

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, November 1, 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:

- **Ordinance 2017 – 27 An Ordinance of Tooele City Enacting Street Improvement Standards for Certain In-fill Overlay District Streets
Presented by Jim Bolser**
- **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**
- **Ordinance 2017 - 28 An Ordinance of Tooele City Amending Tooele City Code Section 11-1-4 Regarding Commercial Handbills
Presented by Roger Baker**
- **Discussion of New Utah Court of Appeals Opinion: Baker v. Park City
Presented by Roger Baker**
- **National Guard Fire Suppression**

4. Close Meeting

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

5. 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

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.

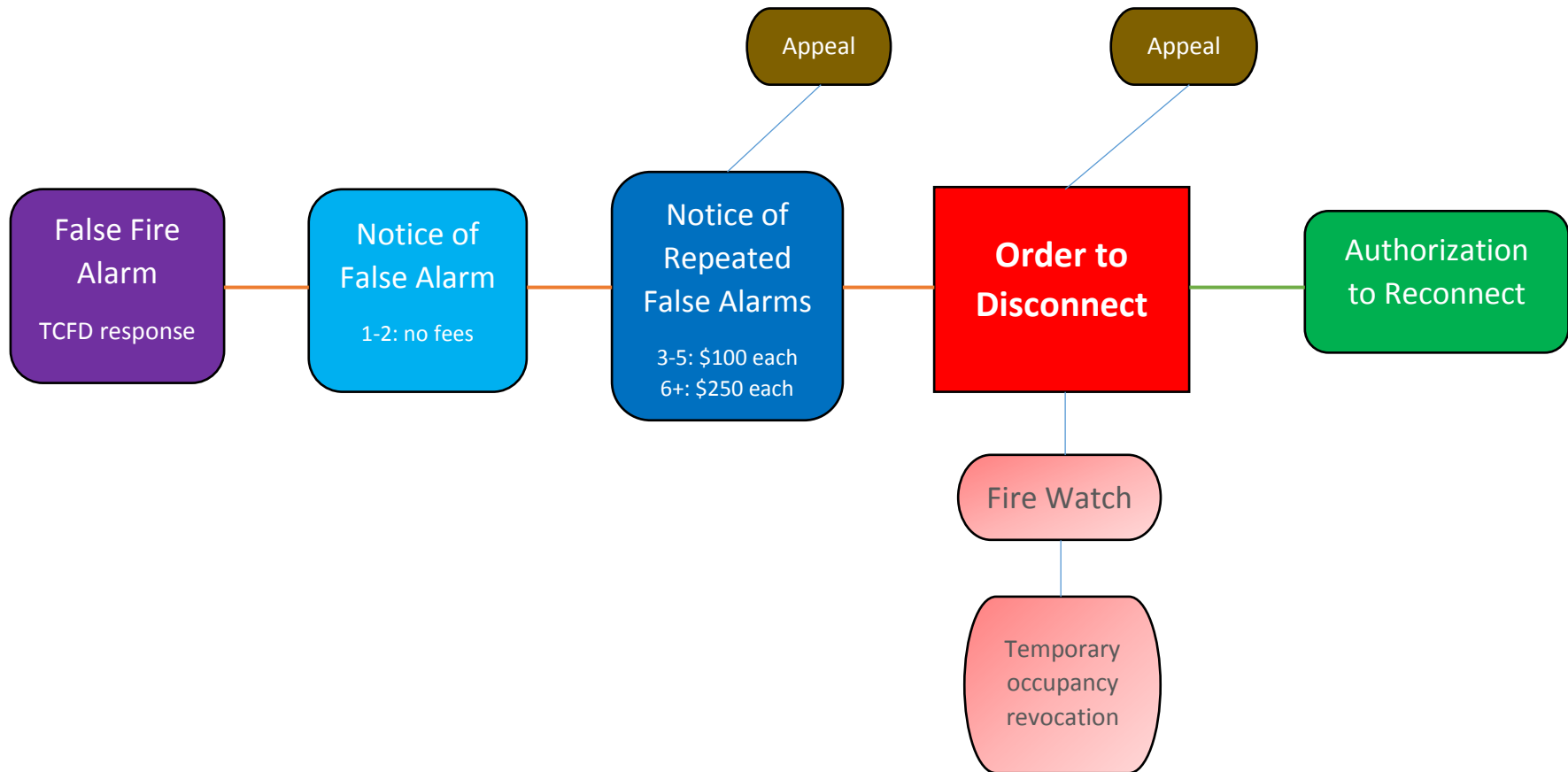
Tooele City is authorized to use all lawful means to collect fees, costs, penalties, and interest assessed under this Chapter, including requiring payment through the City utility bill.

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: _____

THE UTAH COURT OF APPEALS

MICHAEL E. BAKER AND KATHLEEN M. PAPI-BAKER,

Appellants,

v.

PARK CITY MUNICIPAL CORPORATION,

Appellee.

Opinion

No. 20150956-CA

Filed October 13, 2017

Third District Court, Silver Summit Department

The Honorable Kara Pettit

No. 140500532

Bruce R. Baird, Attorney for Appellants

Mark D. Harrington and Polly Samuels McLean,

Attorneys for Appellee

JUDGE GREGORY K. ORME authored this Opinion, in which JUDGES
KATE A. TOOMEY and DAVID N. MORTENSEN concurred.

ORME, Judge:

¶1 Appellants Michael E. Baker and Kathleen M. Papi-Baker (collectively, the Bakers) sought review in the district court of a decision, issued by the Park City Council (the Council), denying their application for a plat amendment. The Bakers filed a motion for summary judgment, arguing that their proposed amendment complied with municipal zoning regulations and that the Council withheld its permission unlawfully. The district court denied their motion and instead granted the cross-motion filed by Park City Municipal Corporation (the City). The Bakers appeal. We affirm.

BACKGROUND

¶2 The Bakers are the current owners of “Dority Springs,” also known as “Lot 83,” located in the Holiday Ranchettes Subdivision (the Subdivision) in Park City, Utah. The Bakers’ residence sits on the Dority Springs lot. Platted in 1974, the Subdivision is comprised of approximately 171 acres of land and 102 lots. While the Subdivision does contain seven lots that are one acre in size or less, including Dority Springs, the vast majority of the lots range between one and two acres. Twenty lots in the Subdivision are greater than two acres in size.

¶3 The Subdivision is included within Park City’s “Single-Family District” zone. Single-family dwellings are among the allowed uses in the District and, absent a special exception, they are the only permitted residential dwellings within the Subdivision.¹ Although the actual density within the Subdivision is much different, the maximum subdivision density in the District is three units per acre, which means that each lot must have an area of at least 14,520 square feet, or one-third of an acre. Lots within the District have a minimum front-yard setback of twenty feet, a minimum rear-yard setback of fifteen feet, and a maximum structural height of no more than twenty-eight feet above existing grade. According to Park City’s Land Management Code (the LMC), one of the purposes behind these

1. According to the record, the City’s Land Management Code provides that within the Single-Family District, duplex dwellings are permitted only on lots designated for duplexes on the official plat. Dority Springs is not a designated duplex lot and it does not have the requisite special exception permitting a duplex in the Subdivision. The code further provides that detached guest houses and detached secondary living quarters are not permitted in the Subdivision.

land use restrictions is to “allow for Single Family Development Compatible with existing Developments.”²

¶4 Although platted contemporaneously with the Subdivision’s other lots, Dority Springs is unique among its neighbors for several reasons. To begin with, Dority Springs is located on the Subdivision’s outermost rim, across the street from lots in the Park Meadows Subdivision No. 5. Those lots, also zoned for single-family dwellings, are much smaller than the average Subdivision lot and range between one-quarter and four-fifths of an acre in size. Down the street, there are also condominiums, a golf course, and a large fitness and recreation center. But behind and to both sides of Dority Springs, the Subdivision’s lots are much larger, averaging nearly 1.7 acres.

¶5 Most importantly, Dority Springs is unique among the Subdivision’s lots because of its unusual history. The lot, which contains springs and a pond, once served as a convenient water source for Park City firefighters. But after fire hydrants were installed, the Park City Fire Department had no need to access water on the lot. The special character of Dority Springs’ wetlands, including its original utility as a natural water source for fighting fires, appears to explain why Dority Springs is exempt from the Subdivision’s Covenants, Conditions, and Restrictions (the CC&Rs).

¶6 Nearly all lots in the Subdivision are subject to the Subdivision’s CC&Rs, which expressly prohibit lot owners from further subdividing their lots. Rather mysteriously, however, two lots are exempted from the CC&Rs’ limitations. Dority Springs is one of them. While the CC&Rs themselves do not offer a reason for Dority Springs’ exemption, the Bakers and the City

2. The LMC does not appear to be readily available as a public resource. Given this, and the fact that the parties do not disagree about the content of any relevant provision of the LMC, we rely on the parties’ and the record’s recitation of its provisions.

Baker v. Park City Municipal Corporation

agree that the most likely explanation is that the lot was not intended for residential development when the Subdivision was initially platted. They observe that Dority Springs' first building permit was not granted until 1993, nearly twenty years after the Subdivision was established and after the lot had lost its value to Park City firefighters as a water source. Moreover, while the CC&Rs exempt Dority Springs from all of the CC&Rs' generally applicable restrictions, the plat diagram included with the CC&Rs also designates Dority Springs as "Open Area."

¶7 Hoping to take advantage of their exemption from the Subdivision's CC&Rs, the Bakers petitioned the Council for a plat amendment that would allow them to subdivide Dority Springs and build a house on the newly created lot. As proposed, their ~~plat amendment and construction plans~~ complied with all the regulatory requirements of the LMC's Single-Family District.

