

ORDINANCE NO. 2009- 8

AN ORDINANCE AMENDING THE UTAH COUNTY LAND USE ORDINANCE, SECTION 2-2-B-59 AND 101, DEFINITION OF LARGE SCALE DEVELOPMENT AND WINDMILL; SECTION 3-2, YARDS TO BE UNOBSTRUCTED; SECTION 3-17, SETBACKS FROM MAJOR STREETS; SECTION 3-26, MANUFACTURED HOMES; SECTION 3-29, TEMPORARY USES AND STRUCTURES; SECTION 4-1, ZONES ESTABLISHED; SECTION 5-8, NC-1, NEIGHBORHOOD COMMERCIAL ZONE; SECTION 5-9, HS-1, HIGHWAY SERVICE ZONE; SECTION 5-10, I-1, INDUSTRIAL ZONE; SECTION 5-13, A-40, AGRICULTURAL ZONE; SECTION 7-12, POWER AND DUTIES OF THE BOARD; SECTION 7-14, REQUESTS TO APPEAL BEFORE THE BOARD OF ADJUSTMENT; SECTION 7-17, ACTION TAKEN BY THE BOARD OF ADJUSTMENT; SECTION 7-19, RULES FOR HEARING AND DECIDING APPEALS FOR VARIANCES; SECTION 7-20, RULES FOR HEARING AND DECIDING APPEALS FOR A SPECIAL EXCEPTION; SECTION 7-21, NOTIFICATION; AND SECTION 5-13-J, SUPPLEMENTARY REGULATIONS.

WHEREAS, the Utah County Planning Commission initiated a review of amending the UCLUO to more appropriately address the goals and policies of Utah County, including those contained in the Utah County General Plan; and

WHEREAS, the Planning Commission addressed the proposed amendments to the UCLUO, during their regularly scheduled agenda meeting of the Planning Commission, and scheduled and held a public hearing regarding the proposed amendments; and

WHEREAS, the Planning Commission recommended that the UCLUO be amended, in accordance with the amendments as set forth herein; and

WHEREAS, the Board of County Commissioners has received and carefully reviewed the recommendation from the Utah County Planning Commission regarding the proposed amendment to the UCLUO, including information found in the file and any public comments contained therein; and

WHEREAS, the Board of County Commissioners finds that the proposed amendment to the UCLUO will further the goals and policies of Utah County, including those contained in the General Plan; and

WHEREAS, the Board of County Commissioners finds that the proposed amendment to the UCLUO is in the best interest of the health, safety, and general welfare of the citizens of Utah County.

THE COUNTY LEGISLATIVE BODY OF UTAH COUNTY ORDAINS AS FOLLOWS:

Part I:

Section 2-2-B, Definitions, subsections numbered 59, Large Scale Development, and 101, Windmill, are hereby amended to read as follows:

59. Large Scale Development

A subdivision, mountain home development, planned unit development, or recreational resort, for which the Planning Commission has made a recommendation, which has been approved by the County Commission, and which has been finalized by a recorded large scale development plat with the Utah County Recorder's office.

101. Windmill

A structure utilizing wind power for the pumping of water for agricultural use, or for electrical power generation for a residence and other allowed structures and uses located within a zone where windmills are designated as a permitted use. [This definition shall not preclude a windmill which generates it's primary electrical power for use on the premise from selling the surplus to an electrical utility provider; provided that the design of the windmill is only to provide required electrical power for use on the subject parcel of property, and not for commercial electrical power generation. Any other wind generated electrical power facility shall be classified as an electrical power generation plant, not a windmill.]

Part II:

Section 3-2, Yards to be Unobstructed, Exceptions, is hereby amended to read as follows:

3-2: YARDS TO BE UNOBSTRUCTED, EXCEPTIONS

Every part of a required yard shall be open to the sky and unobstructed from the ground upward for the entire breadth of the required setback distance, except for fences, swimming pools, open decks and patios that do not require guardrails, footbridge or vehicle bridge with guardrails that meet the minimum requirements of adopted codes and ordinances with no overhead structure, pump houses not greater than 120 square feet in area nor more than nine (9) feet in height that do not encroach into the designated road right-of-way as measured from the road centerline and will not create a sight barrier to the driveway access, and un-walled roof extensions, provided: no roof may extend more than two (2) feet into the required yard area. Also excepted are canopies over gasoline pumps in the NC-1 and HS-1 Zones, which may extend up to ten (10) feet into the required setback or separation distance.

