Problematic Words and Phrases

Although many of the following are not rigid rules and the drafter must always consider the context of the use of a word or phrase, the following provides suggestions as to use of problematic words or phrases when drafting in the Utah Code.

A
above
above-mentioned
absolutely null and void
acknowledge
accomplish
accorded
acknowledge and confess
acquire
act and deed
adequate v. sufficient v. enough
adequate number of
adjacent v. contiguous
adjust, compromise, and settle
admit of
advice v. advise
advise and consent
affect v. effect
affective v. effective
afforded
aforementioned
aforesaid
after having (plus past participle)
agree and covenant
all and every
all of the
already
also v. and
alter or amend
alter or change
among v. between

"among" is used to show the relationship of more than two objects or persons or when no close relationship exists it can mean to be in the class or company of; "between" is used to show the relationship of two objects or person, if a close relationship exists, or as a comparison; for both terms use "and" as the connective; and never follow the term by "each" or "every"

an adequate number of
and v. also
an excessive number of
annual and set aside
any and all
and/or
approximately
as a consequence of
ascertain
assign, transfer, and set over
a sufficient number of
at that point
at the time
at such time as
authorize and direct

B

be and the same hereby is
before mentioned
below
be of help to
between v. among
bind and obligate
build, erect, or construct
by and through
by and under
by and unless
by and with
by means of
by reason of
by virtue of

C

capital
capitol

used in all means except that of a building

a building or edifice
cancel, annual, and set aside  
do not use, use the appropriate word  
category  
do not use, use "kind," "class," or "group"  
cause it to be done  
do not use, use "have done"  
cease  
do not use, use "stop"  
censor v. censure  
"censor" (noun) means a person that inspects with the power to suppress; "censor" (verb) means to subject to censorship; "censure" means to condemn or to find fault  
commence  
do not use, use "begin" or "start"  
complete (verb)  
do not use, use "finish"  
conceal  
do not use, use "hide"  
confess and acknowledge  
do not use, use either word as appropriate  
consequence  
do not use, use "result"  
constitute and appoint  
do not use, use "appoint"  
contiguous v. adjacent  
see "adjacent v. contiguous"  
convey, transfer, and set over  
do not use, use an appropriate word  
costs, charges, and expenses  
do not use, use an appropriate word  
covenant and agree  
do not use, use "agree"  
current  
do not use, state a specific date  

D  
deem  
do not use, use "consider"  
deemed to be  
do not use, unless a fiction is intended  
definite v. definitive  
"definite" means to be clear to have distinct limits; "definitive" means decisive, conclusive, final an apparently exhaustive  
disburse v. dispense v. disperse  
"disburse" means to pay out or to expend; "dispense" means to distribute in parts or to administer; "disperse" means to scatter or break up  
disinterested v. uninterested  
"disinterested" means free from selfish motive, impartial, or unbiased; "uninterested" means indifference or lack of interest  
do not use, use an appropriate word  
does not operate to  
do not use, use "does not"  
donate  
do not use, use "give"  
due and owing  
do not use, use either word as appropriate  
due to the fact that  
do not use, use "because"  
duly  
do not use  
duplicate  
do not use, use "copy"  
during such time as  
do not use, use "while"  
during the course of  
do not use, use "during"  
during the time that  
do not use, use "while"  

E  
each and all  
do not use, use "each"  
each and every  
do not use, use "each"  
effect v. affect  
see "affect v. effect"  
effective v. affective  
see "affective v. effective"  
effectuate  
do not use, use "carry out" or "cause"  

Appendix 16.3
either . . . or
donot use to coordinate more than two words, phrases, or clauses, use to indicate one of two
do not use, use "use"

employ (meaning “use”)
donot use, use "employ" (meaning "use")

demand (verb)
donot use, use "demand"

enough
see "adequate v. sufficient v. enough"
do not use, use "to agree with"
do not use, use "contract with"
do not use, use either word as appropriate
"equable" means uniform or unchanging; "equitable" means just, right, or fair
do not use, use "a" or "an," unless the meaning requires "any" or "each"
do not use, use "evidence"
do not use, use "relating to"
do not use, use "show"
do not use, use "take testimony"
do not use, use "to many"
do not use, use "spend"
do not use, use "end"