¶8 The Bakers' petition was referred to the Park City Planning Commission (the Commission), which held two separate hearings on the matter. During those hearings, the Commission heard testimony from the Bakers, other homeowners who reside in the Bakers' neighborhood, and a representative from the Subdivision's homeowners' association. The Commission also heard testimony from a representative of Alliance Engineering, a civil engineering and surveying firm that prepared a survey of the site for the Commission's review. Finally, the Commission discussed whether the Council should consider the character of lots outside the Subdivision when making its decision or restrict the scope of its deliberations to the Subdivision alone.

¶9 The Commission forwarded a report to the Council in which it recommended that the Bakers' requested plat amendment be denied. ~~The Commission supported its recommendation with sixty-three "findings of fact" and four "conclusions of law,"~~ all of which it included in its report, along with a summary of the evidence it reviewed during its

Baker v. Park City Municipal Corporation

proceedings. The Commission's four enumerated "conclusions of law" were as follows:

1. The proposed plat amendment is **not consistent** with the Park City Land Management Code and applicable State Law regarding lot combinations.
2. The public will be **materially injured** by the proposed plat amendment as the proposed plat amendment is **not compatible** with the direct neighborhood in terms of lot size and depth.
3. Approval of the plat amendment does **adversely affect health, safety, and welfare** of the citizens of Park City.
4. There is **Good Cause** to deny the proposed plat amendment as the plat does cause undue harm on adjacent property owners because the proposal is not compatible with existing Single Family development (lots) in the near proximity.

¶10 On September 4, 2014, the Council denied the Bakers' application for a plat amendment. In its notice of denial, **the Council expressly adopted all the findings of fact and conclusions of law recommended to it by the Commission.**

¶11 The Bakers petitioned the district court for review of the Council's decision, and the parties filed cross-motions for summary judgment. In granting the City's motion, the court held, first, that the Council's decision was a "legislative act" and was therefore entitled to a high degree of deference.³ In the

— wrong: it was an administrative act.

3. In support of this conclusion, the district court quoted our Supreme Court's decision in *Suarez v. Grand County*, 2012 UT 72, 296 P.3d 688.

alternative, the court held that “even if the Council’s denial of the Plaintiffs’ application were an administrative decision . . . there is **substantial evidence in the record**” to support it. Finally, the district court held that the Council did not act illegally in declining to find “good cause” for approval of the plat amendment under section 609(1)(a) of Utah’s Municipal Land Use Development and Management Act (MLUDMA).⁴

ISSUES AND STANDARD OF REVIEW

¶12 The Bakers appeal the district court’s order granting summary judgment in favor of the City. “Generally, ‘we review a district court’s grant of summary judgment for correctness and afford no deference to the court’s legal conclusions.’” *Jones v. Farmers Ins. Exch.*, 2012 UT 52, ¶ 6, 286 P.3d 301 (brackets omitted) (quoting *Salt Lake City Corp. v. Big Ditch Irrigation Co.*, 2011 UT 33, ¶ 18, 258 P.3d 539). This lack of deference to the district court’s decision on summary judgment is not moderated when we are considering an appeal from district court review of a local land use determination, as explained below.

¶13 In their briefs, the parties devote considerable attention to the question of whether the Council’s decision should be characterized as a legislative act or an administrative determination. At oral argument, however, counsel for both sides conceded that resolution of this issue is not dispositive and that the result would be the same in either circumstance. Both counsel further agreed that courts must accord greater deference to legislative acts than to administrative ones. In view of these concessions, we need not decide whether the decision was legislative or administrative in nature. Rather, **we assume for purposes of this appeal that the Council’s decision to deny the Bakers’ proposed plat amendment was an administrative act and apply the more exacting of the two standards of review.**

4. MLUDMA is codified in title 10, chapter 9a, of the Utah Code.

Baker v. Park City Municipal Corporation

¶14 With that, the Bakers' arguments on appeal are reduced to two. First, the Bakers ascribe error to the district court's conclusion that the Council's decision was supported by substantial evidence and was therefore neither arbitrary nor capricious. Second, they contend that the Council's decision was illegal insofar as it relied on an overbroad interpretation of "good cause" as that term is used in MLUDMA.⁵

¶15 The appropriate standard of review was recently clarified by the Utah Supreme Court. While we review the district court's decision rather than the Council's decision directly, "[w]e afford no deference to the [district] 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." *McElhaney v. City of Moab*, 2017 UT 65, ¶ 26.

ANALYSIS

I. Substantial Evidence

¶16 We first consider whether the district court erred in holding that the Council's decision was supported by substantial evidence in the record. At the outset, we observe that the laws of

5. The Bakers also argue that the Council's decision violated "'fundamental fairness' as required by Section 10-9a-102(1)" of MLUDMA. Yet the section they cite imposes no specific duty on any municipal authority; rather, the section contains a list of legislative "purposes" that underpin MLUDMA. *See* Utah Code Ann. § 10-9a-102(1) (LexisNexis 2015). Further, the Bakers do not argue that case law in this state has linked the statutory language they quote to any affirmative duty on the part of a municipality. In fact, they concede that "there is no Utah case of which the Bakers are aware directly construing ... what constitutes 'fundamental fairness in land use regulation.'"

this state and the jurisprudence of our Supreme Court accord “[a] municipality’s land use decisions . . . a great deal of deference.” *Springville Citizens for a Better Community v. City of Springville*, 1999 UT 25, ¶ 23, 979 P.2d 332. Accord Utah Code Ann. § 10-9a-801(3)(a)(i) (LexisNexis 2015) (“The courts shall . . . presume that a decision [of a land use authority] made under the authority of this chapter is valid[.]”). Since “local county planning commissions . . . possess a certain degree of ‘specialized knowledge’ in their fields,” municipal land use authorities “acting within the boundaries established by applicable statutes and ordinances” are entitled to a “broad latitude of discretion.” *Carrier v. Salt Lake County*, 2004 UT 98, ¶ 28, 104 P.3d 1208 (quoting *Patterson v. Utah County Board of Adjustment*, 893 P.2d 602, 604 (Utah 1995)).

¶17 Section 801 of MLUDMA, in effect at the time of the dispute in this case, provided that a land use authority’s administrative decision is valid if it is “supported by substantial evidence in the record and is not arbitrary [or] capricious.” Utah Code Ann. § 10-9a-801(3)(c) (LexisNexis 2015).⁶ “Substantial evidence is that quantum and quality of relevant evidence that is adequate to convince a reasonable mind to support a

6. In 2017, the Utah Legislature amended section 801(3) of MLUDMA and codified the holding of our Supreme Court in *Bradley v. Payson City*, 2003 UT 16, 70 P.3d 47, that an administrative land use decision is “not arbitrary and capricious if [it is] supported by substantial evidence.” *Id.* ¶ 10 (citation and internal quotation marks omitted). Section 801(3)(c)(i) now provides that “[a] decision is arbitrary and capricious unless the decision is supported by substantial evidence in the record.” Utah Code Ann. § 10-9a-801(3)(c)(i) (LexisNexis Supp. 2017). Section 801(3) was also amended in other respects, none of which are germane to the case before us. Throughout this opinion, we therefore cite the version of the Utah Code in effect at the time this dispute arose.

Baker v. Park City Municipal Corporation

conclusion.” *Salt Lake City S. R.R. v. Utah State Tax Comm’n*, 1999 UT 90, ¶ 7, 987 P.2d 594 (citations and internal quotation marks omitted). Furthermore, our Supreme Court has held that “[w]hen a land use decision is made as an exercise of administrative . . . powers, . . . [the] decision[is] not arbitrary and capricious if [it is] supported by ‘substantial evidence.’” *Bradley v. Payson City*, 2003 UT 16, ¶ 10, 70 P.3d 47.

¶18 “In determining whether substantial evidence supports [a municipal land use authority’s] decision we will consider all the evidence in the record, both favorable and contrary to the [authority’s] decision.” *Patterson*, 893 P.2d at 604. “We do not, however, weigh the evidence anew or substitute our judgment for that of the municipality.” *Springville Citizens*, 1999 UT 25, ¶ 24. Rather, “[w]e must simply determine, in light of the evidence before the [land use authority], whether a reasonable mind could reach the same conclusion as the [authority].” *Patterson*, 893 P.2d at 604. See *Carlsen v. Board of Adjustment*, 2012 UT App 260, ¶ 8, 287 P.3d 440.

¶19 With these principles in mind, we agree with the district court that the Council’s decision was supported by substantial evidence. It was not arbitrary or capricious.

¶20 The Council cited four conclusions as the basis for its decision to deny the plat amendment. We need not hold that each one was supported by substantial evidence to conclude that the Council’s ultimate decision was valid. Where administrative decisions are concerned, MLUDMA provides that a “land use authority may approve the . . . amendment of a plat . . . if the land use authority finds that . . . there is *good cause* for the . . . amendment.” Utah Code Ann. § 10-9a-609(1)(a) (LexisNexis 2015) (emphasis added). In its fourth conclusion, the Council states:

There is Good Cause to deny the proposed plat amendment as the plat does cause undue harm on adjacent property owners because the proposal is

not compatible with existing Single Family development (lots) in the near proximity.

We conclude that the Council's fourth conclusion was sufficient by itself to support a valid administrative determination under MLUDMA. We therefore need not decide whether the Council's first, second, or third conclusions were supported by substantial evidence.