Part III:

Section 3-17, Setbacks from Streets, is hereby amended to read as follows:

3-17: SETBACKS FROM STREETS

The required distance from which buildings and structures (other than fences, landscape features, and public facilities shall be setback from public streets shall be:

- A. One hundred (100) feet from the center line of any city street, county road or state road designated as an "arterial" street in the adopted county general plan, (or 50 feet from the right-of-way line, whichever is greater);
- B. Sixty-three (63) feet from the center line of any city street, county road or state road designated as a "collector" street in the adopted county general plan (or 30 feet from the right-of-way line, whichever is greater); and
- C. Fifty-eight (58) feet from the center line of all other public streets (or 30 feet from the right-of-way line, whichever is greater).

Exception: Recorded large scale development plats that indicate a greater or lesser setback from the street as recorded on such plat.

Part IV:

Section 3-26-A, Manufactured Homes, is hereby amended to read as follows:

3-26: MANUFACTURED HOMES

In order to meet the needs of those county residents desiring the portability and economy of manufactured homes as a form of housing, as opposed to conventional fixed structures, and to provide adequate public facilities, transportation, health, and safety features for those occupying manufactured homes, as well as neighboring property owners, only manufactured homes which comply with the current HUD Federal construction and safety standards, and bear a Federal seal certifying to that effect, shall be permitted in Utah County, and only according to one of the following four circumstances:

- A. When placed in an approved large scale development.

Part V:

Section 3-29-B, Temporary Uses and Structures, Uses, is hereby amended to add a new Subsection 11, Seasonal Sales and Services, to read as follows:

11. Seasonal Sales and Services

Upon receipt of a complete application, the Zoning Administrator shall authorize a temporary use permit for seasonal sales and services, in the HS-1 or NC-1 zones for a maximum of six (6) months annually, if the Zoning Administrator finds that all of the following conditions and requirements are met:

- a.. The applicant has submitted a completed Utah County Temporary Use Permit application with a site plan that details and identifies specific areas of the seasonal use and services including, but not limited to, all stands, booths or structures associated with the use; all vehicles to be used for the use; designated off-road parking designed to eliminate the need for an individual to cross a state, city or county road to access the site; restroom location; boundary of the entire site area to be utilized; and any required fire apparatus.

- b. Provide off-road parking as determined by the Zoning Administrator, but not less than three (3) spaces per seasonal use.
- c. A state road or county road access permit has been issued.
- d. Approval from the Utah County Fire Marshal; approval from the Utah County Health Department; approval from the Utah County Building Official; and approval from the Utah County Sheriff; have been obtained.
- e. All stands, booths, and structures associated with the seasonal sales and services use shall be temporary and removable, not for public occupancy, and must be removed from the property at the completion of each year's seasonal use
- f. All signs shall conform to the provisions of chapter 3 of this land use ordinance
- g. No sale of alcoholic beverages or sexually oriented products or materials.

Part VI:

Section 4-1, Zones Established, is hereby amended to read as follows:

4-1: ZONES ESTABLISHED

In order to carry out the purposes of this ordinance, the unincorporated territory of Utah County, Utah, is hereby divided into zones as follows:

RA-5	Residential Agricultural Zone
RR-5	Rural Residential Zone
TR-5	Transitional Residential Zone
CE-1	Critical Environmental Zone
CE-2	Critical Environmental Zone
M&G-1	Mining and Grazing Zone
NC-1	Neighborhood Commercial Zone
HS-1	Highway Service Zone
I-1	Industrial Zone
FPO	Flood Plain Overlay Zone
NHO	Natural Hazards Overlay Zone
A-40	Agricultural Zone
APO	Airport Overlay Zone
PF	Public Facilities Zone

Part VII:

Section 5-8, Neighborhood Commercial Zone, subsection B-3, is hereby amended to read as follows:

B. PERMITTED USES

The following shall be permitted in the NC-1 zone upon compliance with the standards and requirements as set forth in this ordinance:

1. Restaurants, and retail food stores.
2. Grocery stores.
3. Stores for retail sales of goods and materials.

Also, deletion in its entirety of Section 5-8, Neighborhood Commercial Zone, Subsections B-21, Seasonal sales and services as a permitted use; and deletion in its entirety of Section H-5, Special Provisions, prohibiting automobile sales, recreational vehicle sales, vehicle parts sales, trailer or agricultural equipment sales, or wholesale establishments.