F

fail, refuse, or neglect
do not use, use "fail"

fair and equitable
do not use, use either word as appropriate

fair and reasonable
do not use, use either word as appropriate

false and fraudulent
do not use, use either word as appropriate

final and conclusive
do not use, use either word as appropriate

fit and proper
do not use, use "complete"

finalize
do not use to refer to a Utah Code section or subsection, instead state the specific code reference

donot use, use either word as appropriate

donot use, use "for" or "during"
do not use, use "for"
do not use, use "for"
do not use, use either word as appropriate

donot use, use either word as appropriate

donot use to refer to a Utah Code section or subsection, instead state the specific code reference

do not use, use "during"
do not use, use "to"
do not use, use "because"
do not use, use "immediately"
do not use, use either word as appropriate

do not use, use either word as appropriate

do not use, use "often"
do not use, use "after"
do not use, use "for"
do not use, use "complete"
do not use, use "effect"
furnish
furnish and supply

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G

garnish v. garnishee

in general "garnish" means to decorate or embellish; "garnishee" (verb) means to attach money or salary; however, Black's Law Dictionary uses "garnish" and "garnishee" (verb) interchangeably to mean to subject to garnishment or to attach, and "garnishee" (noun) as the person that is indebted to

give and grant
give consideration to
give, devise, and bequeath
give recognition to
good and sufficient
guarantee v. guaranty

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H

have knowledge of
have need of
have the effect of
he or she
henceforth
here
hereby
hereafter
heretofore
herein
hereinabove
hereinafter
hereinbefore
hereunder
herewith

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I

if and when do not use, use either word as appropriate
in a case do not use, use "if"
in a case in which do not use, use "when"
in a prompt manner do not use, use "promptly"
in agreement with do not use, use "agree"
inasmuch as do not use, use "because" or "since"
in a manner similar to do not use, use "like"
in association with do not use, use "with"
in case of do not use, use "if"
in close proximity do not use, use near
in connection with do not use, use "with," "about," or "concerning"
indicate do not use, use "show" or "state"
in favor of do not use, use "for"
initiate do not use, use "begin"
in order to do not use, use "to"
inquire do not use, use "ask"
in receipt of do not use, use "receives"
in regard to do not use, use "about" or "concerning"
in relation to do not use, use "about" or "concerning"
insofar do not use
in spite of the fact that do not use, use "although"
institute (verb) do not use, use "begin" or "start"
in terms of do not use, use "at," "in," "for," "by," or "with"
interrogate do not use, use "question"
in the absence of do not use, use "without"
in the case of do not use, use "if"
in the course of do not use, use "during"
in the event of do not use, use "if"
in the event that do not use, use "if"
in the interests of do not use, use "for"
in the nature of do not use, use "like"
in truth and in fact do not use
indebtedness and liabilities do not use, use either word as appropriate
irregardless do not use, use "regardless"
is able to do not use, use "can"
is a person who do not use, use "a person"
is applicable do not use, use "applies"
is authorized to do not use, use "may"
is binding upon do not use, use "binds"
is defined and shall be construed to mean do not use, use "means"
is dependent on do not use, use "depends on"
is directed to do not use, use "shall"
is empowered to do not use, use "may"
is entitled to do not use, use "may"
is hereby authorized do not use, use "shall"
is in attendance at do not use, use "attends"
is permitted to do not use, use "may"
is prohibited from do not use, use "may not"
is required to do not use, use "shall"
is not prohibited from do not use, use "may"
is unable to do not use, use "cannot"
it is directed do not use, use "shall"
it is the duty to do not use, use "shall"
it is the duty of do not use, use "shall"
it is lawful to do not use, use "may"
it is the duty to do not use, use "shall"
it is unlawful to do not use, use "may not"
it shall be his duty to do not use, use "shall"
it shall be lawful do not use, use "may"

J-K-L
just and reasonable do not use
keep and maintain do not use, use either word as appropriate
kind and character do not use, use either word as appropriate
kind and nature do not use, use either word as appropriate
known and described as do not use, use "known as" or "described as"
last will and testament do not use, use "will"
law passed do not use, use "law enacted"
locality do not use, use "place"
locate do not use, use "find"
loss or damage do not use, use either word as appropriate

