITY REINVESTMENT PROJECT AREA PLAN, AS APPROVED BY THE REDEVELOPMENT AGENCY OF TOOELE CITY, AS THE OFFICIAL COMMUNITY REINVESTMENT PROJECT AREA PLAN FOR THE PROJECT AREA, AND DIRECTING THAT NOTICE OF THE ADOPTION BE GIVEN AS REQUIRED BY STATUTE.

WHEREAS the Board of the Redevelopment Agency of Tooele City, Utah (the “Agency”), having prepared a Project Area Plan (the “Plan”) for the Tooele Business Park Community Reinvestment Project Area (the “Project Area”), attached hereto as **EXHIBIT A**, pursuant to Utah Code Annotated (“UCA”) § 17C-5-105 and having held the required public hearing on the Plan on October 18, 2017, pursuant to UCA § 17C-5-104, adopted the Plan as the Official Community Reinvestment Plan for the Project Area; and,

WHEREAS the Utah Community Reinvestment Agency Act (the “Act”) mandates that, before the community reinvestment project area plan approved by an agency under UCA § 17C-5-104 may take effect, it must be adopted by ordinance of the legislative body of the community that created the agency in accordance with UCA § 17C-5-109:

NOW, THEREFORE, BE IT ORDAINED BY THE TOOELE CITY COUNCIL AS FOLLOWS:

1. The Tooele City Council hereby adopts and designates the Project Area Plan, as approved by the Agency Board, as the official community reinvestment plan for the Project Area (the “Official Plan”).
2. City staff and its consultants are hereby authorized to prepare and to publish or cause to be published the notice required by UCA § 17C-5-110, whereupon the Official Plan shall become effective pursuant to UCA § 17C-5-110(2).
3. Pursuant to UCA § 17C-5-110(5), the Agency may proceed to carry out the Official Plan upon its adoption.
4. This Ordinance is necessary for the immediate preservation of the peace, health, safety, or welfare of Tooele City and shall become effective upon passage and publication of a summary as provided by law, by authority of the Tooele City Chapter.

This Ordinance is necessary for the immediate preservation of the peace, health, safety, and welfare of Tooele City and its residents and businesses and shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Ordinance is passed by the Tooele City Council this ____ day of _____, 2017.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form: _____
Roger Evans Baker, City Attorney

Exhibit A: PROJECT AREA LEGAL DESCRIPTION

**Tooele City Council and the
Tooele City Redevelopment Agency of Tooele City, Utah
Work Session Meeting Minutes**

Date: Wednesday, October 4, 2017
Time: 5:00 p.m.
Place: Tooele City Hall, Large Conference Room
90 North Main St., Tooele, Utah

City Council Members Present:

Chairwoman Debbie Winn
Scott Wardle
Brad Pratt
Steve Pruden
Dave McCall

City Employees Present:

Mayor Patrick Dunlavy
Glenn Caldwell, Finance Director
Michelle Pitt, Recorder
Roger Baker, City Attorney
Matt Johnson, Assistant City Attorney
Jim Bolser, Community Development and Public Works Director (joined the meeting late)
Terra Sherwood, Assistant Parks and Recreation Director
Rachelle Custer, City Planner
Randy Sant, Economic Development and Redevelopment Agency Director
Paul Hansen, City Engineer

Minutes prepared by Michelle Pitt

1. Open Meeting

Chairwoman Winn called the meeting to order at 5:00 p.m.

2. Roll Call

Debbie Winn, Present
Scott Wardle, Present
Brad Pratt, Present
Steve Pruden, Present
Dave McCall, Present

3. Discussion:

- Resolution 2017-43 A Resolution of the Tooele City Council Consenting to the Mayor's Appointments to the Tooele City Historic Preservation Commission Presented by Terra Sherwood

(This item moved to the beginning of the agenda. Jim Bolser was attending to an emergency caused by a cut gas line.)

