



ENT 19775:2011 PG 1 of 3
JEFFERY SMITH
UTAH COUNTY RECORDER
2011 Mar 10 1:42 pm FEE 0.00 BY CS
RECORDED FOR UTAH COUNTY COMMISSIONERS

ORDINANCE NO. 2011- 5

**AN ORDINANCE AMENDING SECTION 1-3 OF THE UTAH COUNTY LAND USE
ORDINANCE, DEALING WITH CONFLICTING REGULATIONS**

WHEREAS, the Utah County Planning Commission initiated a review of the Utah County Land Use Ordinance (UCLUO), dealing with conflicting regulations; and

WHEREAS, the Planning Commission addressed the proposed amendment to the Utah County Land Use Ordinance during the regularly scheduled meeting of the Planning Commission, scheduled and held a public hearing regarding the proposed amendment, and made a recommendation to the Board of County Commissioners regarding the proposed amendment; and

WHEREAS, the Board of County Commissioners has received and carefully reviewed the recommendation from the Planning Commission regarding the proposed amendment, and the minutes from the Utah County Planning Commission meeting and public hearing regarding the proposed amendment to the Utah County Land Use Ordinance; and

WHEREAS, the Board of County Commissioners has received and carefully reviewed the input, documents, and testimony from the public regarding the proposed amendment to the Utah County Land Use Ordinance; and

WHEREAS, the Board of County Commissioners finds that the proposed amendment to the Utah County Land Use Ordinance is in the best interest of the health, safety, and welfare of the citizens of Utah County, considering all factors.

NOW, THEREFORE, THE COUNTY LEGISLATIVE BODY OF UTAH COUNTY ORDAINS AS FOLLOWS:

Part I:

Section 1-3 of the Utah County Land Use Ordinance is hereby amended to read as follows:

1-3: **CONFLICTING REGULATIONS**

The regulations and restrictions as set forth in this ordinance shall be so interpreted and applied as to further the intent and purpose of this ordinance. In the event that two or

more regulations or restrictions of this ordinance are in conflict or are inconsistent with each other, the most restrictive regulation or restriction shall govern.

All ordinances, resolutions, or parts thereof in conflict with the provisions of this ordinance are hereby repealed insofar as they conflict with the provisions set forth in this ordinance. Any building or use of land or any construction thereon which was not authorized by or under the preexisting zoning ordinance(s), as amended, or which is illegal under such ordinance, shall remain unauthorized and illegal unless expressly authorized or permitted in the provisions of this ordinance.

To the extent required by applicable law, this land use ordinance shall be subject to the provisions of the federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), the federal Endangered Species Act of 1973 (ESA), Section 404 of the federal Clean Water Act (CWA), and other federal and state statutory and regulatory provisions which, by law, supercede the provisions of this land use ordinance.

Part II:

A copy of the Utah County Land Use Ordinance, as amended herein, is hereby ordered to be filed in the office of the Utah County Clerk/Auditor.

Part III:

If any of the sections, sentences, clauses 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 IV:

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 22nd day of February, 2011.

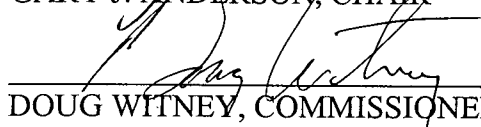
UTAH COUNTY COMMISSION

VOTE




GARY J. ANDERSON, CHAIR

aye



DOUG WITNEY, COMMISSIONER

aye



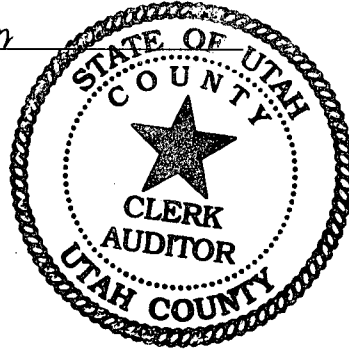
LARRY A. ELLERTSON, COMMISSIONER

aye

ATTEST:
BRYAN E. THOMPSON
County Clerk/Auditor

APPROVED AS TO FORM:
JEFFREY R. BUHMAN
County Attorney

By: *Renee Okerson*
Deputy



Approved

Disapproved

By: *Jeffrey R. Buhman*
Deputy

Date of Publication: Once only, as soon as possible

February 15, 2011

UTAH COUNTY PLANNING COMMISSION STAFF REPORT

- I. APPLICATION:
 - Public Hearing
- A. APPLICANT
 - Utah County Planning Commission
- B. REQUEST
 - Proposed Land Use Ordinance Text Amendments to Section 1-3, Conflicting Regulations
- C. LOCATION
 - Unincorporated Utah County

II. STAFF ANALYSIS:

The Utah Counties Insurance Pool (UCIP), of which Utah County is a member, suggested that the county include wording into their land use ordinance that would clarify that Utah County was in compliance with the federal regulations found in the Religious Land Use and Institutionalized Persons Act and the Endangered Species Act. This suggestion was made based on possible litigation if counties within the insurance pool had land use ordinances that were at conflict with such federal regulations.

Although staff could not find that the currently adopted Utah County Land Use Ordinance was in conflict with any of these federal acts, the following wording is proposed to be added to Section 1-3, Conflicting Regulations, to clarify the county's intent:

(Proposed text to be added is in *bold italics*)

1-3: CONFLICTING REGULATIONS

The regulations and restrictions as set forth in this ordinance shall be so interpreted and applied as to further the intent and purpose of this ordinance. In the event that two or more regulations or restrictions of this ordinance are in conflict or are inconsistent with each other, the most restrictive regulation or restriction shall govern.

All ordinances, resolutions, or parts thereof in conflict with the provisions of this ordinance are hereby repealed insofar as they conflict with the provisions set forth in this ordinance. Any building or use of land or any construction thereon which was not authorized by or under the preexisting zoning ordinance(s), as amended, or which is illegal under such ordinance, shall remain unauthorized and illegal unless expressly authorized or permitted in the provisions of this ordinance.

To the extent required by applicable law, this land use ordinance shall be subject to the provisions of the federal Religious Land Use and Institutionalized

Persons Act of 2000 (RLUIPA), the federal Endangered Species Act of 1973 (ESA), Section 404 of the federal Clean Water Act (CWA), and other federal and state statutory and regulatory provisions which, by law, supercede the provisions of this land use ordinance.

STAFF RECOMMENDATION:

That if the Utah County Planning Commission recommend the above land use ordinance amendment to Section 3-1, Conflicting Regulations, to the Utah county Commission for approval, based on the following findings:

1. That the additional wording is appropriate to clarify that certain state and federal regulations supercede any provisions of the currently adopted county land use ordinance that may be in conflict.
2. That the Utah Counties Insurance Pool (UCIP), has indicated that the inclusion of such wording is needed for insurances purposes.