M
make and enter into do not use, use "make"
maintenance and upkeep do not use, use either word as appropriate
majority v. plurality v. minority "majority" means more than half; "plurality" means the greatest number of votes cast when not a majority; "minority" means a number forming less than half of the whole or the controlling number of votes
make application do not use, use "apply"
make an appointment of do not use, use "appoint"
make payment do not use, use "pay"
make provision for do not use, use "provide"
may be treated as do not use, unless a fiction is intended
means and includes do not use, use either word as appropriate
member of a partnership do not use, use "partner"
minority v. plurality v. majority see "majority v. plurality v. minority"
modify do not use, use "change"
N
necessitate
do not use, use "require"
negotiate (as in “___ a contract”)
do not use, use "make"
nor

do not use to coordinate more than two words, phrases, or
clauses, use to indicate not one of two
none whatsoever
do not use, use "none"
not later than
do not use, use "before"
now

do not use, state a specific date
nowise
do not use
null and void
do not use, use "void"
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O
obligation and liability
do not use, use either word as appropriate
obtain

do not use, use "get"
ocasion (verb)
do not use, use "cause"
of a technical nature
do not use, use "technical"
of and concerning
do not use, use either word as appropriate
on account of

do not use, use "because"
on and after July 1
do not use, use "June 30"
on the person's own application
do not use, use "at the person's request"
on the part of

do not use, use "by"
order and direct
do not use, use either word as appropriate
ordered, adjudged, and decreed
do not use, use "adjudged"
or, in the alternative

do not use, use "or"
over and above

do not use, use "exceed"
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P
pay, satisfy, and discharge

do not use, use the appropriate term
peace and quiet

do not use, use either word as appropriate
per annum

do not use, use "each year"
per centum

do not use, use "percent"
per day

do not use, use "a day"
per foot

do not use, use "a foot"
perform and discharge

do not use, use either word as appropriate
period of time

do not use, use "period"
person or persons

do not use, use "person"
pleaded v. pled

plurality v. majority v. minority

see "majority v. plurality v. minority"
possess

do not use, use "has"
possession, custody, and control

do not use, use either term as appropriate
power and authority

do not use to refer to a Utah Code section or subsection, instead
state the specific code reference
preceding

"prescribe" means to direct, to order, or to lay down a guide or rule;
Appendix 16.8
"proscribe" means to outlaw or to condemn or forbid as harmful
   do not use, use "keep"
do not use, use "before"

"principal" (noun) means a capital sum earing interest or used as a
   fund, a leading person, or a person who authorizes another to act
   on behalf of the person; "principal" (adjective) means most
   important; "principle" means basic, general or fundamental law,
   doctrine, or assumption
do not use, use "earlier"
do not use, use "buy" or "obtain"
do not use, use "issue" or "make,"
do not use, use "carry on its business"
do not use, use "except that"
do not use, use "except that"
do not use, use "provision"
do not use, use "section"
do not use, use "buy"

R
release and discharge
   do not use, use either term as appropriate
remainder
do not use, use "rest"
render (meaning “give”)
do not use, use "give"
render (meaning “cause to be”)
do not use, use "make"
render a decision
do not use, use "render"
require (meaning “need”)
do not use, use "need"
regulation (Utah specific)
do not use, use "rule"
retain
do not use, use "keep"
do not use, use either term as appropriate
do not use, use "rules"
orules and regulations
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S
said
do not use, use the appropriate article, e.g., "the," "that," "these"
same
do not use, use the appropriate article, e.g., "the," "that," "these"
save and except
do not use, use "except"
do not use
shall be considered to be
shall be construed to mean
shall have the power to
sole and exclusive
do not use
some
do not use, use "may"
do not use, use "exclusive"
do not use, state a specific number or amount
specified (meaning “listed”)
do not use, use "named"
do not use, use "pay"
do not use, use "after"
do not use
submit a payment

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sufficient v. adequate v. enough

see "adequate v. sufficient v. enough"
do not use, use "enough"

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T

take action
do not use, use "act"
take into consideration
do not use, use "consider"
terminate
do not use, use "end"
the manner in which
do not use, use "how"
thence
do not use, use "a person's abode"

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T

take action
do not use, use "act"
take into consideration
do not use, use "consider"
terminate
do not use, use "end"
the manner in which
do not use, use "how"
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whenever  
do not use, use "when"
whether or not  
“or not” is usually unnecessary - to decide if it is needed, substitute “if” for “whether,” and if the “if” results in a different meaning, “or not” is needed
who, whoever  
used as the subject of a verb or a predicate pronoun, as in "who can go"
whom, whomever  
used as the object of a verb or preposition, as in "whom we saw"
with a view to  
do not use, use "to"
with reference to  
do not use, use "about" or "concerning"
with respect to  
do not use, use "about," "with," "on," "concerning," "for," or "in"
with the exception of  
do not use, use "except"
with the object of  
do not use, use "to"

Sources include: Martineau and Salerno, Legal, Legislative, and Rule Drafting in Plain English, (2005); The Merriam-Webster Dictionary (2004); Haggard, Legal Drafting in A Nutshell (2nd ed. 2003); The Chicago Manual of Style (15th ed. 2003); Black’s Law Dictionary (1999 7th ed.).