

## **ORDINANCE 2006-20**

### **AN ORDINANCE AMENDING CHAPTER 4, SECTIONS 4-3 AND 4-20 OF THE TOOELE COUNTY LAND USE ORDINANCE BY REPLACING REFERENCES REGARDING THE BOARD OF ADJUSTMENT WITH THE APPEAL AUTHORITY**

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

**SECTION I - PURPOSE.** This ordinance seeks to make changes in conformity with those made at the State level last year with Senate Bill 60 (SB60). It is felt that those issues which have heretofore been handled by the Board of Adjustment may be better handled by the Appeal Authority. This ordinance will bring Chapter 4, Sections 4-3 and 4-20 into compliance with Utah Code Annotated 17-27a. In accordance with Utah Code Annotated 17-27a-302, the Erda, Pine Canyon, and Tooele County Planning Commissions held public hearings on the proposed adoption of this chapter and recommend passage of this ordinance.

**SECTION II - SECTIONS AMENDED.** Chapter 4, Sections 4-3 and 4-20 of the Tooele County Land Use Ordinance are hereby amended to read as attached hereto, which attachments are, by this reference, made a part hereof.

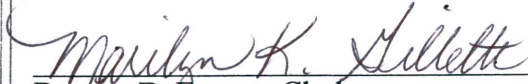
**SECTION III - REPEALER.** Ordinances and resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION IV - EFFECTIVE DATE.** This ordinance shall become effective 15 days after its passage provided it has been published, or at such publication date if more than 15 days after passage.

**IN WITNESS WHEREOF** the Tooele County Commission, which is the legislative body of Tooele County, passed, approved and enacted this ordinance this 25<sup>th</sup> day of July 2006.


Ord. 2006-20

**ATTEST:**

  
DENNIS D. EWING, Clerk



**APPROVED AS TO FORM:**

  
DOUGLAS J. AMLSTROM  
Tooele County Attorney

**TOOELE COUNTY COMMISSION:**

  
DENNIS ROCKWELL, Chairman

Commissioner Rockwell voted aye  
Commissioner Lawrence voted aye  
Commissioner Johnson voted aye

## CHAPTER 4

### SUPPLEMENTARY AND QUALIFYING REGULATIONS

#### Section

- 4-1 Effect of chapter.**
- 4-2 Substandard lots at time of ordinance passage.**
- 4-3 Lot standards.**
- 4-4 Every dwelling to be on a lot - Exceptions.**
- 4-5 Yard space for one building only.**
- 4-6 Private garage with side yard - Reduced yards.**
- 4-7 Sale or lease of required space.**
- 4-8 Sale of lots below minimum space requirements.**
- 4-9 Yards to be unobstructed - Exceptions.**
- 4-10 Area of accessory buildings.**
- 4-11 Exceptions to height limitations.**
- 4-12 Minimum height of main building.**
- 4-13 Maximum height of accessory buildings.**
- 4-14 Clear view of intersecting streets.**
- 4-15 Maximum height of fences, walls, hedges.**
- 4-16 Water and sewerage requirements.**
- 4-17 Curbs, gutters and sidewalks.**
- 4-18 Effect of official map.**
- 4-19 Lots on private streets.**
- 4-20 Lots divided by a zone boundary.**
- 4-21 Disconnection or disincorporation of property.**
- 4-22 Animal and fowl restrictions.**
- 4-23 Off-site improvements.**
- 4-24 Commercial renting of dwellings prohibited.**
- 4-25 Temporary residences for emergency construction or repair.**

#### **4-1 Effect of chapter.**

The regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the regulations of any zoning district appearing elsewhere in the Tooele County Land Use Ordinance. (Ord 2005-22, 9/13/05)

#### **4-2 Substandard lots at time of ordinance passage.**

(1) Any legal substandard lot created prior to January 10, 1975, or having been granted a special exception by the administrative hearing officer pursuant to Tooele County Code 13-7-2, and having less than the requirements for lot area or width for the zoning district in which it is located, may be used for a single family dwelling if it is located in a zoning district that permits single family dwellings.