¶21 The Bakers argue, first, that the Council "did not apply the standard of Good Cause correctly," and second, that the Council's good cause for denying the plat amendment "is not supported by substantial evidence in the record." Turning to their first contention, the Bakers point out that the Council's fourth conclusion determined there was "Good Cause" to deny their amendment, while the statutory focus is on whether there is good cause to approve it. *See* Utah Code Ann. § 10-9a-609(1)(a) (providing that a land use authority may "approve" a plat amendment upon a showing of "good cause"). To the extent they are suggesting that the Council failed to comply with MLUDMA's analytical framework for considering proposed plat amendments, we are unconvinced.⁷ The Council may well have

7. In addition to the fact that the Council's fourth conclusion does not comport perfectly with the language of section 609(1)(a), the Bakers also point out that the Council's first conclusion does not specify precisely which "State Law" stands as a bar to the Bakers' request. While it is not altogether clear from their briefing and oral argument, the Bakers appear to take the position that these shortcomings amounted to a wholesale failure on the Council's part to engage in the "good cause" inquiry contemplated by MLUDMA. It may be that they hesitate to make the argument more forcefully because they recognize that it is futile. As discussed in more detail below, section 609(1)(a) contains discretionary rather than mandatory language. *See* Utah Code Ann. § 10-9a-609(1)(a) (LexisNexis 2015)
(continued...)

thought that the lack of “good cause” to approve the Bakers’ amendment was readily inferable from its conclusion that there was “Good Cause” to deny it, and therefore an express conclusion to that effect would be stating the obvious. In any event, **we will not insist upon absolute linguistic precision before upholding an administrative body’s decision.** The fact that the Council emphasized the phrase “Good Cause” by capitalizing both of its component words reinforces our conclusion that section 609(1)(a) was at the heart of the Council’s analysis when it adopted its conclusion.⁸

¶22 Thus, having determined that the Council’s fourth conclusion satisfied the administrative “good cause” inquiry under MLUDMA as a legal matter, we now turn to the Bakers’ second contention, namely that the Council’s conclusion was not supported by substantial evidence in the record. We hold that it was.

¶23 ~~Since MLUDMA does not define “good cause,” municipalities necessarily have some discretion in determining~~

(...continued)

(providing that a “land use authority *may* approve the . . . amendment of a plat . . . if the land use authority finds that . . . there is good cause for the . . . amendment”) (emphasis added). Thus, **even if the Council had expressly concluded that good cause existed for the Bakers’ amendment, it would not necessarily have been obligated to approve it.**

8. It is also possible that the Council was merely quoting the LMC’s “Good Cause” standard, which employs the same scheme of capitalization in stating that “[p]lat amendments . . . shall require a finding of Good Cause[.]” The result would be no different even if that were so, since the “Good Cause” requirement set out in the relevant provision of the LMC is all but identical to the “good cause” standard articulated in section 609(1)(a) of MLUDMA.

what constitutes “good cause” for a plat amendment. And indeed, the LMC has fleshed out MLUDMA’s otherwise generalized standard by defining “Good Cause” with some particularity:

GOOD CAUSE. Providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City and furthering the health, safety, and welfare of the Park City community.

Under this definition, a reasonable mind could certainly conclude from the record that there was “Good Cause to deny the proposed plat amendment as the plat does cause undue harm on adjacent property owners.”

¶24 First, the Council considered testimony received by the Commission that Dority Springs was already one of the smallest lots in the Subdivision. To subdivide it any further would therefore do nothing to “address[] issues related to density” or “preserv[e] the character of the neighborhood.” Second, the Council considered testimony regarding Dority Springs’ unique history, in addition to a diagram from the Subdivision’s CC&Rs that designates Dority Springs as “Open Area.” This evidence suggests that the lot would likely have been made subject to the Subdivision’s CC&Rs, including the prohibition on the further subdividing of lots, had Dority Springs originally been intended to be a building lot instead of open space available to the Park City Fire Department as a water source. Allowing the Bakers to subdivide would therefore intensify the impact of their anomalous exemption, as the CC&Rs prohibit other homeowners in the Subdivision from subdividing their lots even

though most are larger than Dority Springs. Accordingly, approving the Bakers' request would not "resolv[e] existing issues and non-conformities" in the Subdivision. Rather, it would exacerbate them, in derogation of the reasonable expectations of other homeowners in the Subdivision.

¶25 Moreover, Dority Springs lies within the Single-Family District, and to remain consistent with the LMC, the Council considered the express "purposes" that underlie the regulations applicable to the Single-Family District.⁹ One of those purposes, with our emphasis, is to "allow for Single Family Development *Compatible with existing Developments*." The LMC defines "compatible" characteristics as those that "integrate with and relate to one another to maintain and/or enhance the context of a surrounding [a]rea or neighborhood." In this regard, the Commission expressly found—and the Council later agreed—that "Good Cause" existed to deny the Bakers' plat amendment because their "proposal [was] not compatible with existing Single Family development . . . in the near proximity," by which they apparently meant the Subdivision proper and not the greater area.

¶26 While the Bakers' proposed plat amendment may have complied with every LMC requirement applicable within the Single-Family District, nevertheless the record contains ample evidence that the subdivided plat they proposed would not be

9. We see no reason why either the Commission or the Council should not look to the purposes underlying the applicable municipal regulations when considering "good cause" under MLUDMA, so long as those purposes are not inconsistent with state law. *See* Utah Code Ann. § 10-9a-102(2) (LexisNexis 2015) ("To accomplish the purposes of this chapter, municipalities may enact all ordinances, resolutions, and rules . . . that they consider necessary or appropriate for the use and development of land within the municipality[.]").

“[c]ompatible with existing Single Family developments” in the Subdivision itself. The Commission included in its report to the Council a five-factor analysis explaining how the proposed subdivided lots would compare with the lots surrounding them. With respect to two of those factors—lot depth and overall size—the Bakers’ proposed lots would be at odds with the character of other lots within the Subdivision. It is true, as previously noted, that Dority Springs sits on the edge of the Subdivision, and there are non-Subdivision lots across the street that are smaller than those owned by the Bakers’ neighbors in the Subdivision. But it is not our place to re-weigh the evidence, and a reasonable mind could certainly conclude that “maintain[ing] and . . . enhanc[ing] the context” of the Subdivision warrants drawing a hard line between lots that are inside the Subdivision and lots that are not.

¶27 Accordingly, because the Council’s fourth conclusion finds sufficient support in the record—and even though its other conclusions may not be on so firm a footing—we agree with the district court that the Council’s decision denying the Bakers’ plat amendment was supported by substantial evidence and was not otherwise arbitrary or capricious.

II. Illegality of the Decision

¶28 We therefore turn to the Bakers’ second main argument on appeal, namely, that the Council’s decision was illegal. “A determination of illegality requires a determination that the decision . . . violates a law, statute, or ordinance in effect at the time the decision was made[.]” Utah Code Ann. § 10-9a-801(3)(d) (LexisNexis 2015). Thus, the question “depends on a proper interpretation and application of the law.” *Patterson v. Utah County Board of Adjustment*, 893 P.2d 602, 604 (Utah 1995). “These are matters for our determination, and we accord no deference to the district court or the [land use authority].” *Id.*

¶29 This argument can be quickly put to rest. The Bakers maintain that the Council acted illegally when it “ignored the

Baker v. Park City Municipal Corporation

presumption of approval [for plat amendments] under State law” and supplemented its reading of “good cause” under section 609(1)(a) with the LMC’s more specific definition. However, the authority the Bakers cite in support of the “presumption” they posit is not on point. Quoting our Supreme Court’s decision in *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1980), they correctly observe that “an applicant is entitled to a . . . subdivision approval if his proposed development meets the zoning requirements in existence at the time of his application . . . , absent a compelling, countervailing public interest.” *Id.* at 396. But the Bakers did not apply for approval of a new subdivision; they applied to amend a subdivision that was already in existence.

¶30 Applicants seeking to plat a new subdivision—typically, developers—are entitled to have their applications reviewed under section 603 of MLUDMA. That section provides that “if the plat conforms to the municipality’s ordinances . . . and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, . . . the municipality shall approve the plat.” Utah Code Ann. § 10-9a-603(2)(a) (LexisNexis 2015) (emphasis added). See *DCH Holdings, LLC v. Nielsen*, 2009 UT App 269, ¶ 3 n.1, 220 P.3d 178 (explaining that section 10-9a-603 governs the process for approving the creation of a plat). In contrast, applicants seeking to amend an existing plat must proceed under the approval process articulated in section 609. As noted above, that section provides that a “land use authority may approve the . . . amendment of a plat . . . if the land use authority finds that . . . there is good cause for the . . . amendment.” Utah Code Ann. § 10-9a-609(1)(a) (emphasis added). In short, unlike applications to plat new subdivisions, applications for plat amendments do not enjoy a presumption of regularity with an expectation of approval.

¶31 Accordingly, we take no issue with the City’s decision to supplement section 609(1)(a)’s general standard of “good cause”

with a more specific definition where that definition is not in conflict with MLUDMA. Indeed, MLUDMA itself provides that “[t]o accomplish the purposes of this chapter, municipalities may enact all ordinances . . . that they consider necessary or appropriate for the use and development of land within the municipality.” *Id.* § 10-9a-102(2). The LMC’s supplemental definition of “Good Cause” appears to be an excellent example of just such an ordinance. We therefore agree with the district court that the Council’s decision to deny the Bakers’ plat amendment was not illegal.

CONCLUSION

¶32 We agree with the district court that, given the evidence in the record, the Council could reasonably conclude that the Bakers’ proposed plat amendment lacked “good cause” under MLUDMA. We further agree that the Council’s decision rested upon a proper interpretation of MLUDMA and was therefore not illegal. Accordingly, we hold that the district court did not err in granting summary judgment to the City.

¶33 Affirmed.

