

1 **TRANSFER OF AGRICULTURAL LAND**

2 **WITHIN CITY**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Robert M. Muhlestein**

6 AN ACT RELATING TO CITIES AND TOWNS; MODIFYING THE DEFINITION OF
7 SUBDIVISION; AND MAKING TECHNICAL CORRECTIONS.

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

9 AMENDS:

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

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

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

13 **10-9-103. Definitions -- Notice.**

14 (1) As used in this chapter:

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

18 (b) "Chief executive officer" means:

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

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

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

27 (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) except as provided in Subsection (1)(p)(iii), divisions of land for all residential and
11 nonresidential uses, including land used or to be used for commercial § [F] § , agricultural, § [H] § and
11a industrial
12 purposes.

13 (iii) "Subdivision" does not include:

14 (A) a bona fide division or partition of agricultural land for § [agricultural purposes] THE
14a PURPOSE OF JOINING ONE OF THE RESULTING SEPARATE PARCELS TO A CONTIGUOUS PARCEL
14b OF UNSUBDIVIDED AGRICULTURAL LAND, IF NEITHER THE RESULTING COMBINED PARCEL NOR
14c THE PARCEL REMAINING FROM THE DIVISION OR PARTITION VIOLATES AN APPLICABLE ZONING
14d ORDINANCE § :

15 [(A)] (B) a recorded agreement between owners of adjoining properties adjusting their
16 mutual boundary if:

17 (I) no new lot is created; and

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

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

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

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

26 (i) posts notice of the hearing or meeting in at least three public places within the

27 jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation
28 in the jurisdiction, if one is available; or
29 (ii) gives actual notice of the hearing or meeting.
30 (b) A municipal legislative body may enact an ordinance establishing stricter notice
31 requirements than those required by this subsection.

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

3 (ii) If notice given under authority of this section is not challenged as provided in Section
4 10-9-1001 within 30 days from the date of the meeting for which the notice was given, the notice
5 is considered adequate and proper.

Legislative Review Note
as of 12-15-97 2:38 PM

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

Office of Legislative Research and General Counsel