

HB0088S01 compared with HB0088

~~{deleted text}~~ shows text that was in HB0088 but was deleted in HB0088S01.

inserted text shows text that was not in HB0088 but was inserted into HB0088S01.

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Representative Melvin R. Brown proposes the following substitute bill:

LAND USE AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions governing land use.

Highlighted Provisions:

This bill:

- ▶ ~~{provides a penalty if a municipality or county fails to comply with land use notice requirements;}~~ defines terms;
- ▶ requires a planning commission to give notice to an owner of private real property if the property is located within an area located in a proposed zoning map or map amendment;
- ▶ permits an owner of private real property ~~{to refuse to consent to the inclusion of the property in the proposed zoning map or map amendment;~~
- ▶ ~~requires a planning commission to extract certain private real property from}~~ located

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within a proposed zoning map or map amendment to file a protest with the planning commission;

- ▶ prohibits ~~{a}~~ the planning commission or legislative body from adopting a proposed zoning map or map amendment ~~{that includes certain private real property}~~ if adequate protests are filed; and
- ▶ makes technical ~~{corrections}~~ and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{10-9a-201}~~ 10-9a-103, as ~~{enacted}~~ last amended by Laws of Utah ~~{2005}~~ 2012,

Chapter ~~{254}~~ 231

~~{17-27a-201, as enacted}~~ 10-9a-205, as last amended by Laws of Utah 2010, Chapters

90 and 123

10-9a-502, as renumbered and amended by Laws of Utah 2005, Chapter 254

11-36a-502, as enacted by Laws of Utah 2011, Chapter 47

17-27a-103, as last amended by Laws of Utah 2012, Chapter 231

17-27a-205, as last amended by Laws of Utah 2010, Chapters 90 and 123

17-27a-502, as renumbered and amended by Laws of Utah 2005, Chapter 254

ENACTS:

~~{10-9a-306}~~ 10-9a-213, Utah Code Annotated 1953

~~{17-27a-305}~~ 10-9a-502.5, Utah Code Annotated 1953

17-27a-213, Utah Code Annotated 1953

17-27a-502.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-103 is amended to read:

10-9a-103. Definitions.

As used in this chapter:

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(1) "Adequate protests" means protests that are:

(a) filed with a planning commission no later than 60 days after the day of the public hearing required under Section 10-9a-502 on a proposed zoning map or map amendment; and

(b) signed by the owners of private real property that:

(i) is located within a proposed zoning map or map amendment;

(ii) covers at least the majority of the total private land area within the proposed zoning map or map amendment; and

(iii) is equal in value to at least 50% of the value of all private real property within the applicable area.

~~[(1)]~~ (2) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, a property owner, a property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

~~[(2)]~~ (3) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

~~[(3)]~~ (4) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

~~[(4)]~~ (5) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a chartering entity in

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accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

(iii) an entity who is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

~~[(5)]~~[(6)] "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

~~[(6)]~~[(7)] "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

~~[(7)]~~[(8)] "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

~~[(8)]~~[(9)] "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

~~[(9)]~~[(10)] (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

~~[(10)]~~[(11)] "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a

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program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection ~~[(10)]~~

~~(11)~~(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection ~~[(10)]~~

~~(11)~~(a)(i); and

(B) used in support of the purposes of a building described in Subsection ~~[(10)]~~

~~(11)~~(a)(i); or

(ii) a therapeutic school.

~~[(11)]~~~~(12)~~ "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

~~[(12)]~~~~(13)~~ "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

~~[(13)]~~~~(14)~~ "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

~~[(14)]~~~~(15)~~ "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

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~~[(15)]~~[(16)] "Geologic hazard" means:

- (a) a surface fault rupture;
- (b) shallow groundwater;
- (c) liquefaction;
- (d) a landslide;
- (e) a debris flow;
- (f) unstable soil;
- (g) a rock fall; or
- (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.