PUBLIC NOTICE

Notice is hereby given that the Tooele City Council will meet in a **Business Meeting** on **Wednesday, November 1, 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. *PUBLIC HEARING & MOTION* on Ordinance 2017 – 27 An Ordinance of Tooele City Enacting Street Improvement Standards for Certain In-fill Overlay District Streets
Presented by Jim Bolser**
- 6. Ordinance 2017 - 28 An Ordinance of Tooele City Amending Tooele City Code Section 11-1-4 Regarding Commercial Handbills
Presented by Roger Baker**
- 7. Resolution 2017 - 23 A Resolution of the Tooele City Council Establishing Fees for Various Administrative Appeals
Presented by Roger Baker**
- 8. Minutes**
- 9. Invoices
Presented by Michelle Pitt**
- 10. 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 2017-27

AN ORDINANCE OF TOOELE CITY ENACTING STREET IMPROVEMENT STANDARDS FOR CERTAIN IN-FILL OVERLAY DISTRICT STREETS.

WHEREAS, the concept of encouraging in-fill development includes the development of vacant and underutilized parcels of residential and/or commercial land that have resisted development or redevelopment due to various considerations including geography, cost, and market disadvantages; and,

WHEREAS, encouraging in-fill development and redevelopment allows for greater utilization of underutilized residential land, more efficient utilization of existing public infrastructure (e.g., water, sewer, and roads), and more efficient utilization of public services (e.g., fire and police); and,

WHEREAS, on December 16, 2015, the City Council approved Ordinance 2015-25, enacting a regulation encouraging in-fill development through clear statements of purpose, clear definitions, clear and rational in-fill development standards, and clear and rational in-fill development incentives (Ordinance 2015-25 is hereby incorporated into this Ordinance in its entirety by this reference); and,

WHEREAS, in recommending approval of Ordinance 2015-25, the City Administration recommended encouraging in-fill development through the application of in-fill development standards and incentives in particular geographic areas, including Geographic Area A and Geographic Area B (see Geographic Areas A and B depicted in TCC Chapter 7-14 Figure 1 and in Ordinance 2015-25, also attached to this Ordinance as Exhibit A); and,

WHEREAS, Geographic Areas A and B contain portions of three public streets designated as 150 West, 50 West, and Garden Street (or 50 East) (collectively the "In-Fill Streets"), that are classified as Local streets (as opposed to alleys) and that lack sufficient right-of-way width to support the horizontal improvements required for local class streets by TCC Chapter 4-8 (Road and Bridge Construction Standards), specifically Section 4-8-2 (Street Design) and Section 4-8-4 (Street Improvements); and,

WHEREAS, the In-Fill Streets typically are not the streets from which residences and businesses have their primary access, but typically provide only secondary access; and,

WHEREAS, the platted rights-of-way for the In-Fill Streets vary between 49.5 feet and 33 feet, posing limitations on the horizontal improvements that can be constructed within the improved In-Fill Street rights-of-way; and,

WHEREAS, the In-Fill Streets have been encroached upon by fences, sheds, barns, coops, garages, and other structures, in some cases houses, increasing the

hurdles for clearly establishing delineated rights-of-way and constructing horizontal street improvements within those rights-of-way; and,

WHEREAS, requiring adjacent property owners to dedicate a 30-foot right-of-way half-width for a regular Local street would require the removal of numerous fences, accessory structures, and, in some cases, primary structures, including houses; and,

WHEREAS, requiring adjacent property owners to construct full horizontal street improvements, to include sidewalks, landscaped park strips, curbs, gutters, and full asphalt street widths would both create hardships for owners of existing primary and accessory structures, as well as hardships for owners of vacant properties who may wish to obtain a building permit for the construction of new primary structures, which hardships are magnified due to the fact of the In-Fill Streets providing predominantly secondary access to adjoining properties, and which hardships create serious disincentives to in-fill development; and,

WHEREAS, the City Council desires to clarify the horizontal and vertical street improvements applicable to the In-Fill Streets, to the extent located in Geographic Areas A and B, in such a manner as to minimize the hardships and disadvantages described above and to further incentivize in-fill development in Geographic Areas A and B, while at the same time assuring the construction of adequate horizontal and vertical street improvements to serve and protect adjoining properties and to protect city infrastructure; and,

WHEREAS, this Ordinance establishes legislative policies for the regulation of land use development and the construction of public right-of-way improvements, and is supported by the fairly debatable points contained herein; and,

WHEREAS, the Planning Commission convened a public hearing, as required by U.C.A. §10-9a-205 for land use ordinances and by T.C.C. §7-1A-6 for revisions to the City land use (zoning) ordinances, on _____, and voted to recommend approval of this Ordinance to the City Council (see the Planning Commission minutes attached as Exhibit B); and,

WHEREAS, the City Council convened a public hearing, as required by T.C.C. §7-1A-6 for revisions to the City land use ordinances, on _____:

NOW, THEREFORE, BE IT ORDAINED BY TOOELE CITY that Sections 4-8-2.1 and 7-14-1.2 are hereby enacted, as shown in Exhibit C.

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

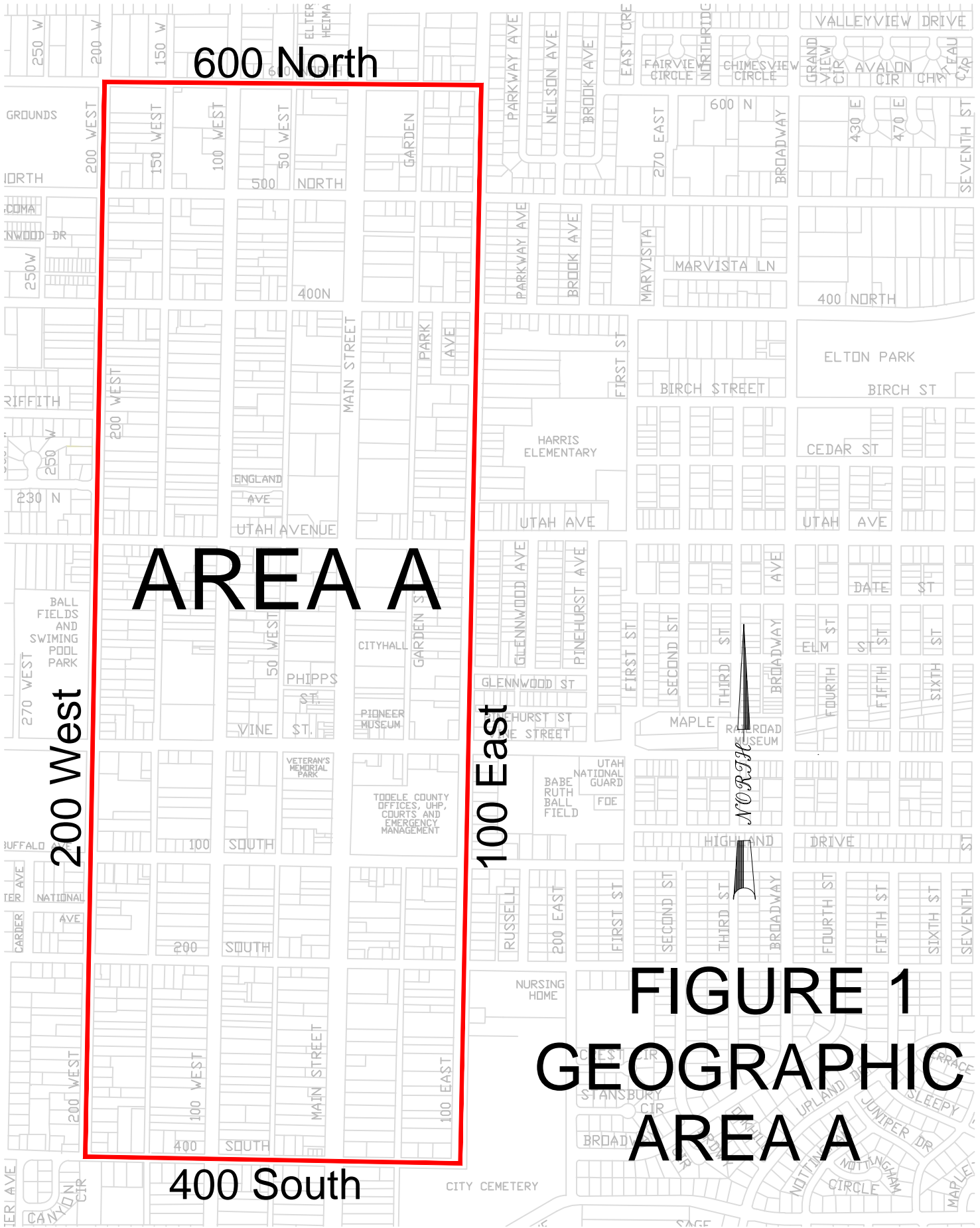
In-Fill Geographic Areas A and B

RESIDENTIAL ZONING DISTRICTS

Figure 1: Geographic Area A

Figure 2: Geographic Area B

(Ord. 2015-25, 12-16-2015)



