

1 **LOCATING TELECOMMUNICATIONS**

2 **FACILITIES**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Ron Allen**

6 **This act modifies the Utah Municipal Code and provisions relating to counties to expand**  
7 **exceptions to the definition of subdivision for certain unmanned telecommunications and**  
8 **similar facilities.**

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

10 AMENDS:

11 **10-9-103**, as last amended by Chapters 34 and 209, Laws of Utah 2000

12 **17-27-103**, as last amended by Chapters 34 and 209, Laws of Utah 2000

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

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

15 **10-9-103. Definitions -- Notice.**

16 (1) As used in this chapter:

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

20 (b) "Chief executive officer" means:

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

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

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

28 or eliminate the detrimental impacts.

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

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

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

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

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

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

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

40 (j) "Municipality" means a city or town.

41 (k) "Nonconforming structure" means a structure that:

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

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

45 (l) "Nonconforming use" means a use of land that:

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

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

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

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

52 (n) "Plat" means a map or other graphical representation of lands being laid out and  
53 prepared in accordance with Section 10-9-804.

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

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

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

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

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

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

71 (ii) "Subdivision" includes:

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

74 (B) except as provided in Subsection (1)(s)(iii), divisions of land for all residential and  
75 nonresidential uses, including land used or to be used for commercial, agricultural, and industrial  
76 purposes.

77 (iii) "Subdivision" does not include:

78 (A) a bona fide division or partition of agricultural land for the purpose of joining one of  
79 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither  
80 the resulting combined parcel nor the parcel remaining from the division or partition violates an  
81 applicable zoning ordinance;

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

84 (I) no new lot is created; and

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

86 (C) a recorded document, executed by the owner of record, revising the legal description  
87 of more than one contiguous parcel of property into one legal description encompassing all such  
88 parcels of property~~[-]; or~~

89 (D) a bona fide division or partition of land for the purpose of siting, on one or more of

90 the resulting separate parcels, an unmanned telecommunications, microwave, fiber optic, electrical,  
91 or other utility service regeneration, transformation, retransmission, or amplification facility.

92 (iv) The joining of a subdivided parcel of property to another parcel of property that has  
93 not been subdivided does not constitute a "subdivision" under this Subsection (1)(s) as to the  
94 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's  
95 subdivision ordinance.

96 (t) "Unincorporated" means the area outside of the incorporated boundaries of cities and  
97 towns.

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

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

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

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

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

108 (ii) If notice given under authority of this section is not challenged as provided in Section  
109 10-9-1001 within 30 days from the date of the meeting for which the notice was given, the notice  
110 is considered adequate and proper.

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

112 **17-27-103. Definitions -- Notice.**

113 (1) As used in this chapter:

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

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

119 (c) "Conditional use" means a land use that, because of its unique characteristics or  
120 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be

121 compatible in some areas or may be compatible only if certain conditions are required that mitigate  
122 or eliminate the detrimental impacts.

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

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

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

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

128 (h) (i) "General plan" means a document that a county adopts that sets forth general  
129 guidelines for proposed future development of the land within the county, as set forth in Sections  
130 17-27-301 and 17-27-302.

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

132 (i) "Interstate pipeline company" means a person or entity engaged in natural gas  
133 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the  
134 Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

135 (j) "Intrastate pipeline company" means a person or entity engaged in natural gas  
136 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission  
137 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

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

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

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

143 (n) "Nonconforming structure" means a structure that:

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

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

147 (o) "Nonconforming use" means a use of land that:

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

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

151 (iii) because of subsequent zoning changes, does not conform with the zoning regulations

152 that now govern the land.

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

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

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

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

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

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

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

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

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

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

177 (iii) "Subdivision" does not include:

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

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

181 (I) no new lot is created; and

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

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

186 (D) a bona fide division or partition of land in a county other than a first class county for  
187 the purpose of siting, on one or more of the resulting separate parcels[~~;~~];

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

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

192 (iv) The joining of a subdivided parcel of property to another parcel of property that has  
193 not been subdivided does not constitute a "subdivision" under this Subsection (1)(w) as to the  
194 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision  
195 ordinance.

196 (x) "Unincorporated" means the area outside of the incorporated boundaries of cities and  
197 towns.

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

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

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

204 (b) A county legislative body may enact an ordinance establishing stricter notice  
205 requirements than those required by this Subsection (2).

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

208 (ii) If notice given under authority of this section is not challenged as provided in Section  
209 17-27-1001 within 30 days from the date of the meeting for which the notice was given, the notice  
210 is considered adequate and proper.

**Legislative Review Note**

**as of 1-3-01 3:42 PM**

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

**Office of Legislative Research and General Counsel**