~~[(16)]~~[(17)] "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

~~[(17)]~~[(18)] "Identical plans" means building plans submitted to a municipality that:

- (a) are clearly marked as "identical plans";
- (b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and
- (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and
 - (iv) does not require any additional engineering or analysis.

~~[(18)]~~[(19)] "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

~~[(19)]~~[(20)] "Improvement assurance" means a surety bond, letter of credit, cash, or other security:

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(a) to guaranty the proper completion of an improvement;

(b) that is required as a condition precedent to:

(i) recording a subdivision plat; or

(ii) beginning development activity; and

(c) that is offered to a land use authority to induce the land use authority, before actual construction of required improvements, to:

- (i) consent to the recording of a subdivision plat; or
- (ii) issue a permit for development activity.

~~[(20)]~~ [(21)] "Improvement assurance warranty" means a promise that the materials and workmanship of improvements:

- (a) comport with standards that the municipality has officially adopted; and
- (b) will not fail in any material respect within a warranty period.

~~[(21)]~~ [(22)] "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

- (a) runs with the land; and
- (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
- (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

~~[(22)]~~ [(23)] "Land use application" means an application required by a municipality's land use ordinance.

~~[(23)]~~ [(24)] "Land use authority" means a person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.

~~[(24)]~~ [(25)] "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.

~~[(25)]~~ [(26)] "Land use permit" means a permit issued by a land use authority.

~~[(26)]~~ [(27)] "Legislative body" means the municipal council.

~~[(27)]~~ [(28)] "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

~~[(28)]~~ [(29)] "Lot line adjustment" means the relocation of the property boundary line in

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a subdivision between two adjoining lots with the consent of the owners of record.

~~[(29)]~~ [(30)] "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

~~[(30)]~~ [(31)] "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

- (a) verifying that building plans are identical plans; and
- (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

~~[(31)]~~ [(32)] "Noncomplying structure" means a structure that:

- (a) legally existed before its current land use designation; and
- (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

~~[(32)]~~ [(33)] "Nonconforming use" means a use of land that:

- (a) legally existed before its current land use designation;
- (b) has been maintained continuously since the time the land use ordinance governing the land changed; and
- (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

~~[(33)]~~ [(34)] "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

- (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
- (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
- (c) has been adopted as an element of the municipality's general plan.

~~[(34)]~~ [(35)] "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(35)]~~ [(36)] "Plan for moderate income housing" means a written document adopted by

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a city legislative body that includes:

- (a) an estimate of the existing supply of moderate income housing located within the city;
- (b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;
- (c) a survey of total residential land use;
- (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
- (e) a description of the city's program to encourage an adequate supply of moderate income housing.

~~[(36)]~~ (37) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

~~[(37)]~~ (38) "Potential geologic hazard area" means an area that:

- (a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or
- (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

~~[(38)]~~ (39) "Public agency" means:

- (a) the federal government;
- (b) the state;
- (c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or
- (d) a charter school.

~~[(39)]~~ (40) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

~~[(40)]~~ (41) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

~~[(41)]~~ (42) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable

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development right.

~~[(42)]~~ [(43)] "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

~~[(43)]~~ [(44)] "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not include a health care facility as defined by Section 26-21-2.

~~[(44)]~~ [(45)] "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

~~[(45)]~~ [(46)] "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

~~[(46)]~~ [(47)] "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

~~[(47)]~~ [(48)] "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

~~[(48)]~~ [(49)] "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

~~[(49)]~~ [(50)] "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(50)]~~ [(51)] "State" includes any department, division, or agency of the state.

~~[(51)]~~ [(52)] "Street" means a public right-of-way, including a highway, avenue,

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boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

~~[(52)]~~[(53)] (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection ~~[(52)]~~[(53)](c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance; or

(v) a bona fide division or partition of land by deed or other instrument where the land

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use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection ~~[(52)]~~ [(53)] as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

~~[(53)]~~ [(54)] "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a

behavioral development, a familial development, or a social development.