600 North

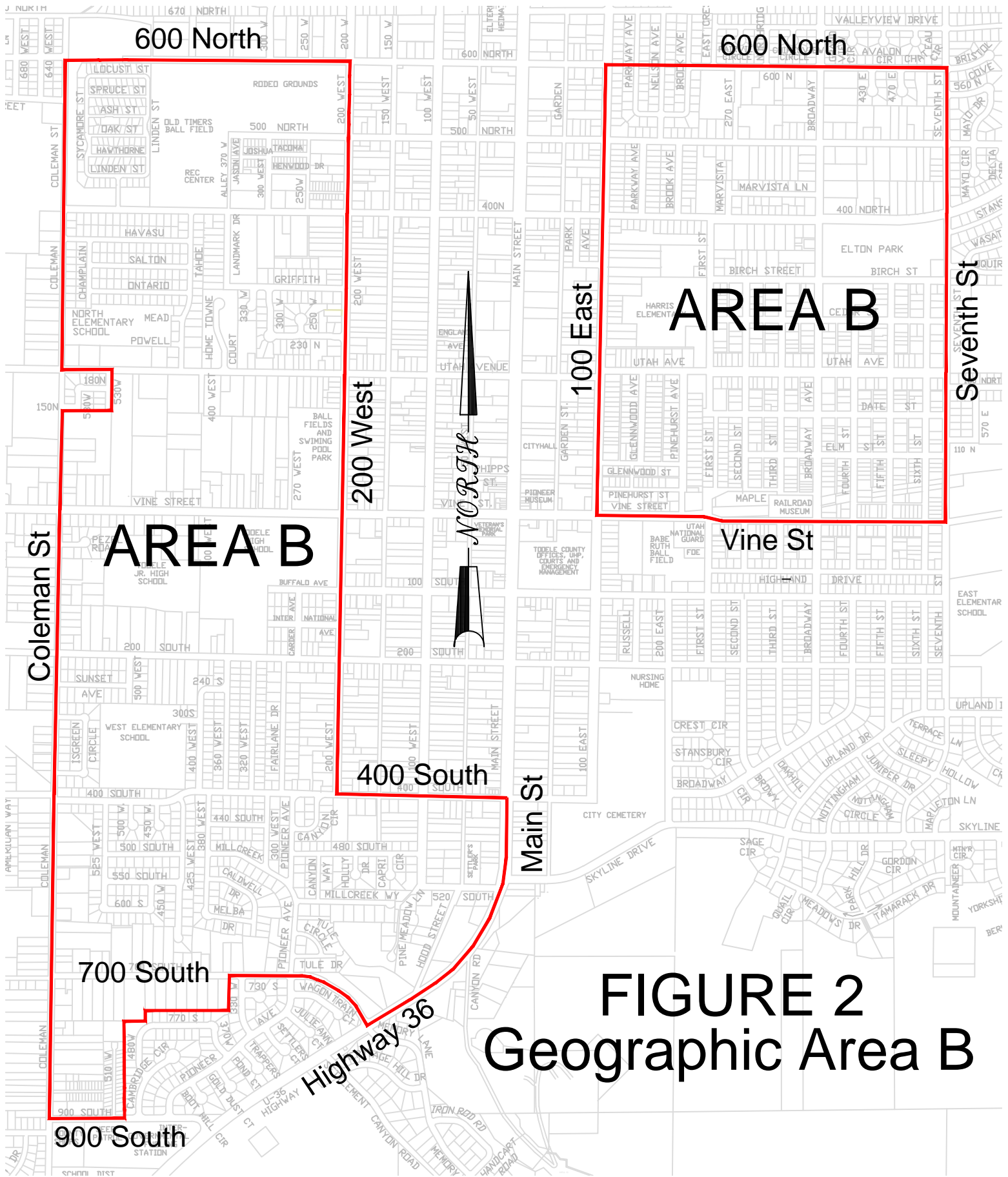
AREA A

200 West

100 East

400 South

FIGURE 1
GEOGRAPHIC
AREA A



600 North

600 North

AREA B

AREA B

Coleman St

100 East

Seventh St

NORTH

Vine St

400 South

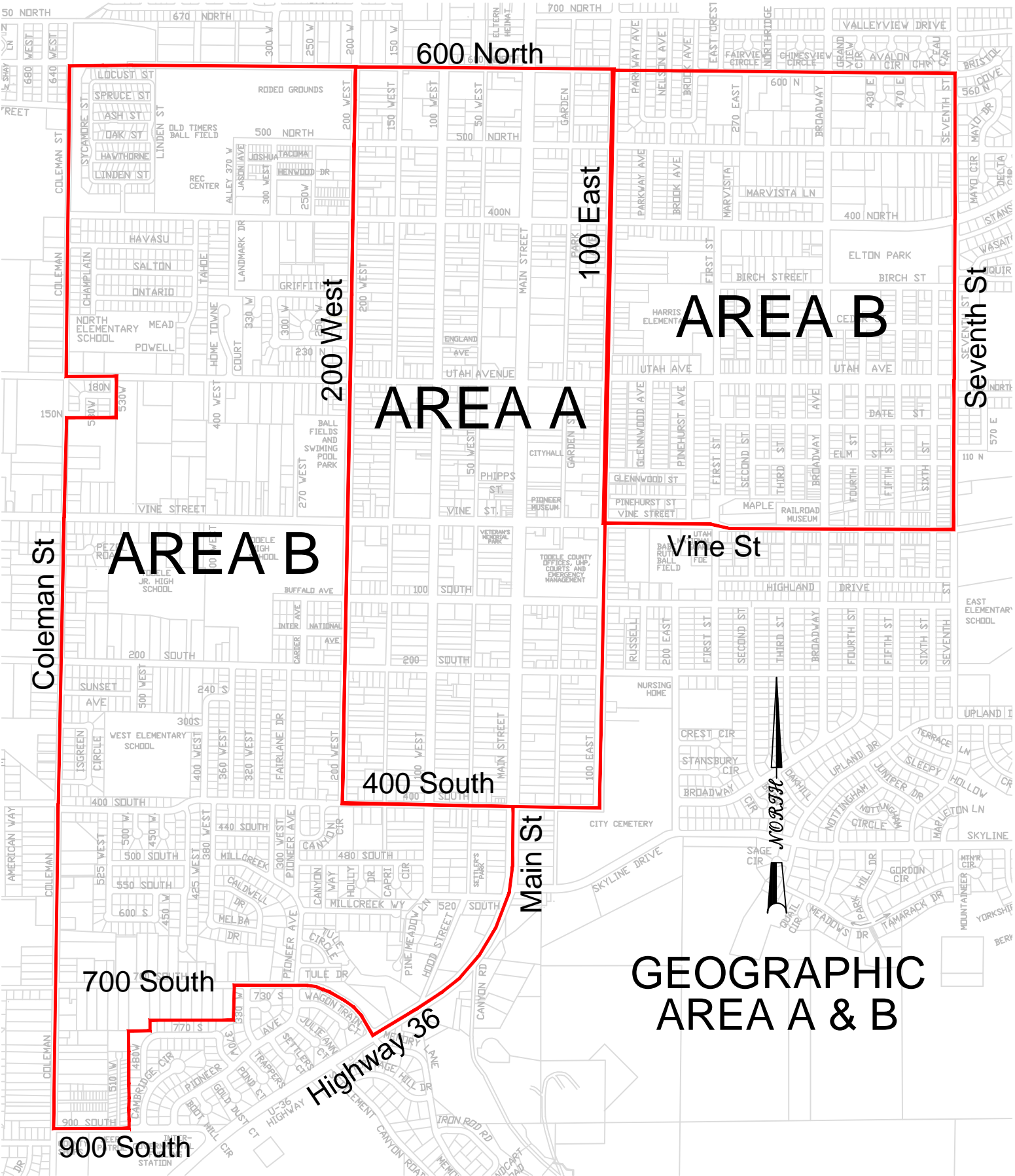
Main St

700 South

FIGURE 2
Geographic Area B

Highway 36

900 South



600 North

200 West

100 East

Seventh St

AREA B

AREA A

AREA B

Vine St

Coleman St

400 South

Main St

700 South

Highway 36

900 South

GEOGRAPHIC
AREA A & B



Exhibit B

Planning Commission Minutes

Exhibit C

Proposed Tooele City Code
Section 4-8-2.1
Section 7-14-1.2

CHAPTER 8. ROAD AND BRIDGE CONSTRUCTION STANDARDS

- 4-8-1. Specifications Adopted - Amendments.
- 4-8-2. Street Design.
- 4-8-2.1. Infill Overlay District Street Design.
- 4-8-3. Street Widths.
- 4-8-4. Street Improvements.
- 4-8-5. Fire Hydrants.
- 4-8-6. Street Lighting.
- 4-8-7. Alleys.
- 4-8-8. Blocks.
- 4-8-9. Street Names and Signage.
- 4-8-10. Building Address Numbers.
- 4-8-11. Bridge Standards and Design.

4-8-2.1. In-Fill Overlay District Street Design.

- (1) Intermediate Local Class Streets within the In-Fill Overlay District, as identified in Section 7-14-1.2, shall be required to maintain a minimum asphalt width of 30 feet with curb and gutter on each side. Parkstrips and sidewalks shall not be required.
- (2) Secondary Local Class Streets within the In-Fill Overlay District, as identified in Section 7-14-1.2, shall be required to maintain a minimum asphalt width of 26 feet. Curb and gutter, parkstrips, and sidewalks shall not be required.
- (3) Except as provided in this Section, street improvement standards for Local Class Streets, as outlined in Section 4-8-4, shall be applicable to all Intermediate Local Class Streets and Secondary Local Class Streets within the In-Fill Overlay District. Required minimum asphalt widths for Intermediate Local Class Streets and Secondary Local Class Streets within the In-Fill Overlay District shall be provided within a dedicated public right-of-way.

CHAPTER 14. RESIDENTIAL ZONING DISTRICTS

- 7-14-1. Residential Zoning Districts.
- 7-14-1.1. In-Fill Overlay District.
- 7-14-1.2. In-Fill Overlay District Streets.
- 7-14-2. Residential Zoning Districts Purpose.
- 7-14-3. Uses Allowed within the Residential Zoning Districts.
- 7-14-4. Table of Allowed Residential Density and Table of Residential Site Planning and Development Standards.
- 7-14-5. Table of Minimum Residential Dwelling Unit Size.
- 7-14-6. Accessory Structure Requirements.
- 7-14-7. Porches.
- 7-14-8. Off-Street Parking Requirements.
- 7-14-9. Keeping of Animals and Household Pets.
- 7-14-10. Apiaries

7-14-1.1. In-Fill Overlay District.