Part VII:

Section 5-9, HS-1, Highway Service Zone, Subsection B-14, Seasonal sales and services as a permitted use, is deleted in its entirety.

Part VIII:

Section 5-10, Industrial Zone, subsection I-1, Site Plan Review, is hereby amended to read as follows:

I. SITE PLAN REVIEW

1. Scope

An applicant for a building permit in the I-1 zone shall submit a site plan to the Zoning Administrator with the contents listed below. The Zoning Administrator shall review the plan and shall issue a building permit pursuant thereto only if the standards of this and the other sections of this ordinance are met.

Exception: The Zoning Administrator may reduce certain requirements of the site plan review for existing industrial facilities and sites that are amending existing approved site plans.

Part IX:

Section 5-13, Agricultural Zone, is hereby amended to add a new subsection B-24 and 25, Permitted Uses, to read as follows:

- 24.. One-family dwellings and manufactured homes.
- 25. Residential accessory structures, when located on the same parcel as the dwelling to which such structures are appurtenant.

Part X:

Section 7-12-C, Powers and Duties of the Board, is hereby amended to read as follows:

- C. The Utah County Board of Adjustment is designated as the Land Use Authority to hear and decide requests for conditional uses which are specifically authorized in this ordinance.

Part XI:

Section 7-14, Requests to Appear Before the Board of Adjustment, is hereby amended to read as

follows:

7-14: REQUESTS TO APPEAR BEFORE THE BOARD OF ADJUSTMENT

Any person or entity wishing to appeal a decision made in applying the land use ordinance, or to appeal for a variance, or to request a conditional use, may commence such action by completing the standard forms adopted by the Board of Adjustment and filing the forms in the office of the Board. The Secretary of the Board of Adjustment, or other person designated by the Board to receive and process appeals forms, shall accept and process such forms only if they are properly completed and accompanied by the filing fee in the current amount set by the County Commission. To be heard at any meeting of the Board of Adjustment, such forms must be received in proper form with the filing fee before 5:00 P.M. of the thirtieth (30th) day prior to the date of the meeting. Moreover, any appeal of a decision made in applying the zoning ordinance must be properly filed within forty-five (45) days of the date of the contested decision, or it shall be time-barred and not heard.

Part XII:

Section 7-17, Action Taken by the Board of Adjustment, Approval, Denial, subsection B-3, Approval, is hereby amended to read as follows:

B. APPROVAL

3. To approve any request for a conditional use it shall require the concurring vote of a majority of those participating in the deliberations.

Part XIII:

Section 7-19-H, Rules for Hearing and Deciding Appeals for Variances, is hereby amended to read as follows:

- H. Variances run with the land, subject to Section 7-21-E.

Part XIV:

Section 7-20, Rules for Hearing and Deciding Appeals for Special Exceptions, is hereby amended to read as follows:

7-20: RULES FOR HEARING AND DECIDING APPEALS FOR CONDITIONAL USES

When the Board of Adjustment acts under its power to hear and decide requests for conditional uses, the conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied. The Board shall grant approval if the following rules and applicable standards have been met:

- A. The applicant has filed a properly completed conditional use application form.
- B. The land use ordinance specifically identifies the conditional use in question as one which the Board is empowered to approve.
- C. The conditional use shall meet the following standards:
 - 1. It shall not degrade the public health, safety, or welfare.
 - 2. It shall be consistent with the general purposes and intent of the land use ordinance.
 - 3. It shall be consistent with the "characteristics and purposes" stated for the zoning district involved and the adopted general plan.
 - 4. It shall be compatible with the public interest and with the characteristics of the surrounding area.
 - 5. It shall not adversely affect local property values.
 - 6. It shall comply with all of the terms and requirements of the land use ordinance, including but not limited to those found in Chapter 3, and Chapter 5, of the land use ordinance.
 - 7. It shall not result in a situation which is cost ineffective, administratively infeasible, or unduly difficult for the provision of essential services, including but not limited to: roads and access for emergency vehicles and residents; fire protection; police protection; schools and school busing; healthful water, sewer, and storm water facilities; and garbage removal.
- D. The applicant has the burden of proving by a preponderance of the evidence that all the conditions for granting a conditional use have been met and must meet that burden based on the facts presented for the record; expressions of support or protest alone shall not constitute the basis of approval or denial.
- E. When necessary, the Board may attach conditions which work out an adjustment between the conditional use and the surrounding area and to mitigate any harmful effects; such conditions may include, but are not limited to, the following:
 - 1. Parking;
 - 2. Traffic acceleration lanes;
 - 3. On-site storm water retention facilities;
 - 4. Special security or fire protection facilities;
 - 5. Water, sewer, and garbage facilities;
 - 6. Landscape screening or buffer areas;
 - 7. Requirements for the management and maintenance of the above facilities;
 - 8. Limited hours of operation;
 - 9. Limited use of equipment emanating offensive noise, light, dust, or traffic;
 - 10. Travel or route restrictions.
- F. Conditional Uses run with the land, subject to Section 7-21-E.