Ms. Sherwood explained that in 1985 there was an ordinance that established an historic preservation commission. The City would like to restore that commission. The City sought and received applications from those who were interested in serving on this board. The duties of the board include: survey and inventory the City's historic resources, review proposed nominations to the National Register of Historic Place, provide advice and information to City officials, and enforce the state of Utah historic preservation laws. Ms. Sherwood went on to say that his resolution would appoint Richard Trujillo, Amy Kelly, Burton Cahoon, Stephanie Statz, and Jacob Lyman.

Councilman Pratt asked how long it has been since this board has been active. Ms. Sherwood said that she couldn't find a date of when the board last met. Mayor Dunlavy said he thought that it was under Mayor Diehl's administration. Councilman Wardle asked if there was a line item associated with this board, so that if the commission presented recommendations to the Council, there was a way to fund those requests. The Mayor said that the main reason for appointing the board was so that the City could apply for grants. One of the criteria to apply for certain grants is that the City needed to have an historic preservation commission. Ms. Sherwood added that the City has not been able to apply for certain grants because the City has not had an active commission. There are some grants that are almost a guarantee with a board in place. Councilman Wardle said that he would like the commission told that there is not a budget associated with the commission. Ms. Sherwood said that the ordinance only requires the commission to meet twice a year. They will serve as an advisory board, review documents, and make recommendations. Mr. Baker said that the commission will not have decision making authority, but will make recommendations to the Council. The Mayor added that Jean Mogus, who has managed the railroad museum for many years, is leaving. He is hopeful that this commission will generate interest in the railroad museum as well.

- Ordinance 2017-24 An Ordinance of Tooele City Enacting Tooele City Code Chapter 3-6 Regarding Enforcement of Title 3 and the Fire Code and Abatement of Title 3 and Fire Code Violations Presented by Roger Baker and Fire Chief Bucky Whitehouse

(Bucky Whitehouse was not present at the meeting because he was attending to an emergency caused by a cut gas line.)

Mr. Baker said that he met with Fire Chief Whitehouse earlier this year to discuss a number of initiatives that might fill some gaps in the fire code. The fire chief and City staff would like to propose two new chapters of the City code to fill those gaps. The first chapter is regarding the enforcement of the fire code, and violations of the fire code. Mr. Baker explained that the

Council has adopted the state fire code which gives the fire department the authority to do fire inspections to establish compliance. Kitchens and food establishments are especially important because they may use open flames and are full of patrons. The fire department can issue citations for violations of fire code. It is not a criminal ticket. Mr. Baker stated that there currently is not an existing mechanism to see that the violations get fixed. The fire code says that the fire department can implement a program to abate violations. The City already has a program in place that abates violations. Mr. Baker stated that he and Fire Chief Whitehouse discussed having the abatement process a criminal prosecution option, but decided it was not a good option because it can take up to six months to get through the criminal justice system. Even if the City were to win the criminal case, the judge might say they can have 30 days to fix the violation, and we are back where we started. Civil penalties can work, and are more geared towards fixing violations. City staff is recommending implementing a program similar to the nuisance abatement program in place now, but for fire violations. Mr. Baker explained the process: an inspector would go to the premises, if there is a violation, issue a violation notice, and provide a window of time to correct the violation. If the violation is not corrected, the department will move forward with procedural steps to have the issue abated.

Mr. Baker stated that the fire department inspects 300-400 businesses a year. They find violations in $\frac{3}{4}$ of those. They achieve compliance with 81% of the violations upon a first notice. Almost everyone complies voluntarily when they are told there is a problem. There are about 57 establishments that don't fix their problems per year. The purpose of this ordinance is to give the fire department a tool to help with public safety. Mr. Baker said that he invited Matt Johnson to the meeting because he will be overseeing this program when appeals are brought.