~~[(54)]~~ [(55)] "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

~~[(55)]~~ [(56)] "Unincorporated" means the area outside of the incorporated area of a city or town.

~~[(56)]~~ [(57)] "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

~~[(57)]~~ [(58)] "Zoning map" means a map, adopted as part of a land use ordinance, that

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depicts land use zones, overlays, or districts.

Section ~~{1}~~2. Section ~~{10-9a-201}~~10-9a-205 is amended to read:

~~{~~ **10-9a-201. Required notice -- Penalty.**

~~(1) At a minimum, each municipality shall provide actual notice or the notice required by this part.~~

~~(2) A municipality may by ordinance require greater notice than required under this part.~~

~~(3) If a municipality takes an action, including holding a hearing or adopting a land use ordinance, that requires prior notice in accordance with this chapter, the municipality is liable for the loss of property value, if any, resulting from that action.~~

~~}~~ **10-9a-205. Notice of public hearings and public meetings on adoption or modification of land use ordinance.**

(1) Each municipality shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use ordinance; and

(b) notice of each public meeting on the subject.

(2) ~~Each~~ Except as provided in Section 10-9a-213, each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website; and

(c) (i) (A) published in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and

(B) published on the Utah Public Notice Website created in Section 63F-1-701, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by municipal ordinance.

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(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be posted:

- (a) in at least three public locations within the municipality; or
- (b) on the municipality's official website.

Section ~~{2}3~~. Section ~~{10-9a-306}~~10-9a-213 is enacted to read:

~~{10-9a-306}10-9a-213~~. ~~Notice {of}~~and hearing for proposed zoning change~~{=~~
~~Property owner's refusal of consent -- Recommendation or adoption of zoning change~~
~~prohibited.~~

~~—— (1) A planning commission may not include private real property in a proposed zoning map or map amendment if the owner of the private real property does not consent to the inclusion of the owner's property in accordance with this section.~~

~~—— (2) (a) The~~;

~~(1) (a) Subject to Subsection (1)(b), if a~~ planning commission~~{, when preparing}~~
~~prepares~~ a zoning map or map amendment, and before recommending the zoning map or map amendment to the legislative body in accordance with Sections 10-9a-302 and 10-9a-502, ~~the~~
~~planning commission~~ shall send written notice to each owner of private real property whose property is located entirely or partially within the proposed map or amendment.

~~(b) (i) This section applies if the zoning map or map amendment is proposed by the municipality.~~

~~(ii) If the zoning map or map amendment is proposed by a person or entity other than the municipality, the notice requirements for a land use ordinance in Section 10-9a-205 shall apply.~~

~~(b)2~~ The written notice shall:

~~(i)a~~ identify, with specificity, the owner's real property that will be affected by the proposed zoning map or map amendment;

~~(ii)b~~ state the current zone in which the real property is located;

~~(iii)c~~ state the proposed new zone for the real property, including ~~{new}~~proposed regulations, prohibitions, and permitted uses, that the property will be ~~{governed by}~~subject to if the zoning map or map amendment is adopted;

~~(iv)d~~ (i) state that~~{,~~

~~—— (A) }~~ the owner of real property may ~~{refuse to consent}~~no later than 60 days after the

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day of the public hearing described in Section 10-9a-502 file a protest to the inclusion of ~~some~~ or all of ~~the real~~ owner's property in the proposed zoning map or map amendment; and

~~(B) if the owner refuses consent in accordance with this section;~~ii) state the date of the protest filing deadline;

(e) state the address of where the protest should be filed with the planning commission; and legislative body are prohibited from including the property in the proposed or adopted zoning map or amendment;

~~(C) the owner has 30 business days after receipt of the notice to submit written notice to;~~

(f) notify the property owner that if adequate protests are filed with the planning commission; refusing consent; and

~~(D) if the owner does not submit a written notice to the planning commission refusing consent, the planning commission and legislative body may include the owner's real property in the proposed;~~ the commission may not recommend and the legislative may not adopt the zoning map or map amendment; and

~~(v) provide the;~~g) state the location, date, and time of the public hearing described in Section 10-9a-502.

