

LOCATING TELECOMMUNICATIONS FACILITIES

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Ron Allen

This act modifies provisions relating to Counties to expand exceptions to the definition of subdivision for certain unmanned telecommunications and similar facilities.

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

AMENDS:

17-27-103, as last amended by Chapters 34 and 209, Laws of Utah 2000

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

Section 1. 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) "Constitutional taking" has the meaning as defined in Section 63-34-13.

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

(f) "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.

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

(h) (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."

(i) "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.

(j) "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.

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

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

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

(n) "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.

(o) "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.

(p) "Official map" has the same meaning as provided in Section 72-5-401.

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

(r) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27-804.

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

(t) (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.

(u) "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.

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

(w) (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;

(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; or

(D) 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[;];

(I) an unmanned facility appurtenant to a pipeline owned or operated by a gas corporation, interstate pipeline company, or intrastate pipeline company[;]; or

(II) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility.

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

(x) "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 (2).

(c) (i) Proof that one of the two forms of notice authorized by this Subsection (2) 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.