Mr. Baker further explained that a notice of violation is given if there is a problem upon the first inspection. It will tell them what the problem is and what they need to do to comply. Mr. Baker stated that he and Kacie Hall developed forms for the nuisance abatement. He has used those forms, with some adaptation. The violation notice gives a description of the problem, lists the code that is being violated, tells them they may ask for an extension, explains the appeal process, and explains the penalties. The City will respect property rights of the owners through this process. If someone feels the City is wrong, they have the chance to explain why throughout the whole process. If they comply, the fire department will do a compliance inspection and issue a Notice of Compliance. If they don't comply, the fire department will do another inspection to verify the non-compliance, then will file a default judgment. A default judgment is a serious action but is only done if every opportunity to comply or appeal has been exhausted. A default judgment is signed by the hearing officer, not an employee. The property owner can appeal the default judgment, or the case could be settled at that point. If they don't comply, don't settle, or don't appeal, the City will abate the situation. The fire department would have the authority to correct the problem and recoup the cost.

Councilman Wardle asked for clarification on the part of the ordinance that talked about razing, grading and removing structures. He asked about a line item to fund this abatement process. Mr. Baker said that he hasn't suggested an abatement superfund, like with nuisance abatement, in part because the City doesn't have a paid fire department. He said he was recommending that the fire department request a line item, with funding by the Council, with justification from the fire department. The fire code dictates what to do to abate the problems, but the fire chief will

have to prioritize those things. Mr. Baker said that every problem may not be abated, depending on funding and Fire Chief Whitehouse's discretion. All revenues from fire code abatements would go into the general fund.

Mayor Dunlavy said that if there was a restaurant, for example, that didn't comply with the code after they had been cited, they wouldn't be allowed to continue to operate. This type of abatement is a little different than cutting someone's weeds.

Councilman Wardle said again that the word "raze" bothered him a little. If a building had to be taken down, there would be a cost to that. Mr. Baker said that if the building isn't razed, the City would not incur a liability, but that the owner would still have full liability. There currently is not an enforcement mechanism. Businesses know that. Mr. Baker went on to say that the fire code requires the City to cause a building to vacate, but the proposed abatement ordinance does not require it. Mr. Baker reiterated that there were three opportunities to appeal, and three opportunities to settle the matter. He said that there wasn't any reason why these matters couldn't be resolved without fees and penalties, but there needs to be an ability to impose penalties for violations.

Councilman Wardle said that the ordinance says that someone out of the fire department and out of Title 3 can do fire inspections. He asked who that person from Title 3 would be. Mr. Baker said that this ordinance is to enforce both the fire code and City Code Title 3, which is the fire chapter. There are some obligations in Chapter 3 that are not in the fire code. This new chapter will help to be an enforcement mechanism of Title 3 as well. Councilman Wardle clarified that the fire inspections would be done by the fire department, and not code enforcement. Mr. Baker agreed. Mr. Baker indicated that he had spoken with Ms. Custer and Mr. Bolser about the appeal process in the nuisance abatement area. The number one complaint from the public is that people say they didn't get notice. Mr. Baker said that he wasn't saying that he believed them all, but some may not have received notice. Mr. Bolser's department has already increased the number of notices required by City code. This new proposed chapter says the notice has to be mailed to the physical location of the property, and the address that the county recorder has for the owner. Often times those addresses are different. They can also mail the notice by certified mail, with a return receipt requested, or deliver by personal service or posting on the property

Chairwoman Winn said that with places of business, they are going to be open, and someone should be there to receive the notice. Mr. Baker said that the notice has to be given to an owner, or a tenant.