Part XV:

Section 7-21, Notification, subsection C and subsection D, is hereby amended to read as follows:

7-21: NOTIFICATION AND DURATION OF APPROVAL

- C. Except as provided in subsection D below, if a request for a variance or conditional use is approved, the notice shall also contain the date such approval

terminates if a building permit (or other permit or license, if applicable) is not obtained pursuant thereto. Such termination shall automatically be one year from the date of the decision of the Board of Adjustment.

- D. The Board of Adjustment may, as a condition of approval, set a different termination date for a variance or conditional use on a finding that a different date is necessary for substantial justice to be done. After the hearing, the Board of Adjustment may order the termination date for a variance or conditional use enlarged if the request was made in writing, made before the expiration of the period originally prescribed, and a different date is necessary for substantial justice to be done. Any request for an enlargement of time shall comply with the applicable notice requirements for a variance or conditional use. This request for an enlargement of time shall not be considered a rehearing under Chapter 7 of this ordinance.
- E. Variances and Conditional Uses are subject to abandonment as follows:
1. Variances and Conditional Uses which are rendered unoccupiable or otherwise unusable by the destruction of a fire, flood, or other calamity or act of nature may be restored and the preexisting use resumed provided that a building permit for reconstruction is obtained within one year from the date of destruction and construction is diligently prosecuted to completion and re-occupancy. Such restoration shall not increase the Variance and Conditional Use previously approved by the land use authority. If a building permit is not issued within one year from the date of destruction, or if the building permit is so issued but construction is not diligently prosecuted to completion and re-occupancy, then the Variance and Conditional Use shall be conclusively deemed abandoned, and the Variance and Conditional Use shall terminate.
 2. Variances and Conditional Uses which are not occupied or not used for a continuous period of one year or longer, shall not thereafter be relicensed, reoccupied or used anew, and the Variance and Conditional Use shall be conclusively deemed abandoned, and the Variance and Conditional Use shall terminate.

Part XVI:

Section 5-13, A-40, Agriculture Zone, Subsection J, Supplementary Regulations, is hereby amended to read as follows:

- J. SUPPLEMENTARY REGULATIONS
Uses within this zone shall also comply with the applicable requirements set forth in Chapter 3, entitled Supplementary Requirements and Procedures Applicable Within Zones and all other provisions of the land use ordinance.

Part XVII:

The Utah County Land Use Ordinance, as amended herein, is hereby adopted in book form and a

copy of said Utah County Land Use Ordinance is hereby ordered to be filed in the office of the Utah County Clerk/Auditor.

Part XVIII:

If any of the sections, sentences, clause or provisions of this ordinance shall for any reason be adjudged inapplicable or invalid by a court of competent jurisdiction, such shall not affect or invalidate the remaining portion contained herein.

Part XIX:

This ordinance shall become effective fifteen (15) days after it is passed, and upon at least one (1) publication in a newspaper published in and having general circulation in Utah County.

PASSED and ordered published this 24 day of Feb, 2009.

UTAH COUNTY COMMISSION

VOTE

Larry A. Ellertson
LARRY A. ELLERTSON, CHAIR

Aye

Steve White
STEVE WHITE, COMMISSIONER

Aye

Gary J. Anderson
GARY J. ANDERSON, COMMISSIONER

Aye

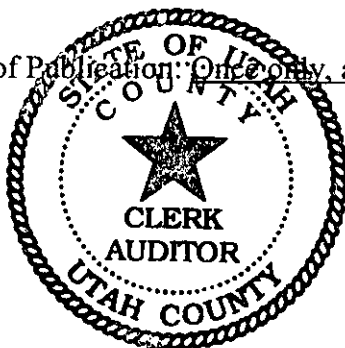
ATTEST:
BRYAN E. THOMPSON
County Clerk/Auditor