(3) The planning ~~commission's address, phone number, and the name of a planning commissioner or staff member whom the real property owner may contact; and~~

~~(vi) be mailed;~~commission shall mail the notice at least 10 calendar days before the public hearing, first class, postage prepaid, to each owner of record according to the records of the county recorder of private real property located ~~in~~within the proposed zoning map or map amendment.

~~(3)(a)4) ~~An owner of real property may, no later than 30 days after the day on which the owner receives the notice described;~~In addition to the written notice required in Subsection (2); submit written notice to the planning commission refusing consent to the inclusion of some or all of the owner's real property;~~

~~(b) An owner described in Subsection (3)(a) shall include in the written notice:~~

~~(i) the owner's name and contact information;~~

~~(ii) a description of the real property for which the owner is refusing consent;~~

~~(iii) a statement affirming the owner's refusal of consent; and~~

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- ~~(iv) the owner's signature or the signature of the owner's legal representative;~~
- ~~(4) If the planning commission receives written notice from an owner of real property in accordance with Subsection (3), the planning commission shall:~~
- ~~(a) extract the real property identified in the notice from the proposed zoning map or map amendment; and~~
- ~~(b) revise the proposed zoning map or map amendment to reflect exclusion of the identified real property;~~
- ~~(5) A zoning map or map amendment recommended to the legislative body by the planning commission in accordance with Section 10-9a-502 may not include private real property identified in a notice submitted; **give notice** in accordance with ~~Subsection (3)~~;~~
- ~~(6) Notwithstanding Section 10-9a-502, if a zoning map or map amendment includes private real property identified in a notice submitted in accordance with Subsection (3), a legislative body may not:~~
- ~~(a) adopt the zoning map or map amendment recommended by a planning commission;~~
- ~~or~~
- ~~(b) revise for adoption a zoning map or map amendment recommended by a planning commission to include the private real property.~~ **Subsections 10-9a-205(2)(b) and (c)(i).**

Section 4. Section 10-9a-502 is amended to read:

10-9a-502. Preparation and adoption of land use ordinance or zoning map.

- (1) The planning commission shall:
- (a) provide notice as required by Subsection 10-9a-205(1)(a) **for a proposed land use ordinance other than a zoning map or map amendment or Section 10-9a-213 for a proposed zoning map or map amendment;**
- (b) hold a public hearing on a proposed land use ordinance or zoning map; and
- (c) **except as provided in Subsection (2),** prepare and recommend to the legislative body a proposed land use ordinance or ordinances and zoning map that represent the planning commission's recommendation for regulating the use and development of land within all or any part of the area of the municipality.
- (2) If adequate protests are filed in accordance with Section 10-9a-502.5 to a zoning map or map amendment proposed by the municipality:**
- (a) the planning commission may not recommend to the legislative body the zoning**

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map or map amendment; and

(b) the legislative body may not consider or adopt the proposed zoning map or map amendment under Subsection (3).

~~[(2)]~~ (3) The municipal legislative body shall consider each proposed land use ordinance and zoning map recommended to it by the planning commission, and, after providing notice as required by Subsection 10-9a-205(1)(b) and holding a public meeting, the legislative body may adopt or reject the ordinance or map either as proposed by the planning commission or after making any revision the municipal legislative body considers appropriate.

Section 5. Section 10-9a-502.5 is enacted to read:

10-9a-502.5. Zoning protests.

(1) (a) An owner of property that is included in a zoning map or map amendment proposed by the municipality may, within the time specified in the notice under Section 10-9a-213, file a written protest against the inclusion of all or a part of the owner's property in the zoning map or map amendment.

(b) A property owner may not protest a zoning map or map amendment if:

(i) the map or amendment is proposed by a person or entity other than the municipality;

and

(ii) the owner's property is not included in the zoning map or map amendment.

(2) A protest under Subsection (2) shall describe or otherwise identify the property owned by the person filing the protest.