(2) The method for determining side yard setback distances for lots described in Subsection (1) is to:

- (a) determine the area of the lot;
  - (b) determine the equivalent zone by using Table 4-A;
  - (c) compare the actual front width with the equivalent zone frontage requirement;
  - (d) if the actual frontage equals or exceeds the equivalent zone frontage, use the setback distance of the equivalent zone; and
  - (e) if the actual frontage is less than the equivalent zone frontage, then use Table 4-B to determine the adjusted side yard setback.
- (3) All setbacks other than side yard setbacks shall remain as stated in the equivalent zone.
- (4) Notwithstanding anything to the contrary in this section, side yard setbacks in lots described in Subsection (1) shall not be less than eight feet.

**Table 4-A**

Area of Lot:	Equivalent Zone:
Over 120 acres	MU-160
Over 60 acres, up to 120 acres	MU-80
Over 50 acres, up to 60 acres	MU-40
Over 15 acres, up to 50 acres	A-20
Over 7 acres, up to 15 acres	RR-10
Over 3 acres, up to 7 acres	RR-5
Over 0.75 acres, up to 3 acres	RR-1
Over 17,000 square feet, up to 32,670 square feet	R-1-21
Over 11,000 square feet, up to 17,000 square feet	R-1-12
Over 9,000 square feet, up to 11,000 square feet	R-1-10
Up to 9,000 square feet	R-1-8



<b>Table 4-B</b>		
<b>(Actual Width x Side Yard Multiplier = Adjusted Side Yard)</b>		
<b>Equivalent Zone</b>		<b>Side Yard Multiplier</b>
R-1-8	=	0.0857
R-1-10	=	0.1000
R-1-12	=	0.1250
R-1-20	=	0.1000
RR-1	=	0.1200
RR-5	=	0.1000
RR-10	=	0.0758
A-20	=	0.0909
A-40	=	0.0909
MU-40	=	0.0454
MU-80	=	0.0227
MU-100	=	0.0227

(Ord 2005-22, 9/13/05)

#### **4-3 Lot standards.**

(1) Except for planned unit developments and conservation subdivisions or as otherwise provided in this Tooele County Land Use Ordinance, every lot shall have such area, width and depth as is required by for the zoning district in which such lot is located.

(2) Lots shall have frontage upon a dedicated or publicly-approved street before any building permit may be issued, except residential lots may front upon private roads approved by the planning commission.

(3) In the residential and rural residential zoning districts, no lot shall be created which is more than three times as deep as it is wide. In rural residential zoning districts, a special exception thereto may be granted by the appeal authority if it can be shown by the applicant that a deeper lot represents the most judicious configuration of the property, but in no case shall the exception be granted for more than five lots in any subdivision, neither shall it create a lot more than five times as deep as it is wide.

(4) Any lot or portion thereof that exceeds 30% slope is not buildable.

(5) Any lot created through Section 13-1-8 of the Tooele County Code or Section 17-27a-605 UCA for an agricultural partition is not a buildable lot for a residential dwelling or use. To become a residential building lot, the lot or parcel shall first be divided as a subdivision under Title 13 of the Tooele County Code. (Ord 2005-22, 9/13/05)

#### **4-4 Every dwelling to be on a lot - Exceptions.**

(1) Except as otherwise stated herein, every dwelling shall be placed and maintained on a separate lot.

(2) Group and cluster dwellings, condominiums and other multi-structure dwelling complexes with single ownership and management may occupy one lot for each such multi-structure complex. (Ord 2005-22, 9/13/05)

#### **4-5 Yard space for one building only.**

No required yard or other open space around an existing building or that is hereafter provided around any building shall be considered as providing a yard or open space for another building, nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established. (Ord 2005-22, 9/13/05)

#### **4-6 Private garage with side yard - Reduced yards.**

(1) On any interior substandard lot where a private garage containing a sufficient number of parking spaces to meet the Tooele County Land Use Ordinance has a side yard equal to the minimum side yard required for a dwelling in the same zoning district, the width of the other side yard for the dwelling may be reduced to equal that of the minimum required side yard for a recognized substandard lot.