The In-Fill Overlay special purpose zoning district is formulated to appropriately encourage residential development and redevelopment on lots and parcels of record that may be nonconforming or surrounded by developed land in order to more efficiently utilize residential land, existing public infrastructure, and public services. Table 5 to this Chapter establishes development standards designed to fulfill the purpose of the In-Fill Overlay district.
(Ord. 2015-25, 12-16-2015)

7-14-1.2. In-Fill Overlay District Streets.

- (1) Intermediate Local Class Streets within the In-Fill Overlay District shall be identified as Garden Street north of 100 South.
- (2) Secondary Local Class Streets within the In-Fill Overlay District shall be identified as 50 West and 150 West and Garden Street south of 100 South.

TABLE 5
IN-FILL OVERLAY DISTRICT DEVELOPMENT STANDARDS

Development Standard	Geographic Area A	Geographic Area B	Nonconforming Lot/Parcel
Min. Front Yard Setback	May reduce to 65% of underlying zoning district	May reduce to 80% of underlying zoning district	May reduce to 90% of underlying zoning district, or to historic foundation line, whichever is less
Min. Garage Setback	25 Ft.	25 Ft.	25 Ft.
Min. Rear Yard Setback (interior lot)	May reduce to 65% of underlying zoning district	May reduce to 80% of underlying zoning district	May reduce to 90% of underlying zoning district, or to historic foundation line, whichever is less
Min. Rear Yard Setback (corner lot)	May reduce to 65% of underlying zoning district	May reduce to 80% of underlying zoning district	May reduce to 90% of underlying zoning district, or to historic foundation line, whichever is less
Min. Side Yard Setback (interior lot)	May reduce to 65% of underlying zoning district, or to 5 Ft., whichever is greater	May reduce to 80% of underlying zoning district, or to 5 Ft., whichever is greater	May reduce to 90% of underlying zoning district, or to 5 Ft., whichever is greater, or to historic foundation line
Min. Side Yard Setback (corner lot)	May reduce to 65% of underlying zoning district, or to 5 Ft., whichever is greater	May reduce to 80% of underlying zoning district, or to 5 Ft., whichever is greater	May reduce to 90% of underlying zoning district, or to 5 Ft., whichever is greater, or to historic foundation line
Total Lot Coverage (all buildings)	May increase to 135% of underlying zoning district	May increase to 120% of underlying zoning district	May increase to 110% of underlying zoning district
Roadway Improvements Required	As required by Tooele City Code, for only the subject lot/parcel side of the roadway	As required by Tooele City Code	As required by Tooele City Code
Water Rights (payment of fee in lieu of conveyance)	Pay 50% of the fee-in-lieu established by the City	Pay 75% of the fee-in-lieu established by the City	Pay 100% of the fee-in-lieu established by the City

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 TOOELE 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

MONEY BAG



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

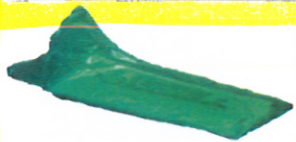
- Free Admission • Fossils • Rocks & Gems • Door Prizes • Displays • Jewelry • Demonstrations • Vendors • Silent Auction



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

[View Management Team](#)

WEST VALLEY CITY, UT 84118

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.

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.

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 Council and the
Tooele City Redevelopment Agency of Tooele City, Utah
Work Session Meeting Minutes**

Date: Wednesday, October 18, 2017
Time: 5:00 p.m.
Place: Tooele City Hall, Large Conference Room
90 North Main St., Tooele, Utah

City Council Members Present:

Steve Pruden
Scott Wardle
Brad Pratt
Dave McCall

Excused: Chairwoman Debbie Winn

City Employees Present:

Mayor Patrick Dunlavy
Glenn Caldwell, Finance Director
Michelle Pitt, Recorder
Roger Baker, City Attorney
Jim Bolser, Community Development and Public Works Director (joined the meeting late)
Randy Sant, Economic Development and Redevelopment Agency Director
Paul Hansen, City Engineer

Minutes prepared by Michelle Pitt

1. Open Meeting

Vice Chair Pruden called the meeting to order at 5:00 p.m.

2. Roll Call

Steve Pruden, Present
Scott Wardle, Present
Brad Pratt, Present
Dave McCall, Present
Debbie Winn, Excused

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 Jim Bolser

Mr. Bolser stated that accepting completed public improvements is a standard procedure that the Council has seen before for other subdivisions. The improvements for Copper Canyon Phase 5 have been completed. Mr. Bolser said that it was the recommendation of staff that the Council accept the public improvements for Phase 5. Vice Chair Pruden said he likes the way Copper Canyon does their project, to get one phase approved, fill it up, then get the next phase filled. Mr. Baker added that this item is on the business meeting agenda where the Council will do a formal vote.

- Resolution 2017-23 A Resolution of the Tooele City Council Establishing Fees for Various Administrative Appeals
Presented by Roger Baker

Mr. Baker stated that he had presented this item to the Council in a prior meeting. He said that tonight the Council will only discuss this issue, not vote. Page 1 of the Resolution identifies a number of areas where the City does not currently require fees, but for which expenses are incurred. Mr. Baker indicated that when he brought this issue to the Council before, the proposal was for the Council to approve a \$150.00 fee across the board. This time he is recommending different amounts of fees depending on the type of appeal, and that if the appellant is successful, the fee be reimbursed. Mr. Baker provided research as to what other cities charge for their administrative appeals. He said it was difficult to compare what other cities are doing because all cities are different in their fees, and how they are set up. For example, some cities still have a board of adjustment that hears these types of matters.

Mr. Baker explained that Page 11 of the packet depicts all of the appealable decisions and a recommendation of the proposed fee. He summarized that land use issues have a \$150.00 fee. Mr. Baker further explained that Mr. Bolser had previously researched what the appeal fee should be for land use issues, and had provided that research at that time. Mr. Baker added that the \$150.00 fee doesn't recover the City's costs, but he believed the appellant should pay something for a program that has an administrative hearing officer. The recommendation for animal appeals is \$75.00. For special event permits, water, and parking tickets there would be a \$25.00 fee. Mr. Baker stated that if someone wins the appeal, they get the fee reimbursed.

Mr. Baker asked the Council if they had any questions regarding the proposed Resolution, or if they would like it to come back for a vote. Vice Chair Pruden felt that the fees were fair. He liked the idea of people getting reimbursed if they win the appeal. Mr. Baker stated that he didn't believe there would be many cases where the appellant wins because the staff works really hard to get things right in the first place. The Council asked that the Resolution go on the agenda for the November meeting.

- Ordinance 2017-28 An Ordinance of Tooele City Amending Tooele City code Section 11-1-4 Regarding Commercial Handbills

Presented by Roger Baker

Mr. Baker showed a picture he took of a green bag on his way to work. He said that on Monday a lot of green bags had been thrown in the right-of-way. Vice Chair Pruden asked what the outcome was when the City contacts Media One with complaints. Mr. Baker said that he had an email address provided by Mayor Marshall of Grantsville. Mr. Baker sent an email asking about the program and asking for information about how to opt out. He received a response which said that he could subscribe or unsubscribe at moneybagutah.com. Mr. Baker said that he went to the website, and there is an opt-out page on the website.

Mr. Baker stated that he wrote an Ordinance with numerous recitals, in a draft form. The purpose of the Ordinance is that the City regulate the activity of throwing commercial handbills. Mr. Baker said that he based the Ordinance off Provo's ordinance. Vice Chair Pruden said that there was a difference between the green bags and phone books. He felt that the phone book people tried to get the phone books on porches, where the green bag people just threw them on lawns, ditches, and rights-of-way. Vice Chair Pruden said that there is an advertisement that often comes in the mail, where the company pays to have it delivered. He felt that the green bag company either needed to pay to get it delivered, or make sure they got thrown on porches. Councilman Pratt said that phone books are usually a once a year distribution. The green bags are being thrown multiple times per month, with some areas being inundated. He sees them in gutters and driveway approaches. Vice Chair Pruden felt that the green bags that were left in gutters were litter.

Councilman Wardle asked if the Ordinance defined the product, such as a green bag, or if it would cover other things. He asked if they were protected by free speech. He asked if the City would be banning neighborhood kids doing things like window washing or grass mowing by passing this Ordinance. Mr. Baker said that the Ordinance did not target any company. He said that he had gone to great pains describing that this is not a speech issue. The City is not regulating speech, rather, they are addressing the act of throwing, depositing, or attaching an item, defined as a commercial handbill, on private property without the permission of the owner. If the owner requests the item, they can be delivered, but they will have to be hand-delivered; not thrown. Mr. Baker went on to say that information can be distributed by mail or by personal delivery by someone who wants to take it. Vice Chair Pruden said that the City was not faulting the product, just faulting the delivery method. Mr. Baker said the City already has a City Code prohibiting advertisements without permission of the property owner, but the addition is that it cannot be thrown. Vice Chair Pruden asked if the Ordinance could be written saying that delivery has to be on the porch. He added that some people may want the product, but it shouldn't be thrown on the street. Councilman Wardle said that he worried that the Ordinance was too broad. He didn't want someone to be able to nit-pick this law in 7-8 years. Mr. Baker stated that he tried to make this Ordinance more narrow than Provo's. Councilman McCall asked if the City could contact the company to let them know that we are looking at an ordinance that might ban them from the City. He thought that if we sent them a copy, it might cause them to change the way they did things. He wondered if the City could appeal to the owners of the company to see if they would change things. Mr. Baker indicated his intention to send a copy of the ordinance to the company after it is passed.

