

**LOCAL GOVERNMENT SUBDIVISION
ORDINANCES**

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Martin R. Stephens

AN ACT RELATING TO CITIES AND TOWNS AND COUNTIES; MODIFYING THE DEFINITION OF SUBDIVISION; AND EXEMPTING CERTAIN PROPERTY FROM MUNICIPALITY'S AND COUNTY'S SUBDIVISION ORDINANCE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

10-9-103, as last amended by Chapters 108 and 151, Laws of Utah 1997

17-27-103, as last amended by Chapters 90, 108 and 151, Laws of Utah 1997

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

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

10-9-103. Definitions -- Notice.

(1) As used in this chapter:

(a) "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.

(b) "Chief executive officer" means:

(i) the mayor in municipalities operating under all forms of municipal government except the council-manager form; or

(ii) the city manager in municipalities operating under the council-manager form of municipal government.

(c) "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.

(d) "County" means the unincorporated area of the county.

(e) "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.

(f) (i) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality, as set forth in Sections 10-9-301 and 10-9-302.

(ii) "General plan" includes what is also commonly referred to as a "master plan."

(g) "Legislative body" means the city council or city commission.

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

(i) "Municipality" means a city or town.

(j) "Nonconforming structure" means a structure that:

(i) legally existed before its current zoning designation; and

(ii) because of subsequent zoning changes, does not conform with the zoning regulation's setback, height restrictions, or other regulations that govern the structure.

(k) "Nonconforming use" means a use of land that:

(i) legally existed before its current zoning designation;

(ii) has been maintained continuously since the time the zoning regulation governing the land changed; and

(iii) because of subsequent zoning changes, does not conform with the zoning regulations that now govern the land.

(l) "Official map" means a map of proposed streets that has the legal effect of prohibiting development of the property until the municipality develops the proposed street.

(m) (i) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Part 5 and any ordinance adopted under authority of that part.

(ii) "Residential facility for elderly persons" does not include a health care facility as defined by Section 26-21-2.

(n) "Special district" means all entities established under the authority of Title 17A, Special

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

(o) "Street" means public rights-of-way, including highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and other ways.

(p) (i) "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.

(ii) "Subdivision" includes:

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

(B) divisions of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(iii) "Subdivision" does not include:

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

(I) no new lot is created; and

(II) the adjustment does not result in a violation of applicable zoning ordinances; or

(B) a recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property.

(iv) 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 (1)(p) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

(q) "Unincorporated" means the area outside of the incorporated boundaries of cities and towns.

(2) (a) A municipality meets the requirements of reasonable notice required by this chapter if it:

(i) posts notice of the hearing or meeting in at least three public places within the jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation in the jurisdiction, if one is available; or

(ii) gives actual notice of the hearing or meeting.

(b) A municipal legislative body may enact an ordinance establishing stricter notice requirements than those required by this subsection.

(c) (i) Proof that one of the two forms of notice authorized by this subsection was given is prima facie evidence that notice was properly given.

(ii) If notice given under authority of this section is not challenged as provided in Section 10-9-1001 within 30 days from the date of the meeting for which the notice was given, the notice is considered adequate and proper.

Section 2. Section **17-27-103** is amended to read:

17-27-103. Definitions -- Notice.

(1) As used in this chapter:

(a) "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.

(b) "Chief executive officer" means the county executive, or if the county has adopted an alternative form of government, the official who exercises the executive powers.

(c) "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.

(d) "County" means the unincorporated area of the county.

(e) "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.

(f) (i) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of the land within the county, as set forth in Sections 17-27-301 and 17-27-302.

(ii) "General plan" includes what is also commonly referred to as a "master plan."

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

(h) "Lot line adjustment" means the relocation of the property boundary line between two adjoining lots with the consent of the owners of record.

(i) "Municipality" means a city or town.

(j) "Nonconforming structure" means a structure that:

(i) legally existed before its current zoning designation; and

(ii) because of subsequent zoning changes, does not conform with the zoning regulation's setback, height restrictions, or other regulations that govern the structure.

(k) "Nonconforming use" means a use of land that:

(i) legally existed before its current zoning designation;

(ii) has been maintained continuously since the time the zoning regulation governing the land changed; and

(iii) because of subsequent zoning changes, does not conform with the zoning regulations that now govern the land.

(l) "Official map" means a map of proposed streets that has the legal effect of prohibiting development of the property until the county develops the proposed street.

(m) (i) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Part 5 and any ordinance adopted under authority of that part.

(ii) "Residential facility for elderly persons" does not include a health care facility as defined by Section 26-21-2.

(n) "Special district" means all entities established under the authority of Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality,

school district, or unit of the state.

(o) "Street" means public rights-of-way, including highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and other ways.

(p) (i) "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.

(ii) "Subdivision" includes the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument.

(iii) "Subdivision" does not include:

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

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

(I) no new lot is created; and

(II) the adjustment does not result in a violation of applicable zoning ordinances; or

(C) a recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property.

(iv) 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 (1)(p) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

(q) "Unincorporated" means the area outside of the incorporated boundaries of cities and towns.

(2) (a) A county meets the requirements of reasonable notice required by this chapter if it:

(i) posts notice of the hearing or meeting in at least three public places within the jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation in the

jurisdiction, if one is available; or

(ii) gives actual notice of the hearing or meeting.

(b) A county legislative body may enact an ordinance establishing stricter notice requirements than those required by this subsection.

(c) (i) Proof that one of the two forms of notice authorized by this subsection was given is prima facie evidence that notice was properly given.

(ii) If notice given under authority of this section is not challenged as provided in Section 17-27-1001 within 30 days from the date of the meeting for which the notice was given, the notice is considered adequate and proper.