- Ordinance 2017-25 An Ordinance of Tooele City Enacting Tooele City Code Chapter 3-7 Regarding Nuisance Fire Alarms
Presented by Roger Baker

Mr. Baker stated that this ordinance is another initiative of the fire department. The fire department experiences about 400 alarms a year. Almost half of those are false alarms. In 2016, they responded to 167 fire alarms, while an additional 149 were false fire alarms. In 2015, there were 212 legitimate alarms, plus 199 false alarms. Each of these alarms causes fire trucks to roll, firemen to travel, emergency vehicles traveling the roads, and they put firefighters at risk. It

takes an average of 1 ½ hours from start to finish to deal with a false alarm. This takes time away from legitimate responses, and many man hours to respond. The City would like to explore a program to incentivize repairs of fire alarms and impose a fine to those who won't fix their alarms.

Mr. Baker explained that he used Salt Lake City's ordinance as a starting point. Under the proposed ordinance, when the fire department responds to a false alarm, the fire department will be authorized to issue a notice of false alarm and gives notice that it needs to be corrected. After two chances, there will be a charge for responding to a false alarm. It escalates as infractions continue to occur. On the third false alarm, there will be an assessment of \$100 each, which won't cover the actual cost of responding. If someone receives six or more false alarm notifications, they would be considered a habitual false alarm, at \$250 each. A notice will be issued that informs them that if they don't get the problem fixed, the City could order them to disconnect the fire alarm. This could cause them to shut down their business because they can't function without a fire alarm. They can appeal the decision because there is a financial component to it.

Mr. Baker stated that there is an order to disconnect form. A fire watch is a program instituted by the fire chief which may be implemented during this time for the property. It would involve people watching the property while the fire alarm is disconnected so there isn't a fire without an alarm. The fire watch form lists the requirements that the property owner has to go through while the fire alarm is disconnected.

Councilman Wardle asked why a fire watch would be issued if a company was shut down. Mr. Baker answered that there could be situations where a warehouse could continue to operate during a fire watch. The fire chief would determine the type of conditions for the fire watch. There were different levels of fire watch. Even if a business was shut down, we wouldn't want their building to burn down. In order to disconnect, the form informs them that their occupancy permit could be suspended if necessary. Mr. Baker went on to say that it wouldn't be automatic, but if necessary, it could be accomplished. Occupants could be ordered to vacate. Companies are able to appeal. The notice gives them notice of the fees and costs.

Mr. Baker described the last form and said that it would be given to the property owner after repairs had been made. Mr. Baker stated that this program was not intended to be a revenue generator. It was intended to obtain compliance and protect public safety.

Councilman McCall asked what would happen if a fire alarm goes off when it's not the business's fault, such as a power bump, or fluctuation of water. He wondered if it would count towards their first false alarm. Mr. Baker said that the fire alarm definition says that it is caused by the negligence or the intentional misuse by the occupant, so in that case the owner would not be penalized. Mr. Baker added that if the fire chief determined that the water flow was causing the fire alarm to be tripped, they would be required to fix it.

Mr. Baker said that the proposed fees were \$100 for 3-5 alarms in one year, and \$250 for 6 or more alarms in one year. If there is an order to reconnect which causes an inspection, there would be a \$50 inspection cost. Appeals would go to the fire chief. The fire chief would have

the opportunity to investigate to make sure of the inspector was correct in issuing the notice of violation. Then appeals could be made to the hearing officer.

Councilman Pratt said that he had a neighbor that had a faulty piece of equipment in their fire detector. The first time it went off, the fire department responded. The second time it went off, the owner wasn't home. Councilman Pratt said that he disarmed the alarm system because the fire department responded again. The neighbor said he has known he needed to fix the alarm for 1 ½ years. Councilman Pratt said that this ordinance raises the level of protection against fire in the community. Mr. Baker added that it protects the resources of the fire department.

Councilman Wardle felt there was a conflict with the order to disconnect and the fire watch. Once a business is put under a fire watch, they can't have employees in the building. Tier 1 wouldn't work. Mr. Baker said that when the situation was so serious as to order the fire system disconnected, they would need to stop conducting business and the occupancy permit is suspended. Councilman Wardle said that under the tiers, they can't have employees do the fire watch because they can't have employees in the building. Mr. Baker said that under this situation, they wouldn't be occupying the building under the occupancy permit, they would be occupying it under the fire watch. Mr. Baker said that he would study it.