Mr. Baker said that Provo's ordinance was from 1964. His opinion was that he built in as much factual grounds as possible, as many legal grounds as possible, and as much evidence as possible to support the lawful Ordinance. Councilman Wardle asked if the City was defining commercial handbill in the same manner as Provo. Mr. Baker answered that it was defined more narrowly and simply, although it was still a little longer than others. Councilman Wardle asked if he could have more time to review the Ordinance because his iPad was not allowing him to pull up the information. Councilman Pratt asked if Provo's ordinance prevented the green bags from being thrown there. Mr. Baker added that newspapers are thrown, but people ask for them. Vice Chair Pruden said that for him, the big issue was the porch factor.

Mr. Bolser added that political speech is treated differently, and plays by its own set of rules.

- New Utah Supreme Court Opinion on Land Use Decisions
Presented by Roger Baker

Mr. Baker indicated that on occasion a Supreme Court opinion came out that should be discussed. The Utah Supreme Court asked and answered a question: when an administrative decision is made and appealed to the Utah Supreme Court, what is it that the court is reviewing? Is it the decision made by the land use authority? The decision made by the district court that reviewed the decision? Mr. Baker said that this is an important distinction. The Supreme Court decided that it was reviewing the decision that was appealed to the Supreme Court. The body that makes a decision in a land use issue, is called the land use authority. In some cases the Council is the land use authority, and in others the Planning Commission is the land use authority. For example, the Council is the land use authority when they make decisions on subdivisions and water rights appeals. The Council is applying existing law. The Planning Commission is the land use authority when they make decisions on things like Conditional Use Permits (CUP). Mr. Baker said that the decision he was discussing involved the City of Moab and a CUP. In all administrative decisions, whether Planning Commission or City Council, the land use authority decision has to be supported by substantial evidence in the record. Tooele City defines substantial evidence in the code as needing enough evidence to convince a reasonable person, and it has to be in the record. It has to be spoken or written in the record, or in the minutes. Mr. Baker talked about Findings and Fact and Conclusions of Law, explaining that Findings of Fact are the facts that helped make a decision. Conclusions of Law is what was decided based on those facts. In this case, the Planning Commission was the recommending body. They prepared a 5 page report of Findings of Fact and Conclusions of Law supporting their recommendation. Moab City Council ignored the planning commission decision, denied the CUP, and did not cite any evidence or law. The district court decided that it was not supported by evidence or law, and the decision was thrown out. Mr. Baker went on to say that if a decision made by a local authority is not supported by evidence, it is considered arbitrary and capricious. Because this matter was a CUP, they should have been looking at whether the CUP would create detrimental effects to the neighbors. If they did create detrimental effects, they should have considered whether the effects could be mitigated. The land use authority can often impose conditions that will diminish some of the effects. In this case, the Supreme Court didn't review the City Council's decision, but reviewed the district court's decision and found that the district court was right to throw out the case. The Supreme Court made a statement that if the City Council is going to sit as an adjudicative body, in an administrative matter, they need to

produce Findings of Fact capable of review on appeal. Mr. Baker indicated that this case had a surprise ending: the Supreme Court said the district court, instead of throwing the case out completely, should have sent it back to the City Council and given them another chance to write Findings of Fact that had substantial evidence. It was a surprise that the Supreme Court gave the Council a new opportunity to write Findings of Fact.

Mr. Baker indicated that he was talking with the Council about this case because they sometimes act in an administrative capacity and it's important that they, especially if they deny a matter, write Findings of Fact that are capable of review on an appeal. Mr. Baker added that he would be speaking to the Planning Commission about this case as well.

4. Council Reports

Councilman Pratt: The next Council of Governments (COG) meeting is scheduled for the 24th. Councilman Pratt indicated he won't be able to attend. Part of the COG agenda has been withdrawn, leaving only one item on the agenda.

Councilman McCall indicated that the library meeting has been scheduled for January.

Councilman Wardle: Utah State University met a week ago. He wasn't able to attend, but he followed up with Jennifer. USU seems to be tying themselves more closely with Logan for activities. They are trying to streamline a hiccup between TTC and USU for enrollment of students in the nursing program. Enrollment is down 2%. Councilman Wardle also won't be able to attend the COG meeting.

Councilman Pruden: The Tooele City Arts Council has booked Eclipse 6 for the Christmas concert on December 4th at Tooele High School. Tickets will go on sale November 1st. Eclipse 6 is an acapella group.

Mayor Dunlavy: The Tooele County Health Department has asked the City to place someone on the board. Kathy Taylor has been serving on this board, on behalf of the City, for three terms. Their bylaws say that the maximum someone can serve is three terms. He asked the Council to come up with a name by the first of November. The person can be a council member, a department head, or a community member. Vice Chair Pruden asked when they meet. The Mayor indicated that they meet once a month, but he didn't know which day. He thought the term was 4 years.

5. Recess to Redevelopment Agency Meeting

Councilman Pratt moved to recess to a Redevelopment Agency meeting. Councilman McCall seconded the motion. The vote was as follows: Councilman Wardle "Aye," Councilman Pratt "Aye," Councilman Pruden "Aye," and Councilman McCall "Aye."

The meeting recessed at 5:49.

Roll Call

RDA Chair Brad Pratt
Scott Wardle
Dave McCall
Steve Pruden

Excused: Debbie Winn

6. Discussion:

Chairman Pratt explained that Mr. Sant would be speaking about all the items together. He indicated that Mr. Sant would go over the procedures, but explained that the Board will have a modification of the procedures in the 7:00 meeting. He turned the time over to Randy Sant.

- Review of Procedure for the RDA Meeting, Scheduled at 7:30 p.m.
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
- Review of Procedure for the RDA Meeting
Presented by Randy Sant

Mr. Sant stated that back in May, the RDA Board adopted some survey area resolutions that identified three potential RDA areas, or Community Reinvestment Areas, for 31 acres of property on 1000 North. One of the areas initially included the property across the street owned by Greg Haer. In review of the areas, it was shortened, and only included the property that would be developed the quickest. Mr. Sant stated that Mr. Haer could petition his area in to a CRA if he chose. The plan addresses and meets the requirements under statute, and has a budget associated to them. No one has talked with the school district so this will not be presented at the next meeting. Mr. Sant stated that he will meet with the school district and the county, bring back the Resolutions before the Board, and discuss the budget. Mr. Sant said that procedure is the same for all project areas.

Mr. Sant described the proposed Community Reinvestment Areas:

The 1000 West industrial area is owned by 4 property owners: Cleggs, Tooele City (20 acres), Tooele Associates, and Bolinders. The property has been shown to some users in the past, but is not market ready. He felt the best piece of property is not necessarily along 1000 North, but is further west.

The Tooele Business Commercial Park is the property owned by the RDA, near where the education corridor has been built. The City would like start developing revenues. The RDA has done a good job at getting funding from the state for putting in the large infrastructure.

Mr. Sant stated that the law is specific on procedures that need to be followed for CRAs. He said that the RDA has complied with those procedures. Notices of public hearings have been properly advertised. He suggested that the RDA hold the public hearings to obtain comments from those that may want to amend, reject or accept the areas. The next step would be to adopt by the RDA through resolutions, then adopt by the Council through ordinances.

Chairman Pratt added that after the noticing had gone out, they had a request from Mr. Hall to include an additional piece of property in the area. It wasn't attached to the map, although it was included in the description. The map had been divided by the trail, and wasn't picked up. The area is 175 acres, zoned light industrial, and close to the lakes.

Chairman Pratt said that one of the taxing entities that is involved in this requested, and under the statute has the right, to consult with the RDA. Mr. Sant has been in contact with the superintendent and will meet with him on the 27th. He recommended that the public hearings be held, but continue them to a future date, and table the resolutions.

Chairman Pratt suggested to Mr. Sant that the RDA may be able to hold an RDA meeting on November 29th. This would provide time for proper notice. The Ordinances that needed to be passed by the City Council could be passed on December 6th. If the City wait until December 6th to do both meetings, the agenda might be too full. Mr. Sant said that when notices are mailed out this time, they will be mailed certified, return receipt requested.

Mr. Sant said that as to when to hold the meeting might depend on the meeting with the school board on the 27th. Chairman Pratt said that this was a complex procedure. He complimented Mr. Sant on the process he followed. He added that some of the taxing entities and members of the public hadn't responded to the notices.

7. Adjourn Redevelopment Agency Meetings

Councilman Pruden moved to adjourn and reconvene the City Council meeting.

Councilman McCall seconded the motion. The vote was as follows: Councilman Wardle "Aye," Councilman Pratt "Aye," Councilman Pruden "Aye," and Councilman McCall "Aye."

The meeting adjourned at 6:04 p.m.

8. Reconvene City Council Meeting

See notes on Item #7.

9. Close Meeting to Discuss Litigation and Property Acquisition

1. Motion to Close: Wardle

2nd: Pratt
Time: 6:04

Councilman Wardle moved to close the meeting. Councilman Pratt seconded the motion. The vote was as follows: Councilman Wardle “Aye,” Councilman McCall “Aye,” Councilman Pruden “Aye,” and Councilman Pratt “Aye.”

Those in attendance during the closed session were: Mayor Patrick Dunlavy, Glenn Caldwell, Roger Baker, Paul Hansen, Michelle Pitt, Jim Bolser, Randy Sant, Councilman Wardle, Councilman Pratt, Councilman McCall, and Councilman Pruden.

The meeting closed at 6:04 p.m.