APPROVED AS TO FORM:
JEFFREY R. BUHMAN
County Attorney

By: *Lynnea Strickland* Deputy

By: *Jeffrey R. Buhman*, Deputy

Date of Publication: Once only, as soon as possible



PROOF OF PUBLICATION

CUSTOMER'S COPY

APR 27 RECD

CUSTOMER NAME AND ADDRESS	ACCOUNT NUMBER	DATE
UTAH COUNTY AUDITOR'S OFFICE, ATTN: Tad Rasumssen 100 E CENTER ST #2400 PROVO UT 84606	9001334912	4/13/2009

09 APR 27 P 25
UTAH CIVIL DIVISION

ACCOUNT NAME	
UTAH COUNTY AUDITOR'S OFFICE,	
TELEPHONE	AD ORDER # / INVOICE NUMBER
8018518002	0000442005 /
SCHEDULE	
Start 04/11/2009 , End 04/11/2009	
CUST REF NO.	
2009-1132	
CAPTION	
ORDINANCE NO. 2009-8 WAS ADOPTED BY THE	
SIZE	
29 Lines	2.00 COLUMN
TIMES	RATE
2	
MISC CHARGES	AD CHARGES
TOTAL COST	
87.00	

ORDINANCE NO. 2009-8 WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH, ON FEBRUARY 24, 2009, AMENDING THE UTAH COUNTY LAND USE ORDINANCE, SECTION 2-2-B-59 AND 101, DEFINITION OF LARGE SCALE DEVELOPMENT AND WINDMILL; SECTION 3-2, YARDS TO BE UNOBSTRUCTED; SECTION 3-17, SETBACKS FROM MAJOR STREETS; SECTION 3-26, MANUFACTURED HOMES; SECTION 3-29, TEMPORARY USES AND STRUCTURES; SECTION 4-1, ZONES ESTABLISHED; SECTION 5-1, NEIGHBORHOOD COMMERCIAL ZONE; SECTION 5-9, HS-1, HIGHWAY SERVICE ZONE; SECTION 5-10, I-1, INDUSTRIAL ZONE; SECTION 5-13, A-40, AGRICULTURAL ZONE; SECTION 7-12, POWER AND DUTIES OF THE BOARD; SECTION 7-14, REQUESTS TO APPEAL BEFORE THE BOARD OF ADJUSTMENT; SECTION 7-17, ACTION TAKEN BY THE BOARD OF ADJUSTMENT; SECTION 7-19, RULES FOR HEARING AND DECIDING APPEALS FOR VARIANCES; SECTION 7-20, RULES FOR HEARING AND DECIDING APPEALS FOR A SPECIAL EXCEPTION; SECTION 7-21, NOTIFICATION; AND SECTION 5-13-J SUPPLEMENTARY REGULATIONS.

A COMPLETE COPY OF THE ORDINANCE IS AVAILABLE AT THE COUNTY CLERK/AUDITOR'S OFFICE, COMMISSIONER LARRY A. ELLERTSON, COMMISSIONER STEVE WHITE, AND COMMISSIONER GARY J. ANDERSON, VOTED IN FAVOR OF THE ORDINANCE.

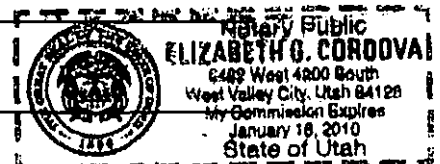
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AFFIDAVIT OF PUBLICATION

AS NEWSPAPER AGENCY CORPORATION LEGAL BOOKER, I CERTIFY THAT THE ATTACHED ADVERTISEMENT OF ORDINANCE NO. 2009-8 WAS ADOPTED BY THE _____ FOR _____ UTAH COUNTY AUDITOR'S OFFICE, _____ WAS PUBLISHED BY THE NEWSPAPER AGENCY CORPORATION, AGENT FOR THE SALT LAKE TRIBUNE AND DESERET NEWS, DAILY NEWSPAPERS PRINTED IN THE ENGLISH LANGUAGE WITH GENERAL CIRCULATION IN UTAH, AND PUBLISHED IN SALT LAKE CITY, SALT LAKE COUNTY IN THE STATE OF UTAH.

PUBLISHED ON Start 04/11/2009 End 04/11/2009

SIGNATURE *Aenny Crast*
4/13/2009



THIS IS NOT A STATEMENT BUT A "PROOF OF PUBLICATION"
PLEASE PAY FROM BILLING STATEMENT

Elizabeth G. Corvoal