(2) On any substandard lot where such a garage has a side yard as described in Subsection (1), the rear yard of the dwelling may be reduced to 15 feet, provided the garage also has a rear yard of at least 15 feet. (Ord 2005-22, 9/13/05)

#### **4-7 Sale or lease of required space.**

No space needed to meet the width, yard, area, coverage, parking or other requirements of the Tooele County Land Use Ordinance for a lot or building may be sold or leased away from such lot or building. (Ord 2005-22, 9/13/05)

#### **4-8 Sale of lots below minimum space requirements.**

No parcel of land may be divided or subdivided from a larger parcel which creates a lot that has less than the minimum width and area requirements for the zoning district in which it is located. This regulation applies whether the intent of the division or subdivision may or may not be for the purpose, whether immediate or future, of building, development or any other land use. (Ord 2005-22, 9/13/05)

#### **4-9 Yards to be unobstructed - Exceptions.**

(1) Every part of a required yard shall be unobstructed and open to the sky, except for:

- (a) accessory buildings in a rear yard;
- (b) the ordinary projections of eaves, skylights, sills, belt courses, cornices, chimneys, flues,



and like features which project into a yard not more than two and one-half feet; and

- (c) projections allowed by the building or fire codes for fire safety purposes shall be allowed to extend into a yard not more than five feet.

(2) In no case shall a stoop, cantilever, eave, or other projection extend into any designated easement for public utilities, drainage, access, etc. (Ord 2005-22, 9/13/05)

#### **4-10 Area of accessory buildings.**

No accessory building or group of accessory buildings in any residential district shall cover more than 25% of the rear yard. (Ord 2005-22, 9/13/05)

#### **4-11 Exceptions to height limitations.**

All buildings and structures must conform to the height limit of the zoning district in which they are located. No space above the height limit shall be allowed for purposes of providing additional floor space. The following are the only exceptions which shall be allowed by conditional use permit to the height limits in any zoning district:

- (1) penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building;

- (2) fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos, or similar structures; and

- (3) public and quasi-public utility buildings. (Ord 2005-22, 9/13/05)

#### **4-12 Minimum height of main building.**

No dwelling shall be erected to a height less than one story above grade. (Ord 2005-22, 9/13/05)

#### **4-13 Maximum height of accessory buildings.**

No accessory building in a residential (R-1) or residential multi-family (RM) shall contain more than one story or exceed 20 feet in height. In all other zoning districts accessory buildings and structures shall not exceed the height of the zoning district in which it is located. No space within an accessory building or structure shall be used as a dwelling. (Ord 2005-22, 9/13/05)

#### **4-14 Clear view of intersecting streets.**

- (1) In all districts requiring a front yard, no obstruction to view in excess of two feet in height or twelve inches in width shall be placed on any corner lot within the clear view zone. Pole signs and a reasonable number of trees pruned to at least ten feet clearance to grade to permit unobstructed vision to automobile drivers and pedestrians are permitted.

- (2) Signs or other advertising structures shall not be erected at the intersection of any street or driveway in such a manner as to obstruct free and clear vision. They shall not be erected at any location where by reason of the position, shape or color, they may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal device, or make use of the words, "Stop," "Drive-in," "Danger," or any other words, phrases, symbols or characters in such a manner as to interfere with, mislead or confuse vehicle operators. (Ord 2005-22, 9/13/05)

#### **4-15 Maximum height of fences, walls and hedges.**

- (1) Fences, walls and hedges may be erected to permitted building height for the zoning district in which they are located when within the buildable area, provided that any such structure over six feet high requires a building permit.