No minutes were taken on these items.

10. Adjourn

Councilman Wardle moved to adjourn the meeting. Councilman Pratt seconded the motion. The vote was as follows: Councilman Wardle “Aye,” Councilman Pratt “Aye,” Councilman Pruden “Aye,” and Councilman McCall “Aye.”

The meeting adjourned at 6:25 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 1st day of November, 2017

Debra E. Winn, Tooele City Council Chair

Brad Pratt, Redevelopment Agency Chair

Tooele City Council and
Tooele City Redevelopment Agency of Tooele City, Utah
Business Meeting Minutes

Date: Wednesday, October 18, 2017
Time: 7:00 p.m.
Place: Tooele City Hall, Council Chambers
90 North Main Street, Tooele, Utah

City Council Members Present:

Steve Pruden
Brad Pratt
Dave McCall
Scott Wardle

City Employees Present:

Mayor Patrick Dunlavy
Jim Bolser, Community Development and Public Works Director
Captain Adrian Day, Police Department
Roger Baker, City Attorney
Michelle Pitt, City Recorder
Lisa Carpenter, Deputy City Recorder
Bucky Whitehouse, Fire Chief
Paul Hansen, City Engineer
Randy Sant, Economic Development Director

Minutes prepared by Amanda Graf

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

1. Pledge of Allegiance

The Pledge of Allegiance was led by Mayor Dunlavy

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 Captain Adrian Day

Mayor Dunlavy welcomed everyone to the meeting. He stated that recognizing the youth is an intricate part of what the Community is all about. There's nothing better than recognizing young people and letting them know how special they are and how much they appreciate all they do. The Mayor introduced Heidi Peterson, who is the Tooele City Communities That Care Director, and Captain Adrian Day from the Tooele City Police Department.

Ms. Peterson gave some background information about the Communities That Care Department. About 15 years ago the City received a grant for this program, which is an evidence-based program. This program allows them to gather data to find out where kids are most at-risk, and then bring the very best programming to Tooele to help kids and families. With support from the Mayor and City Council, they have been funding some of the most cutting-edge best programs that have been used in the community for the past 15 years.

Ms. Peterson highlighted some of the programs offered by the Communities that Care department:

Second Step is a evidence-based program offered for students in Kindergarten through 8th grade. Students are taught how to handle anxiety and anger and other difficult situations. They are also taught about substance abuse and are given skills on how to resist peer pressure when it comes to use of illegal substances.

Guiding Good Choices is a free parenting class that runs five weeks. It is recommended for all families. This program gives the parent piece of what children are learning in school. The next class will be starting in January. More information about the program can be found on the Tooele City website.

QPR is another program in place in the City. QPR stands for question, persuade, and refer. The program teaches about three step process that helps people recognize the warning signs that comes with suicide. Since its inception they have trained over 4,500 people. They have seen suicide rates drop in the community as a result of the implementation of this program. The next class will be starting on Tuesday, October 24, 2017.

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, Captain Day, and the Mayor then presented the Mayor's Youth Recognition Awards to the following students:

- Sean Seeley
- Danielle Grundvig
- Cadence Brown
- Ben Oviatt
- Kyler Hymas
- Kamryn Tso
- Angela Correa

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**

Vice Chairman Pruden invited comments from the audience; there were not any. Vice Chairman Pruden closed the 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 and Chief Bucky Whitehouse

Mr. Baker and Chief Whitehouse have been working on developing programs that will assist the Fire Department in helping keep Tooele City safe from the potential of fires. The City has adopted the International Fire Code. The International Fire Code has a process by which fire inspectors can inspect buildings to make sure they comply with that code and issue tickets for violations. However, the International Fire Code does not have a specific process for enforcement of those violations. The new program Mr. Baker and Chief Whitehouse developed will allow the fire department to inspect and issue tickets for violations, as well as take enforcement actions designed to get the buildings repaired so that they are safe from fire.

The Tooele City Fire Department annually inspects 300-400 businesses a year, many of which are found to be in violation. Many businesses don't know they're in violation, and upon learning so are quick to make the necessary repairs. However, there are many businesses that continue to receive notices of their violations but are not making the necessary changes to bring them into compliance. The proposed program would give the Fire Department the ability to bring those businesses into compliance. If they won't comply voluntarily the City will exert additional pressures through fines and means to bring them into compliance.

The process would begin with the fire inspector conducting a routine inspection of the building using the rules contained in the International Fire Code. If they are in violation the inspector will give a Notice of Violation document that will contain a deadline by which the corrections must be made. If the corrections are made, the inspector will issue a Notice of Compliance document. However, if the problem is not fixed at this stage or by the two-week deadline that is imposed, fines will begin to accrue at a rate of \$100/day with a cap of \$1,400. If the building owner fixes the problem prior to the deadline there are no fines, otherwise the fines would be due.

If the owner does not appeal that violation notice and does not comply with the necessary repairs, the next step is to issue a Default Judgment document. A default judgment will allow the City to take additional measures to get the building fixed so it can be safe. If the owner persists in not correcting the problem additional measures can be taken.

At any step along the way, the owner can appeal the finding of the fire inspector to an administrative hearing officer. The administrative hearing officer is an independent person who has law training that can hear the issues and decide if they have correctly followed the Code. Also, at any point in the proceeding, the City can reach a settlement with the business owner where they can agree on a reduced level of fines and an altered method of compliance which would be called a Stipulation Agreement.

Ultimately, the objective of the program is not to generate revenue, but to gain compliance with the Fire Code and thereby increase safety for the people in them.

Chief Whitehouse stated that this program contains best practices and is similar to what other communities in the state and the United States as a whole have.

Vice Chairman Pruden asked the Council if they had any questions or concerns; there weren't any.

Councilman Pratt moved to approve Ordinance 2017-24 as explained by Mr. Baker and Chief Whitehouse. Councilman McCall seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilman Pratt, "Aye," Councilman McCall, "Aye," Vice Chairman Pruden, "Aye." The motion passed.

6. **Ordinance 2017-25 An Ordinance of Tooele City Enacting Tooele City Code Chapter 3-7 Regarding Nuisance Fire Alarms**

Presented by Roger Baker and Chief Bucky Whitehouse

Councilman Wardle moved to table Ordinance 2017-25 for a few weeks to allow for time to work out a few questions they have on it. Councilman Pratt seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilman Pratt, "Aye," Councilman McCall, "Aye," Vice Chairman Pruden, "Aye." The motion passed.

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

The secretary of the administrative control board informed Attorney Baker that four of the board members' terms are expiring at the end of the year. They all expressed interest in being reappointed to new terms. Their names are: Jed Winder, Erick Brondum, Michael Maloy, and Maresa Manzione.

Vice Chairman Pruden asked the Council if they had any questions or concerns; there weren't any.

Councilman McCall moved to approve Resolution 2017-45. Councilman Wardle seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilman Pratt, "Aye," Councilman McCall, "Aye," Vice Chairman Pruden, "Aye." The motion passed.

8. Resolution 2017-44 A Resolution of the Tooele City Council Accepting the Completed Public Improvements Associated with the Cooper Canyon PUD Phase 5 Subdivision

Presented by Paul Hansen

City Code requires that once a development completes the associated public improvements that the engineering department certifies that the Community Development and Engineering departments certify that the improvements are complete, that they meet city standards, and that they are ready for acceptance by the City to begin the one-year warranty. The Copper Canyon PUD Phase 5 development is a 38 lot subdivision located just west of 200 West and approximately 850 North.

Vice Chairman Pruden asked the Council if they had any questions or concerns; there weren't any.

Councilman Pratt moved to approve Resolution 2017-44. Councilman McCall seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilman Pratt, "Aye," Councilman McCall, "Aye," Vice Chairman Pruden, "Aye." The motion passed.

9. Recess to RDA Meeting

Councilman McCall moved to recess to the RDA meeting. Councilman Pratt seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilman Pratt, "Aye," Councilman McCall, "Aye," Vice Chairman Pruden, "Aye." The motion passed.

The meeting adjourned to the RDA meeting at 7:40 p.m.

10. Reconvene City Council

The City Council Meeting was reconvened after the RDA meeting adjourned at 7:55.

Councilman Wardle motioned to table item numbers 11, 12, and 13 until the RDA has finished its business with the public hearings and the adoption of the plans. Councilman Pratt seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilman Pratt, "Aye," Councilman McCall, "Aye," Vice Chairman Pruden, "Aye." The motion passed.

11. Ordinance 2017-29 An Ordinance Adopting the 1000 North Retail Community Reinvestment Project Area Plan, as Approved by 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

This item was tabled.

12. **Ordinance 2017-30 An Ordinance Adopting the 1000 North West Industrial Community Reinvestment Project Area Plan, as Approved by 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

This item was tabled.

13. **Ordinance 2017-31 An Ordinance Adopting the Tooele Buisness Park Community Reinvestment Project Area Plan, as Approved by 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

This item was tabled.

14. **Minutes**

Councilman Wardle moved to approve the minutes from the City Council Meeting dated October 4, 2017. Councilman McCall seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilman Pratt, "Aye," Councilman McCall, "Aye," Vice Chairman Pruden, "Aye." The motion passed.

15. **Invoices**

Presented by Michelle Pitt

There were no invoices to be presented.

16. Adjourn

Councilman Wardle moved to adjourn the meeting. Councilman Pratt seconded the motion. The vote was as follows: Councilman Wardle, "Aye," Councilman Pratt, "Aye," Councilman McCall, "Aye," Vice Chairman Pruden, "Aye." The motion passed.

The meeting adjourned at 7:56 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 1st day of November, 2017.

Steve Pruden, Tooele City Council Vice Chair

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