- Bernice Heritage Minor Subdivision – Final Plat Request
Presented by Rachelle Custer

Ms. Custer stated that this was a 1.14 acre subdivision. This is the lawn piece near Main Street and Vorwaller Drive for a future commercial location. At the time a user comes in and a site plan application is received, the City would require water rights, but not at this time. Ms. Custer explained that because it's a commercial subdivision, the City doesn't know what the water requirements are going to be. They may lose some RV spaces due to this subdivision. If they do, because of the settlement agreement that locks them in to a specified number of RV spaces, they do not get to replace those spaces. Ms. Custer said that she studied the settlement agreement, as requested by Councilman Wardle. The agreement required that within two years of the date of the agreement, that common facilities be constructed. Common facilities have not been constructed, as required by the agreement, but they have begun construction. Footings and some foundation are in place. The agreement also required that Mr. Vorwaller retain a licensed contractor to obtain building permits for the conversion of some of the old mobile home spaces to RV spaces. That was completed. The only part of the agreement that has not been upheld is the security bond for the common facilities that were to be put in place. Mayor Dunlavy asked if there was any way to protect the person that buys the property from thinking that they could use the side of the property for parking. He said that the downtown overlay doesn't allow parking on the street. Ms. Custer said that a note could be placed on the plat. Mr. Baker said that this area may not be in the downtown overlay. Mr. Baker said he thought the downtown overlay ended at Utah Avenue. Ms. Custer said that staff would need to look in to that further, however the code in the downtown overlay says parking to the side or in the rear "as practical." There have been some businesses such as Walgreens and Big 5 that were allowed parking in the front due to their loading dock. Mayor Dunlavy said that it was gratifying to be flexible as a City. Mr. Sant asked if the lot had enough setback for a commercial development. Ms. Custer said it was 154 feet deep and 383 feet in length. Mr. Baker said it would include the scraped area, the road, and the

first row of RVs. Ms. Custer said that the code says 30 foot setback but may be reduced to 20 as allowed by the Planning Commission for various reasons.

4. Adjourn to Redevelopment Agency Meeting

Councilman Wardle moved to adjourn to a Redevelopment Agency meeting. Councilman Pratt seconded the motion. The vote was as follows: Councilman Wardle “Aye,” Councilman Pratt “Aye,” Councilman Pruden “Aye,” Councilman McCall “Aye,” and Chairwoman Winn “Aye.”

The meeting adjourned at 5:58 p.m.

RDA Chair Pratt introduced RDA Resolution 2017-07 and turned the time over to Mr. Sant.

- RDA Resolution 2017-07 A Resolution of the Redevelopment Agency of Tooele City, Utah (“RDA”) Approving a Real Estate Contract of Purchase and Sale with the State of Utah for a Business Resource Center
Presented by Randy Sant

Mr. Sant said that the City would like to build a business resource center, putting all the services that businesses need in one area. Tooele Applied Technology College has had an interest in building the business resource center. Mr. Sant explained that the piece of property that was being looked at had some issues because it wouldn’t be a full 5 acres. The RDA is looking at a different piece of property which already has utilities in place. The piece of property appraised higher than the original piece. This contract allows the RDA to sell this property to the TATC. If there is funding left over, they will commit the funds towards the design. The contract gives them 30 days from the date of the sell, to November 6th, rather than the October 31st, the date listed in the agreement. Mr. Sant went on to say that most of the due diligence has already been done. There are no environmental issues. If TATC wants to hire a surveyor, they will do so at their cost. Mr. Sant said he was anticipating closing the end of November. Mr. Hansen asked if the new piece of property was subdivided. Mr. Sant said that he believed so.