(3) An owner may withdraw a protest at any time before the expiration of the 60-day period.

(4) The failure of an owner of property within the proposed zoning map or map amendment to file a timely written protest constitutes a waiver of any objection to:

(a) adoption of the zoning map or map amendment; or

(b) the inclusion on the owner's property within the zone.

Section 6. Section 11-36a-502 is amended to read:

11-36a-502. Notice to adopt or amend an impact fee facilities plan.

(1) If a local political subdivision chooses to prepare an independent impact fee facilities plan rather than include an impact fee facilities element in the general plan in accordance with Section 11-36a-301, the local political subdivision shall, before adopting or

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amending the impact fee facilities plan:

(a) give public notice, in accordance with Subsection (2), of the plan or amendment at least 10 days before the day on which the public hearing described in Subsection (1)(d) is scheduled;

(b) make a copy of the plan or amendment, together with a summary designed to be understood by a lay person, available to the public;

(c) place a copy of the plan or amendment and summary in each public library within the local political subdivision; and

(d) hold a public hearing to hear public comment on the plan or amendment.

(2) With respect to the public notice required under Subsection (1)(a):

(a) each municipality shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 10-9a-205 and 10-9a-801 and Subsection 10-9a-502~~(2)~~(3);

(b) each county shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 17-27a-205 and 17-27a-801 and Subsection 17-27a-502~~(2)~~(3); and

(c) each local district, special service district, and private entity shall comply with the notice and hearing requirements of, and receive the protections of, Section 17B-1-111.

(3) Nothing contained in this section or Section 11-36a-503 may be construed to require involvement by a planning commission in the impact fee facilities planning process.

Section 7. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Adequate protests" means protests that are:

(a) filed with a planning commission no later than 60 days after the day of the public hearing required under Section 17-27a-502 on a proposed zoning map or map amendment; and

(b) signed by the owners of private real property that:

(i) is located within a proposed zoning map or map amendment;

(ii) covers at least the majority of the total private land area within the proposed zoning map or map amendment; and

(iii) is equal in value to at least 50% of the value of all private real property within the

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applicable area.

~~[(1)]~~ [(2)] "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan;
or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

~~[(2)]~~ [(3)] "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

~~[(3)]~~ [(4)] "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

~~[(4)]~~ [(5)] (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a chartering entity in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

(iii) an entity who is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

~~[(5)]~~ [(6)] "Chief executive officer" means the person or body that exercises the executive powers of the county.

~~[(6)]~~ [(7)] "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be

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compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

~~[(7)]~~1(8) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

- (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- (b) Utah Constitution Article I, Section 22.

~~[(8)]~~1(9) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

~~[(9)]~~1(10) "Development activity" means:

- (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
- (b) any change in use of a building or structure that creates additional demand and need for public facilities; or
- (c) any change in the use of land that creates additional demand and need for public facilities.

~~[(10)]~~1(11) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

~~[(11)]~~1(12) "Educational facility":

- (a) means:
 - (i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;
 - (ii) a structure or facility:
 - (A) located on the same property as a building described in Subsection ~~[(11)]~~1(12)(a)(i); and
 - (B) used in support of the use of that building; and

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(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection ~~[(H)]~~ (12)(a)(i); and

(B) used in support of the purposes of a building described in Subsection ~~[(H)]~~ (12)(a)(i); or

(ii) a therapeutic school.

~~[(12)]~~ (13) "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

~~[(13)]~~ (14) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

~~[(14)]~~ (15) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

~~[(15)]~~ (16) "Gas corporation" has the same meaning as defined in Section 54-2-1.

~~[(16)]~~ (17) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of the unincorporated land within the county.

~~[(17)]~~ (18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

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- (d) a landslide;
- (e) a debris flow;
- (f) unstable soil;
- (g) a rock fall; or
- (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.