- (2) View-obscuring fences, walls, and hedges may not exceed three feet in height within any required front yard. Corner lots in residential zones are allowed a view obscuring fence, on the side of the house that does not face the street only, up to six feet in height at the property line provided the fence is at no time located less than 5 feet behind the front façade. No fences, walls, or hedges over two feet in height may be located in the clear view zone.

- (3) Where a fence, wall, or hedge is located along a property line separating two lots and there is a difference in the grade of the properties on the two sides of the property line, the fence, wall, or hedge may be erected or allowed to the maximum height permitted on either side of the property line. (Ord 2005-22, 9/13/05)

#### **4-16 Water and sewerage requirements.**

In all cases where a proposed building or proposed use will involve the use of sewerage facilities and a connection to a public sewer system as defined by the Utah State Department of Environmental Quality is not available, and in all situations where a connection to a public water system approved by the Utah State Department of Environmental Quality is not available the sewage disposal and the domestic water supply shall comply with the requirements of Tooele County Health Department. The application for a building permit shall be accompanied by a certificate of approval from the Tooele County Health Department. (Ord 2005-22, 9/13/05)

#### **4-17 Curbs, gutters and sidewalks.**

The installation of curbs, gutters and sidewalks of a type approved by the director of the Tooele County Department of Engineering may be required on any existing or proposed street adjoining a lot on which a



building is to be constructed or remodeled, or on which a new use is to be established. Such curbs, gutters or sidewalks may be required as a condition of a building permit or a use permit approval. (Ord 2005-22, 9/13/05)

#### **4-18 Effect of official map.**

Wherever a front yard is required for a lot facing on a street for which an official map has been recorded, the depth of such front yard shall be measured from the mapped street line. (Ord 2005-22, 9/13/05)

#### **4-19 Lots on private streets.**

Lots with frontage only on private streets shall only be allowed by conditional use permit or planned unit development. They are subject to all applicable requirements of this Tooele County Land Use Ordinance. (Ord 2005-22, 9/13/05)

#### **4-20 Lots divided by a zone boundary.**

A lot divided by a zone boundary shall be subject to the following special regulations:

(1) A use allowed in the less restrictive zone but not allowed in the more restrictive zone may be allowed to extend into the more restrictive zone but not more than 50 feet by approval of the appeal authority, if the appeal authority finds that the extension is required for the reasons of justice and equity and will not be harmful to neighboring property or human values.

(2) A substandard lot may have area added from a legally-existing, legally-created, or existing substandard lot through a subdivision approval or by a variance issued by the appeal authority if the total lot area would not equal the minimum lot area of the zone, as long as the creation of the new lot or lots, or the addition of land to an existing lot:

(a) would not create undesirable land patterns or prevent desirable subdivision designs in the area;

(b) would not be detrimental to the development of required or desirable streets, utilities, or other public facilities or service; and

(c) would provide a usable and desirable lot for the uses and densities allowed.

(3) The uses allowed on any portion of the new lot shall only be those allowed in the district in which such portion of the lot is located.

(4) Any such enlarged lot shall not be re-subdivided except through submission and approval of a subdivision plat. (Ord 2005-22, 9/13/05)

#### **4-21 Disconnection or disincorporation of property.**

Any parcel of property that becomes part of the unincorporated area of Tooele County because of disconnection from a municipality or disincorporation of a municipality shall be designated in the same county zoning district as the adjoining zone. (Ord 2005-22, 9/13/05)

#### **4-22 Animal and fowl restrictions.**

No animal or fowl shall be kept or maintained closer than 40 feet to any dwelling on an adjacent parcel of land, and no barn, stable, coop, pen or corral shall be kept closer than 40 feet to any street, except that in the RR-10, A-20, A-40, MU-40, MU-80 and MU-160 zoning districts, no corral or stable for the keeping of horses may be located closer to a public street or to any dwelling on an adjacent parcel of land than one hundred feet. No animal or fowl other than horses, cattle, sheep, poultry, swine or mink shall be kept on a parcel with out first obtaining a conditional use permit to insure the welfare, safety and mitigation of nuisances arising from maintaining such animals. (Ord 2005-22, 9/13/05)