Mr. Sant said that he received an invoice from TATC for the business resource center. Grantsville, Tooele, and the county all help with \$15,000 each. He assured the Council that although the invoice says \$45,000, the City portion is only \$15,000, so it won’t go before the Council for approval.

5. Close Meeting to Discuss Litigation and Property Acquisition

RDA Board Member McCall moved to close the meeting. RDA Board Member Winn seconded the motion. The vote was as follows: RDA Board Member “Aye,” RDA Chair Pratt “Aye,” RDA Board Member Pruden “Aye,” RDA Board Member McCall “Aye,” and RDA Board Member Winn “Aye.”

Those in attendance during the closed session were: Mayor Patrick Dunlavy, Glenn Caldwell, Roger Baker, Paul Hansen, Michelle Pitt, Jim Bolser, Rachelle Custer, Randy Sant, Councilman Wardle, Councilman Pratt, Councilman McCall, Councilman Pruden, and Chairwoman Winn.

The meeting closed at 6:05 p.m.

No minutes were taken on these items.

At 6:38 p.m. Councilman Wardle made a motion to adjourn to a closed meeting to discuss personnel, and to dismiss City staff. Councilman Pratt seconded the motion. Staff was dismissed. There were no minutes taken, and there is no recording of that portion of the meeting.

Councilman Pruden moved to recess the meeting. Councilman Wardle seconded the motion. The vote was as follows: Councilman Wardle “Aye,” Councilman Pratt “Aye,” Councilman Pruden “Aye,” Councilman McCall “Aye,” and Chairwoman Winn “Aye.”

The closed meeting reconvened at 7:47 p.m.

Those in attendance during the reconvened closed session were: Glenn Caldwell, Paul Hansen, Michelle Pitt, Jim Bolser, Randy Sant, Councilman Wardle, Councilman Pratt, Councilman McCall, Councilman Pruden, and Chairwoman Winn.

6. Adjourn

Councilman Wardle moved to adjourn the meeting. Councilman McCall seconded the motion. The vote was as follows: Councilman Wardle “Aye,” Councilman Pratt “Aye,” Councilman Pruden “Aye,” Councilman McCall “Aye,” and Chairwoman Winn “Aye.”

The meeting adjourned at 8:08 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 18th day of October, 2017

Debra E. Winn, Tooele City Council Chair

Tooele City Council and
Tooele City Redevelopment Agency of Tooele City, Utah
Business Meeting Minutes

Date: Wednesday, October 4, 2017
Time: 7:00 p.m.
Place: Tooele City Hall, Council Chambers
90 North Main Street, Tooele, Utah

City Council Members Present:

Debbie Winn, Chairwoman
Steve Pruden
Brad Pratt
Dave McCall
Scott Wardle

City Employees Present:

Mayor Patrick Dunlavy
Glenn Caldwell, Finance Director
Jim Bolser, Community Development and Public Works Director
Chief Ron Kirby, Police Department
Michelle Pitt, City Recorder
Paul Hansen, City Engineer
Randy Sant, Economic Development Director
Terra Sherwood, Assistant Parks and Recreation Director

Minutes prepared by Amanda Graf

Chairwoman Winn called the meeting to order at 7:00 p.m.

1. Pledge of Allegiance

The Pledge of Allegiance was led by Chairwoman Winn

2. Roll Call

Scott Wardle, Present
Brad Pratt, Present
Steve Pruden, Present
Dave McCall, Present
Debbie Winn, Present

3. Mayor's Youth Recognition Awards

Presented by Mayor Dunlavy, Heidi Peterson, and Chief Ron Kirby

Mayor Dunlavy welcomed everyone to the meeting. He introduced Heidi Peterson, who is the Tooele City Communities That Care Director, and Chief Ron Kirby, the Tooele City Chief of Police.