~~[(18)]~~ [(19)] "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

- (a) runs with the land; and
- (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
 - (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

~~[(19)]~~ [(20)] "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

~~[(20)]~~ [(21)] "Identical plans" means building plans submitted to a county that:

- (a) are clearly marked as "identical plans";
- (b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and
- (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and
 - (iv) does not require any additional engineering or analysis.

~~[(21)]~~ [(22)] "Impact fee" means a payment of money imposed under Title 11, Chapter

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36a, Impact Fees Act.

~~[(22)]~~ [(23)] "Improvement assurance" means a surety bond, letter of credit, cash, or other security:

- (a) to guaranty the proper completion of an improvement;
- (b) that is required as a condition precedent to:
 - (i) recording a subdivision plat; or
 - (ii) beginning development activity; and
- (c) that is offered to a land use authority to induce the land use authority, before actual construction of required improvements, to:

- (i) consent to the recording of a subdivision plat; or
- (ii) issue a permit for development activity.

~~[(23)]~~ [(24)] "Improvement assurance warranty" means a promise that the materials and workmanship of improvements:

- (a) comport with standards that the county has officially adopted; and
- (b) will not fail in any material respect within a warranty period.

~~[(24)]~~ [(25)] "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~[(25)]~~ [(26)] "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~[(26)]~~ [(27)] "Land use application" means an application required by a county's land use ordinance.

~~[(27)]~~ [(28)] "Land use authority" means a person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.

~~[(28)]~~ [(29)] "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the county, but does not include the general plan.

~~[(29)]~~ [(30)] "Land use permit" means a permit issued by a land use authority.

~~[(30)]~~ [(31)] "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

~~[(31)]~~ [(32)] "Local district" means any entity under Title 17B, Limited Purpose Local

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Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

~~[(32)]~~ [(33)] "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

~~[(33)]~~ [(34)] "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

~~[(34)]~~ [(35)] "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

- (a) verifying that building plans are identical plans; and
- (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

~~[(35)]~~ [(36)] "Noncomplying structure" means a structure that:

- (a) legally existed before its current land use designation; and
- (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

~~[(36)]~~ [(37)] "Nonconforming use" means a use of land that:

- (a) legally existed before its current land use designation;
- (b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and
- (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

~~[(37)]~~ [(38)] "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

- (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
- (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

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(c) has been adopted as an element of the county's general plan.

~~[(38)]~~ (39) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(39)]~~ (40) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

~~[(40)]~~ (41) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

~~[(41)]~~ (42) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

~~[(42)]~~ (43) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

~~[(43)]~~ (44) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

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~~[(44)]~~ [(45)] "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

~~[(45)]~~ [(46)] "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

~~[(46)]~~ [(47)] "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

~~[(47)]~~ [(48)] "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Section 17-27a-515, but does not include a health care facility as defined by Section 26-21-2.

~~[(48)]~~ [(49)] "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

~~[(49)]~~ [(50)] "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

~~[(50)]~~ [(51)] "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

~~[(51)]~~ [(52)] "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

~~[(52)]~~ [(53)] "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

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~~[(53)]~~ [(54)] "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(54)]~~ [(55)] "State" includes any department, division, or agency of the state.

~~[(55)]~~ [(45)] "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

~~[(56)]~~ [(57)] (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection ~~[(56)]~~ [(57)](c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

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(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance; or

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (56) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

~~[(57)]~~ [(58)] "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

~~[(58)]~~ [(59)] "Township" means a contiguous, geographically defined portion of the unincorporated area of a county, established under this part or reconstituted or reinstated under Section 17-27a-306, with planning and zoning functions as exercised through the township planning commission, as provided in this chapter, but with no legal or political identity

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separate from the county and no taxing authority, except that "township" means a former township under Laws of Utah 1996, Chapter 308, where the context so indicates.

~~[(59)]~~ (60) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

~~[(60)]~~ (61) "Unincorporated" means the area outside of the incorporated area of a municipality.

