

September 20, 2013

TOOELE CITY CORPORATION

NOTICE OF PENDING ORDINANCE

The Supreme Court of Utah established the Pending Ordinance Rule in the case of *Western Land Equities, Inc., v. City of Logan*, 617 P.2d 388 (1980):

if a city or county has initiated proceedings to amend its zoning ordinances, a landowner who subsequently makes application for a permit is not entitled to rely on the original zoning classification.

Utah Code §10-9a-509(1)(a)(ii) codified the Pending Ordinance Rule.

Tooele City has invoked Utah's Pending Ordinance Rule by initiating proceedings to amend its land use ordinances relating to the definitions of the terms "tobacco specialty store", "retail tobacco specialty business", "tobacco product", and "tobacco-related product".

The Tooele City Council will discuss the pending ordinance during its advertized public work session meeting on October 2, 2013. Thereafter, the pending ordinance may be presented to the Tooele City Planning Commission for recommendation and to the City Council for enactment. In that event, both bodies will conduct public hearings.

In light of the pending ordinance, for a period not to exceed 6 months beginning on the date of this Notice, all commercial establishments seeking a business license as a retail store, convenience store, or similar establishment, and that sell tobacco products or tobacco-related products, shall be subject to the definitions contemplated by the pending ordinance.

(17269) Subdivision Plat - The final map or drawing, described in this Code, of a plan of subdivision to be presented to the City for approval and when approved, may be submitted to the Utah County Recorder for filing.

(1730) Subsequent Developer - A Developer whose development is not derived from the Prior Developer's development, and whose development benefits from Eligible Public Improvements constructed by the Prior Developer.

(1744) Telecommunications Site/Facility - A facility used for the transmission or reception of electromagnetic or electro-optic information, which is placed on a structure. This use does not include radio frequency equipment which have an effective radiated power of 100 watts or less. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

(1752) Temporary - Not to exceed a period of 1 year.

(1763) Temporary Construction or Sales Office - A facility temporarily used for a period, not to exceed 12 months, as a construction or sales office.

(1774) Temporary Use - Fireworks stands, Christmas tree sale lots, and similar activities which are open to the public and scheduled to occur over a period not to exceed 40 days in any calendar year and including uses incidental to construction.

(1785) Theater, Indoor - A facility for showing motion pictures, video, or staging theatrical performances to an audience, inside an enclosed structure.

(1796) Theater, Outdoor - A facility for outdoor performances where the audience views the production from automobiles or while seated outside.

(180) Tobacco Product or Tobacco-related Product - Inclusive of the following:

(a) any cigar, cigarette, or electronic cigarette as defined in U.C.A. §76-10-101, including the component parts of and ingredients to electronic cigarettes;

(b) a tobacco product as defined in U.C.A. §59-14-102, including:

(1) chewing tobacco; and,

(2) any substitute for a tobacco product, including flavoring or additives to tobacco; and,

(c) tobacco paraphernalia as defined in U.C.A. §76-10-104.1.

(18177) Tobacco Specialty Store or Retail Tobacco Specialty Business - An establishment in which:

(a) the sale of tobacco products accounts for more than 35% of the total annual gross receipts for the establishment;

(b) food and beverage products, excluding gasoline sales, is less than 45% of the total annual gross receipts for the establishment; and,

(c) the establishment is not licensed as a pharmacy under U.C.A. Title 58, Chapter 17b, Pharmacy Practice Act, ~~providing retail sales and services which exclusively or primarily involve the sale of tobacco or tobacco-related products.~~

(18278) Use - The purpose or purposes for which land or a building is occupied, maintained, arranged, designed, or intended.

(18379) Utilities, Private - Includes power, telephone, natural gas, cable television and private water supply service.

(1840) Utility Company, Public - Any company, or municipal department, duly authorized to furnish under public regulation, electricity, gas, steam, telephone, transportation, water, or sewer service.

(1854) Utility Service Facility (major) - Any electric transmission lines (greater than 115,000 volts), power plants, or substations of electric utilities; gas regulator stations, transmission and gathering pipelines, and storage areas of utilities providing natural gas or petroleum derivatives; and their appurtenant facilities

(1862) Utility Service Facility (minor) - Any electrical distribution lines, natural gas distribution lines, cable television lines, telegraph and telephone lines, and gathering lines, or other minor service facilities. No buildings are allowed and the use is limited to the following sizes: (i) gas lines less than 12 inches; and (ii) electric lines of less than 115,000 volts.

(1873) Veterinary Clinic/Animal Hospital - A facility for the diagnosis, treatment, hospitalization, and boarding of animals, which does not include outdoor holding facilities.

(1884) Warehouse - A building used primarily for the inside storage of nonhazardous goods and materials and including accessory office facilities.

(1895) Zoning District - A mapped area to which a uniform set of regulations applies, and which are designed to implement the goals and policies of the Tooele City General Plan. (Ord. 2012-17, 09-05-12); (Ord. 2009-05, 02-28-09); (Ord. 2008-11, 11-05-08); (Ord. 2005-06, 05-18-2005); (Ord. 2002-21, 09-18-2002); (Ord. 98-33B, 10-07-98); (Ord. 97-21, 06-04-97); -(Ord. 95-18, 10-06-95); -(Ord. 94-26, 05-12-94); (Ord. 94-09, 03-02-94); (Ord. 92-26, 12-10-92).

7-1-6. Enforcement.

(1) (a) Tooele City or any owner of real estate within the city in which violations of this Title occur or are about to occur may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) Tooele City need only establish the violation to obtain the injunction.

(2) (a) Tooele City may enforce this Title by