

LOCAL GOVERNMENT SUBDIVISION

ORDINANCES

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Martin R. Stephens

AN ACT RELATING TO CITIES AND TOWNS; AND MODIFYING THE DEFINITION OF SUBDIVISION.

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (o) "Street" means public rights-of-way, including highways, avenues, boulevards,

1 parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and
2 other ways.

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

7 (ii) "Subdivision" includes:

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

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

12 (iii) "Subdivision" does not include:

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

15 (I) no new lot is created; and

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

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

20 (iv) The joining of a subdivided parcel of property to another parcel of property that has
21 not been subdivided does not constitute a "subdivision" under this Subsection (1)(p) as to the
22 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
23 subdivision ordinance.

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

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

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

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

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

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

5 (ii) If notice given under authority of this section is not challenged as provided in Section
6 10-9-1001 within 30 days from the date of the meeting for which the notice was given, the notice
7 is considered adequate and proper.

Legislative Review Note
as of 1-12-98 8:36 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel