



STAFF REPORT

To: Summit County Council
From: Dave Thomas, Chief Civil Deputy County Attorney
Patrick J. Putt, Community Development Director
Date of Meeting: March 30, 2022
Subject: Temporary Zoning Ordinances/Moratoriums
Type of Item: Work Session
Process: Legislative

The Summit County Council (Council) has scheduled a work session to discuss Temporary Zoning Ordinances, a.k.a Moratoriums. This staff report serves to help frame Council's discussion.

A Temporary Zoning Ordinance (TZO) is a “temporary land use regulation that prohibits or regulates the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.” *Patterson v. Utah County Board of Adjustment*, 893 P.2d 602 (Utah App. 1995) frames this legislation. The statute is narrowly construed and, consequently, there are limitations as to what can or cannot be subject to a moratorium. In general, TZOs/moratoriums may only be imposed for administrative development permit applications, not legislative applications. Temporary Zoning Ordinances can apply to subdivision plats, temporary use permits, low impact permits, conditional use permits, site plans and building permit applications. Temporary Zoning Ordinances cannot apply to rezones, master planned developments, variances, development agreements, and special exception applications. Temporary Zoning Ordinances cannot apply to pending applications that have been deemed “complete” by the Community Development Department.

To enact a Temporary Zoning Ordinance, the Council must make a finding that there is a “compelling, countervailing public interest” to create a TZO/moratorium. The Utah Supreme Court has indicated that a “compelling, countervailing public interest” is generally tied to the health and safety of residents. *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1980). The Council must be very specific as to:

- What is being targeted for a TZO/moratorium;
- How it is tied to public health and safety; and
- Why a TZO/moratorium is necessary and cannot be accomplished by something less restrictive.

Council is not required to have a recommendation from the planning commission or to hold a public hearing. A Temporary Zoning Ordinance is only valid for 6 months.

Examples of some acceptable areas (targets) for a TZO/moratorium on administrative development permits when there is a “compelling, countervailing public interest” include but are not limited to:

- Moderate Income Housing Element to the General Plan (HB 462S3)
- Water Use and Preservation Element to the General Plan (SB 110S1)
- Modifying the transportation and road standards
- Modifying Water and Sewer Infrastructure standards
- Modifying parking requirements in commercial or multifamily projects
- Modifying height, setback, lighting, landscaping, or architectural design standards
- Gathering the necessary data and studies needed to complete the above-listed targets.

Staff will provide a formal overview of this information at Wednesday’s work session and address Council’s questions. Following the discussion on this matter, Council may choose to give specific direction to staff for action or specific additional information.