Ms. Peterson gave some background information about the Communities That Care Department. For many years, there has been a lot of guesswork in regards to what best helps children make good decisions for their lives. Several years ago, Tooele was able to bring a cutting-edge, evidence-based program to the Community called Communities That Care. They are able to look at the data, see the areas that children are at risk, and bring the best programs to the Community to help support families. Ms. Peterson highlighted some of the programs the Communities that Care department offers to help support families.

Second Step is a prevention-based program offered for students in Kindergarten through 8th grade. Students are taught how to handle anger and stress. In 6th grade students are taught how to avoid drugs and alcohol.

Guiding Good Choices is a free parenting class that runs five weeks. It is recommended for all families. More information about the program can be found on the Tooele City website.

QPR is a program that helps combat suicide in the community. QPR stands for question, persuade, and refer. This 90 minute program helps people understand the risk factors and warning signs of a person who may be contemplating suicide. It also helps individuals know how to help individuals who are at risk.

Every other year across the state students are given a survey where they are asked how often they have considered suicide. In 2017 Tooele County was the only county in the state that reduced that number in the past two years. They are really proud of the work they are doing in the community to help prevent this problem in the community.

Each of the students that were nominated for the Mayor's Youth Award received a bag that includes prizes and donations from local agencies and businesses.

Ms. Peterson then presented the Mayor's Youth Recognition Awards to the following students:

- Asher Larson
- Morgan Wright
- Cody Huntsman
- Maddison Smith
- Faith Andre

Mayor Dunlavy recognized the students for their efforts and expressed appreciation for all of their hard work. He wanted the students to know how special they are and how proud they are of them. He expressed appreciation to their parents, siblings, and other individuals who support them.

4. Public Comment Period

Charlie Roberts addressed the Council. A delegation of five Russian educators who specialize in Autism was in attendance. Those from the delegation included the following individuals: Yelena Sergeyeвна Kilimayeva, Alisa Aleksandrovna Frolova, Albina Asfovna Khaybullia, Yulia Anatolyevna Maksimova, and Irina Aleksandrovna Sterkhova. They are visiting with professionals in Salt Lake, Tooele, and other local areas exchanging ideas with how they can improve serving their disabled population. The Sister Cities Committee expressed appreciation to the Mayor for their support of the program. President Eisenhower, who started Sister Cities International, said it would be the people who solve problems, not the military and not the politicians.

Chairwoman Winn invited any other comments from the audience; there were not any. Chairwoman Winn closed the public comment period.

5. Resolution 2017-43 A Resolution of the Tooele City Council Consenting to the Mayor's Appointments to the Tooele City Historic Preservation Commission

Presented by Terra Sherwood

In 1985 the Tooele City Council passed an ordinance to create a Historic Preservation Commission. The Commission has not been functioning for quite some time. They would like to re-establish the Commission. They took applications at the beginning of the year for individuals interested in joining the Commission. Individuals on the Commission will have the following duties: survey and inventory the community's historic resources, review proposed nominations for the National Register of Historic Places, provide advice and information to the city officials, and enforce the State of Utah Historic Preservation laws. Five members will be appointed by the Mayor. The individuals who have been chosen are: Richard Trujillo, Amy Kelley, Burton Cahoon, Stephanie Stotts, and Jacob Lyman. She was asking for the City Council's consent for their appointment to the Commission.

Councilman McCall moved to approve the nominated individuals to serve on the Tooele City Historic Preservation Commission. Councilman Pruden seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilman Pratt, "Aye," Councilman Pruden, "Aye," Councilman McCall, "Aye," Chairwoman Winn voted "Aye." The motion passed.

6. Bernice Heritage Minor Subdivision—Final Plat Request

Presented by Jim Bolser

This is a one-lot subdivision located on the frontage of the Vorwaller Heritage Mobile Home Park located on Main Street near 700 North. Their intent is to create an independent lot from the remainder of the park in order to use it for an anticipated commercial development. They do not know what commercial business will occupy the lot at this time. They are beginning the marketing

process to draw a commercial venture there. This project has met all of the zoning and code requirements for approval of a Minor Subdivision Plat.