#### **4-23 Off-site improvements.**

(1) The applicant for a building permit in an approved subdivision shall provide curb, gutter and sidewalk along the entire property line abutting any public street for all dwellings, commercial or industrial structures, public and quasi-public buildings in locations where it has been determined as being required, at Tooele County standards. Vehicular entrances to the property shall be provided as required in Chapter 6 and Chapter 23 of the Tooele County Land Use Ordinance. Height, location, structural specifications and maximum roadway approach angles to the centerline of the street are subject to approval from the Department of Engineering.

(2) A fee may be paid in lieu of improvements when conditions exist which make it unfeasible or impractical to install such curb, gutter and sidewalk. In such circumstances approved by the planning commission, the applicant shall pay Tooele County a fee equal to the cost of such improvements, as estimated by the director of the Department of Engineering. Upon payment of such fee, Tooele County shall assume responsibility for future installation of such improvements. The auditor shall deposit such fees in the special account established to hold such fees and shall credit to such account a proportionate share of interest earned from investment of county moneys. Records relating to the identification of properties for which such fees have been collected, fee amounts collected for such properties, and money transfer requests shall be the responsibility of the Department of Engineering.

(3) The planning commission may grant an exception to installation of the sidewalk in industrial areas where it determines that the sidewalk is not necessary to serve the public need and the elimination of the sidewalk does not jeopardize the public health, safety and welfare.

(4) The planning commission may grant an exception to the installation of curb, gutter and sidewalk in rural or estate areas where topographic or other exceptional conditions exist, provided that the public health, safety and welfare is preserved. (Ord 2005-22, 9/13/05)

#### **4-24 Commercial renting of dwellings prohibited.**

It shall be deemed a commercial use and unlawful to rent or lease any dwelling or portion thereof within any residential, agricultural or multi-use zoning district for lodging or accommodation purposes for a period of less than 30 days except as specifically allowed in the zoning district regulations. (Ord 2005-22, 9/13/05)

#### **4-25 Temporary residences for emergency construction or repair.**

If for reason of emergency construction or major repair there is need for a temporary residence on construction sites of non-residential premises in the remote areas of the county where travel would exceed one hour at posted speed limits to a residence or a trailer park, a temporary use permit shall be considered to allow temporary placement of mobile homes, manufactured homes or the use of recreational vehicles to provide temporary housing. Any such use must be approved by the director of the Department of Engineering with the following terms and conditions:

(1) The temporary use approval of the structure, recreational vehicle, mobile home, or manufactured housing is temporary and is not to exceed six months, with the exception that the owner can apply for a six month extension, provided that substantial progress of the emergency, construction or repair is demonstrated. There shall be no more than three extensions granted for any temporary use permit or any lot, parcel or property.

(2) The temporary structure, mobile home, manufactured housing, or recreational vehicle shall be constructed or placed in accordance with the Building Code and the Tooele County Land Use Ordinance and shall be required to have a permit from the Tooele County Health Department in regard to sanitation facilities and a building permit issued before commencement of construction or placement of the temporary structure.

(3) The temporary structure, mobile home, manufactured home, or recreational vehicle shall be removed:

(a) immediately following completion of the project, construction or repairs, or

(b) immediately upon the expiration of the term of the temporary use permit.

(4) The Department of Engineering and its employees may review the temporary use permit or the structures on the property to insure compliance and substantial progress.

(5) Mobile and manufactured homes will be placed in accordance with Chapter 10 of the Tooele County Land Use Ordinance with the following exceptions:

(a) They shall leave the running gear intact.

(b) The skirting shall be of a temporary construction, not of masonry material.

(6) The temporary structure, mobile home, manufactured housing or recreational vehicle shall not be issued a building permit, placed, stored, located, or constructed on the property until a temporary use permit has been issued. (Ord 2005-22, 9/13/05)