~~[(61)]~~ (62) "Water interest" means any right to the beneficial use of water, including:

- (a) each of the rights listed in Section 73-1-11; and
- (b) an ownership interest in the right to the beneficial use of water represented by:
 - (i) a contract; or
 - (ii) a share in a water company, as defined in Section 73-3-3.5.

~~[(62)]~~ (63) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section ~~{3}~~ 8. Section ~~{17-27a-201}~~ 17-27a-205 is amended to read:

~~{~~ ~~17-27a-201. Required notice -- Penalty.~~

~~_____ (1) At a minimum, each county shall provide actual notice or the notice required by this part.~~

~~_____ (2) A county may by ordinance require greater notice than required under this part.~~

~~_____ (3) If a county takes an action, including holding a hearing or adopting a land use ordinance, that requires prior notice in accordance with this chapter, the municipality is liable for the loss of property value, if any, resulting from that action.~~

~~}~~ **17-27a-205. Notice of public hearings and public meetings on adoption or modification of land use ordinance.**

(1) Each county shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use ordinance; and

(b) notice of each public meeting on the subject.

(2) ~~[Each]~~ Except as provided in Section 17-27a-213, each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

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(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website; and

(c) (i) published:

(A) in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by county ordinance.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be posted:

(a) in at least three public locations within the county; or

(b) on the county's official website.

Section ~~{4}9~~. Section ~~{17-27a-305.5}~~17-27a-213 is enacted to read:

~~{17-27a-305.5}~~17-27a-213. ~~Notice {off}and hearing for~~ **proposed zoning change**~~{=~~
Property owner's refusal of consent -- Recommendation or adoption of zoning change
prohibited:

~~—— (1) A planning commission may not include private real property in a proposed zoning map or map amendment if the owner of the private real property does not consent to the inclusion of the owner's property in accordance with this section.~~

~~—— (2) (a) The~~;

(1) (a) Subject to Subsection (1)(b), if a planning commission~~{, when preparing}~~
prepares a zoning map or map amendment, and before recommending the zoning map or map amendment to the legislative body in accordance with Sections 17-27a-302 and 17-27a-502, the planning commission shall send written notice to each owner of private real property whose property is located entirely or partially within the proposed map or amendment.

(b) (i) This section applies if the zoning map or map amendment is proposed by the county.

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(ii) If the zoning map or map amendment is proposed by a person or entity other than the county, the notice requirements for a land use ordinance in Section 17-27a-205 shall apply.

~~(b)2~~ The written notice shall:

~~(i)a~~ identify, with specificity, the owner's real property that will be affected by the proposed zoning map or map amendment;

~~(ii)b~~ state the current zone in which the real property is located;

~~(iii)c~~ state the proposed new zone for the real property, including ~~new~~ proposed regulations, prohibitions, and permitted uses, that the property will be ~~governed by~~ subject to if the zoning map or map amendment is adopted;

~~(iv)d~~ (i) state that:

~~(A)~~ the owner of real property may ~~refuse to consent~~ no later than 60 days after the day of the public hearing described in Section 17-27a-502 file a protest to the inclusion of ~~some or all of~~ the ~~real~~ owner's property in the proposed zoning map or map amendment; and

~~(B) if the owner refuses consent in accordance with this section,~~ ii) state the date of the protest filing deadline;

(e) state the address of where the protest should be filed with the planning commission ~~and legislative body are prohibited from including the property in the proposed or adopted zoning map or amendment;~~

~~(C) the owner has 30 business days after receipt of the notice to submit written notice to;~~

(f) notify the property owner that if adequate protests are filed with the planning commission ~~refusing consent; and~~

~~(D) if the owner does not submit a written notice to the planning commission refusing consent, the planning commission and legislative body may include the owner's real property in the proposed;~~ the commission may not recommend and the legislative may not adopt the zoning map or map amendment; and

~~(v) provide the;~~ g) state the location, date, and time of the public hearing described in Section 17-27a-502.