The Planning Commission unanimously recommended approval but added two conditions to the recommendation. The first condition is that the water rights transmission will take place at the time of building permit, not with approval of the subdivision or site plan. The reason for this is that the City often doesn't know the specifics of the commercial venture like they do for a residential subdivision plan.

The second condition is that the Mobile Home Park has a settlement agreement between the City and the property owner that specifies how many spaces of residential units are allowed in the mobile home park. Some of those units are contained within this proposed commercial lot and will be eliminated with the use being converted to commercial. The Planning Commission created a condition that those residential spaces cannot be relocated into the park therefore increasing the density of the park and would then be eliminated if they are removed with the commercial venture that comes in.

Councilman Pratt moved to accept the final plat request for the Bernice Heritage Minor Subdivision with the conditions that they include the recommendations from the Planning Commission as stated by Mr. Bolser. Councilman Wardle seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilman Pratt, "Aye," Councilman Pruden, "Aye," Councilman McCall, "Aye," Chairwoman Winn voted "Aye." The motion passed.

7. Minutes

Councilman Pruden moved to approve the minutes from the City Council Meeting dated September 20, 2017. Councilman McCall seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilman Pratt, "Aye," Councilman Pruden, "Aye," Councilman McCall, "Aye," Chairwoman Winn voted "Aye." The motion passed.

8. Invoices

Presented by Michelle Pitt

There were no invoices to be presented.

Chairwoman Winn announced that the Council still has items to discuss from their 5 pm work meeting. Immediately following the adjournment of the RDA meeting they will reconvene for a closed session in the large conference room.

9. Adjourn to RDA

Councilman Pruden moved to adjourn the meeting to an RDA meeting. Councilman Wardle seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilman Pratt, "Aye," Councilman Pruden, "Aye," Councilman McCall, "Aye," Councilwoman Winn, "Aye." The motion to adjourn to the RDA meeting passed. The meeting was turned over to the RDA Chair Councilman Pratt.

10. RDA Resolution 2017-07 A Resolution of the Redevelopment Agency of Tooele City, Utah ("RDA") Approving a Real Estate Contract of Purchase and Sale with the State of Utah for a Business Resource Center

Presented by Randy Sant

For the last few years Tooele City has been working with the Tooele Applied Technology College to purchase some property they own in the Tooele Business Park for the purpose of building a future business resource center. The buyer will actually be the TATC but they have to work through the State of Utah for this purchase. The funding for this project has been provided by the Utah State Legislature.

The property is located just across from the new Life Sciences building that USU built. It is five acres. They will purchase that and then move forward with building a business resource center. The property will be purchased at the appraised value of \$360,000. In the event that there is any legislative funding leftover from that purchase they will use it to help with the design and engineering for the new building. They recommend they approve this resolution which will authorize the executive director to sign. They will have a 30 day period to do their preliminary due diligence and after that a 90 day period to close. They anticipate closing prior to the 90 day deadline.

Councilwoman Winn said that this business resource center is greatly needed for businesses so they can get assistance with business plans and anything else that they need so they can have a thriving, prosperous business. Businesses bring money to the community.

Chairman Pratt asked the RDA if they had any other questions or comments; there weren't any.

Councilwoman Winn moved to approve RDA Resolution 2017-07. Councilman McCall seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilwoman Winn, "Aye," Councilman Pruden, "Aye," Councilman McCall, "Aye," Chairman Pratt, "Aye." The motion passed.

11. Adjourn

Councilman Pruden moved to adjourn the meeting. Councilman McCall seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilwoman Winn, "Aye," Councilman Pruden, "Aye," Councilman McCall, "Aye," Chairman Pratt, "Aye." The motion passed.

The meeting adjourned at 7:36 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 18th day of October, 2017.

Debra E. Winn, Tooele City Council Chair

DRAFT