

HB0236S01 compared with HB0236

~~{deleted text}~~ shows text that was in HB0236 but was deleted in HB0236S01.

inserted text shows text that was not in HB0236 but was inserted into HB0236S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Melvin R. Brown proposes the following substitute bill:

LAND DEVELOPMENT REVISIONS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to a ~~{municipality's or }~~ county's regulation of land use and development.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a ~~{municipality or }~~ county from adopting a land use ordinance that, in certain circumstances, requires a property owner to revegetate ~~{,}~~ or landscape ~~{, or manage erosion control on the owner's property}~~;
- ▶ enacts provisions governing the application of a site plan; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

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None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{ 10-9a-103, as last amended by Laws of Utah 2012, Chapter 231~~

~~10-9a-505, as last amended by Laws of Utah 2008, Chapter 326~~

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

17-27a-505, as last amended by Laws of Utah 2008, Chapter 326

ENACTS:

~~{ 10-9a-523, Utah Code Annotated 1953~~

+ 17-27a-522, Utah Code Annotated 1953

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

Section 1. Section ~~{10-9a-103}~~17-27a-103 is amended to read:

~~{ 10-9a-103. Definitions:~~

~~As used in this chapter:~~

~~(1) "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) "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~~

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variance:

~~—— (3) "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) (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) "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) "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) "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) "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) (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~~

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~~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) "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 (10)(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)(a)(i); and~~

~~—— (B) used in support of the purposes of a building described in Subsection (10)(a)(i); or~~

~~—— (ii) a therapeutic school.~~

~~—— (11) "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) "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) "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~~

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

~~—— (15) "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) "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) "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~~

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- ~~—— (iv) does not require any additional engineering or analysis.~~
- ~~—— (18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.~~
- ~~—— (19) "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.~~~~~~
- ~~—— (20) "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) "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) "Land use application" means an application required by a municipality's land use ordinance.~~
- ~~—— (23) "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) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.~~
- ~~—— (25) "Land use permit" means a permit issued by a land use authority.~~

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- ~~—— (26) "Legislative body" means the municipal council.~~
- ~~—— (27) "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) "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.~~
- ~~—— (29) "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) "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) "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) "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) "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~~

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~~the land; and~~

~~—— (c) has been adopted as an element of the municipality's general plan:~~

~~—— (34) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity:~~

~~—— (35) "Plan for moderate income housing" means a written document adopted by 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) "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) "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) "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) "Public hearing" means a hearing at which members of the public are provided a~~

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~~reasonable opportunity to comment on the subject of the hearing:~~

~~—— (40) "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) "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 development right.~~

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

~~—— (43) "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) "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) "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) "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) "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) "Site plan" means a document or map that may be required by a municipality during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a building permit requirement.~~

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~~_____ [(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, 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~~

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~~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 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) 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.~~

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~~[(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 depicts land use zones, overlays, or districts.~~

~~Section 2. Section 10-9a-505 is amended to read:~~

~~10-9a-505. Zoning districts:~~

~~(1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.~~

~~(b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land:~~

~~(c) A municipality may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:~~

~~(i) protect life; and~~

~~(ii) prevent:~~

~~(A) the substantial loss of real property; or~~

~~(B) substantial damage to real property.~~

~~(d) A municipality may not adopt a land use ordinance requiring a property owner to take an action to revegetate, landscape, or manage erosion control in any form if the property slope is less than 12% unless the location of the slope on the property includes a geologic hazard.~~

~~(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zoning district, but the regulations in one zone may differ from those in other zones.~~

~~(3) (a) There is no minimum area or diversity of ownership requirement for a zone~~

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~~designation.~~

~~—— (b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a municipal decision.~~

~~—— Section 3. Section ~~10-9a-523~~ is enacted to read:~~

~~—— 10-9a-523. Site plan:~~

~~—— A site plan:~~

~~—— (1) is not a legally binding document;~~

~~—— (2) does not represent an agreement for a specific layout;~~

~~—— (3) does not bind an owner from future development activity on the property; and~~

~~—— (4) does not supercede a building permit requirement.~~

~~—— Section 4. Section ~~17-27a-103~~ is amended to read:~~

‡ **17-27a-103. Definitions.**

As used in this chapter:

(1) "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) "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) "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,

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or service that is not sold, offered, or existing on the property where the sign is located.

(4) (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) "Chief executive officer" means the person or body that exercises the executive powers of the county.

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

(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.

(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.

(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.

(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.

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(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) "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)(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 (11)(a)(i);

and

(B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

(ii) a therapeutic school.

(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.

(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.

(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

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the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

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

(16) "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) "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.

(18) "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) "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) "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

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

(22) "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) "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) "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) "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) "Land use application" means an application required by a county's land use

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ordinance.

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

(29) "Land use permit" means a permit issued by a land use authority.

(30) "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) "Local district" means any 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.

(32) "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) "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) "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) "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) "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

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to the regulations that now govern the use of the land.

(37) "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

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

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

(39) "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) "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) "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.

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(42) "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) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(44) "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) "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) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

(47) "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) "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) "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) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite

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wastewater systems.

(51) "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) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a ~~building permit~~ land use requirement.

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

- (a) the state;
- (b) a school district; or
- (c) a charter school.

~~(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)~~ (56) "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:

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- (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

(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)~~] (57) 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

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(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 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 ~~[(5)]~~2. Section 17-27a-505 is amended to read:

17-27a-505. Zoning districts.

(1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.

(b) Within those zoning districts, the legislative body may regulate and restrict the

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erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.

(c) A county may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:

(i) protect life; and

(ii) prevent:

(A) the substantial loss of real property; or

(B) substantial damage to real property.

(d) ~~A county may not adopt a land use ordinance requiring a property owner to take an action to revegetate, landscape, or manage erosion control in any form if the property slope is less than 12% unless the location of the slope on the property includes a~~ revegetate or landscape unless the property is located in a flood zone or geologic hazard except as required in Title 19, Chapter 5, Water Quality Act, to comply with federal law related to water pollution.

(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zone, but the regulations in one zone may differ from those in other zones.

(3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.

(b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a county decision.

Section ~~6~~3. Section **17-27a-522** is enacted to read:

17-27a-522. Site plan.

A site plan~~:~~

~~(1) is not a legally binding document;~~ submitted to a county for approval of a building permit:

(1) if modified, may not be used to impose a penalty on a property owner;

(2) does not represent an agreement for a specific final layout;

(3) does not bind an owner from future development activity or modifications to a development activity on the property; and

(4) ~~does not~~ is supercede by the terms of a building permit requirement.

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Legislative Review Note

~~as of 2-11-13 10:46 AM~~

~~Office of Legislative Research and General Counsel}~~