(3) The planning ~~commission's address, phone number, and the name of a planning commissioner or staff member whom the real property owner may contact; and~~

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~~(vi) be mailed;~~ commission shall mail the notice at least 10 calendar days before the public hearing, first class, postage prepaid, to each owner of record according to the records of the county recorder of private real property located ~~in~~ within the proposed zoning map or map amendment.

~~(3)(a) 4) An owner of real property may, no later than 30 days after the day on which the owner receives the notice described;~~ In addition to the written notice required in Subsection (2), ~~submit written notice to~~ the planning commission ~~refusing consent to the inclusion of some or all of the owner's real property.~~

~~(b) An owner described in Subsection (3)(a) shall include in the written notice:~~

~~(i) the owner's name and contact information;~~

~~(ii) a description of the real property for which the owner is refusing consent;~~

~~(iii) a statement affirming the owner's refusal of consent; and~~

~~(iv) the owner's signature or the signature of the owner's legal representative.~~

~~(4) If the planning commission receives written notice from an owner of real property;~~ give notice in accordance with ~~Subsection (3), the~~ Subsections 17-27a-205(2)(b) and (c)(i).

Section 10. Section 17-27a-502 is amended to read:

17-27a-502. Preparation and adoption of land use ordinance or zoning map.

(1) The planning commission shall:

~~(a) extract the real property identified in the protest from a proposed;~~ provide notice as required by Subsection 17-27a-205(1)(a) for a proposed land use ordinance other than a zoning map or map amendment or Section 17-27a-213 for a proposed zoning map or map amendment;

(b) hold a public hearing on a proposed land use ordinance or zoning map; and

(c) except as provided in Subsection (2), prepare and recommend to the legislative body a proposed land use ordinance or ordinances and zoning map that represent the planning commission's recommendation for regulating the use and development of land within all or any part of the unincorporated area of the county.

(2) If adequate protests are filed in accordance with Section 17-27a-502.5 to a zoning map or map amendment proposed by the county:

(a) the planning commission may not recommend to the legislative body the zoning

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map or map amendment; and

(b) ~~{revise}~~ the legislative body may not consider or adopt the proposed zoning map or map amendment under Subsection (3).

~~[(2)]~~ (3) The county legislative body shall consider each proposed land use ordinance and zoning map recommended to it by the planning commission, and, after providing notice as required by Subsection 17-27a-205(1)(b) and holding a public meeting, the legislative body may adopt or reject the proposed ordinance or map either as proposed by the planning commission or after making any revision the county legislative body considers appropriate.

Section 11. Section 17-27a-502.5 is enacted to read:

17-27a-502.5. Zoning protests.

(1) (a) An owner of property that is included in a zoning map or map amendment proposed by the county may, within the time specified in the notice under Section 17-27a-213, file a written protest against the inclusion of all or a part of the owner's property in the zoning map or map amendment.

(b) A property owner may not protest a zoning map or map amendment if:

(i) the map or amendment is proposed by a person or entity other than the county; and

(ii) the owner's property is not included in the zoning map or map amendment.

(2) A protest under Subsection (2) shall describe or otherwise identify the property owned by the person filing the protest.

(3) An owner may withdraw a protest at any time before the expiration of the 60-day period.

(4) The failure of an owner of property within the proposed zoning map or map amendment to ~~{reflect exclusion of the private real property identified in the protest}~~

~~—— (5) A zoning map or map amendment recommended to the legislative body by the planning commission in accordance with Section 17-27a-502 may not include private real property identified in a protest filed in accordance with this section.~~

~~—— (6) Notwithstanding Section 17-27a-502, if a zoning map or map amendment includes private real property identified in a protest filed in accordance with this section, a legislative body may not:~~

~~—— (a) adopt~~ {file a timely written protest constitutes a waiver of any objection to:

(a) adoption of the zoning map or map amendment ~~{ recommended by a planning~~

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commission; or

—— (b) revise for adoption a zoning map or map amendment recommended by a planning commission to include the private real property.

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—— as of 12-4-12 3:01 PM

Office of Legislative Research and General Counsel; or

(b) the inclusion on the owner's property within the zone.