

Representative Michael T. Morley proposes the following substitute bill:

LOCAL LAND USE REQUIREMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael T. Morley

Senate Sponsor: Michael G. Waddoups

LONG TITLE

General Description:

This bill modifies provisions relating to local government land use and impact fees.

Highlighted Provisions:

This bill:

~~It~~ ~~clarifies the~~ ~~adds a~~ ~~definition~~ ~~of~~ ~~for~~ "land use

~~application~~ ~~permit~~ ";

~~It~~ ~~prohibits counties and municipalities from imposing a requirement on a holder of a land use permit unless that requirement is in the permit, the documents on which the permit is based, statute, or local ordinance;~~

~~It~~ ~~modifies the requirements to which a land use application must conform to entitle the applicant to approval; and~~

~~It~~ ~~prohibits counties and municipalities from withholding approval issuance of a land-use application] certificate of occupancy because of an applicant's failure to comply with a requirement that is not expressed in statute or ordinance; and] certain unexpressed requirements.~~

~~It~~ ~~prohibits counties and municipalities from imposing a requirement on a holder of a building permit unless that requirement meets certain criteria.]~~

Monies Appropriated in this Bill:

None



20 **Other Special Clauses:**

21 **H→ [None] This bill provides an effective date of July 1, 2006. ←H**

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **10-9a-103**, as last amended by Chapter 7 and renumbered and amended by Chapter

25 254, Laws of Utah 2005

26 **10-9a-509**, as enacted by Chapter 254, Laws of Utah 2005

27 **17-27a-103**, as last amended by Chapter 7 and renumbered and amended by Chapter
28 254, Laws of Utah 2005

29 **17-27a-508**, as enacted by Chapter 254, Laws of Utah 2005

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

32 Section ~~H~~ → [H] 1 ← ~~H~~ . Section **10-9a-103** is amended to read:

33 **10-9a-103. Definitions.**

34 As used in this chapter:

35 (1) "Affected entity" means a county, municipality, independent special district under
36 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
37 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
38 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of
39 Transportation, if:

40 (a) the entity's services or facilities are likely to require expansion or significant
41 modification because of an intended use of land;

42 (b) the entity has filed with the municipality a copy of the entity's general or long-range
43 plan; or

44 (c) the entity's boundaries or facilities are within one mile of land which is the subject
45 of a general plan amendment or land use ordinance change.

46 (2) "Appeal authority" means the person, board, commission, agency, or other body
47 designated by ordinance to decide an appeal of a decision of a land use application or a
48 variance.

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

52 (4) "Charter school" includes:

53 (a) an operating charter school;

54 (b) a charter school applicant that has its application approved by a chartering entity in
55 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

56 (c) an entity who is working on behalf of a charter school or approved charter applicant

57 to develop or construct a charter school building.

58 (5) "Chief executive officer" means the:

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

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

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

67 (7) "Constitutional taking" means a governmental action that results in a taking of
68 private property so that compensation to the owner of the property is required by the:

69 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

70 (b) Utah Constitution Article I, Section 22.

71 (8) "Culinary water authority" means the department, agency, or public entity with
72 responsibility to review and approve the feasibility of the culinary water system and sources for
73 the subject property.

74 (9) (a) "Disability" means a physical or mental impairment that substantially limits one
75 or more of a person's major life activities, including a person having a record of such an
76 impairment or being regarded as having such an impairment.

77 (b) "Disability" does not include current illegal use of, or addiction to, any federally
78 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
79 802.

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

83 (11) "General plan" means a document that a municipality adopts that sets forth general
84 guidelines for proposed future development of the land within the municipality.

85 (12) "Identical plans" means building plans submitted to a municipality that are
86 substantially identical to building plans that were previously submitted to and reviewed and
87 approved by the municipality and describe a building that is:

88 (a) located on land zoned the same as the land on which the building described in the
89 previously approved plans is located; and

90 (b) subject to the same geological and meteorological conditions and the same law as
91 the building described in the previously approved plans.

92 (13) "Land use application" means an application required by a municipality's land use
93 ordinance ~~H→ [f] . [f]~~ **[and includes an application for:**

94 ~~—— (a) a change in zoning designation;~~

95 ~~—— (b) a conditional use permit;~~

96 ~~—— (c) a variance; H→ [or] ←H~~

97 ~~—— (d) a building permit H→ ; or~~

97a ~~—— (e) subdivision approval ←H .] ←H~~

98 (14) "Land use authority" means a person, board, commission, agency, or other body
99 designated by the local legislative body to act upon a land use application.

100 (15) "Land use ordinance" means a planning, zoning, development, or subdivision
101 ordinance of the municipality, but does not include the general plan.

101a ~~H→~~ **(16) "Land use permit" means a permit issued by a land use authority.**

102 ~~[(16)]~~ ~~(17)~~ ←H "Legislative body" means the municipal council.

103 ~~H→ [(17)]~~ ~~(18)~~ ←H "Lot line adjustment" means the relocation of the property boundary line
103a in a
104 subdivision between two adjoining lots with the consent of the owners of record.

105 ~~H→ [(18)]~~ ~~(19)~~ ←H "Moderate income housing" means housing occupied or reserved for
105a occupancy
106 by households with a gross household income equal to or less than 80% of the median gross
107 income for households of the same size in the county in which the city is located.

108 ~~H→ [(19)]~~ ~~(20)~~ ←H "Nominal fee" means a fee that reasonably reimburses a municipality
108a only for time
109 spent and expenses incurred in:

110 (a) verifying that building plans are identical plans; and

111 (b) reviewing and approving those minor aspects of identical plans that differ from the
112 previously reviewed and approved building plans.

113 ~~H→ [(20)]~~ ~~(21)~~ ←H "Noncomplying structure" means a structure that:

114 (a) legally existed before its current land use designation; and

115 (b) because of one or more subsequent land use ordinance changes, does not conform
116 to the setback, height restrictions, or other regulations, excluding those regulations, which
117 govern the use of land.

118 ~~H→ [(21)]~~ ~~(22)~~ ←H "Nonconforming use" means a use of land that:

119 (a) legally existed before its current land use designation;

120 (b) has been maintained continuously since the time the land use ordinance governing
121 the land changed; and

122 (c) because of one or more subsequent land use ordinance changes, does not conform
123 to the regulations that now govern the use of the land.

124 ~~H~~→ [(22)] (23) ←~~H~~ "Official map" means a map drawn by municipal authorities and
124a recorded in a
125 county recorder's office that:

126 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
127 highways and other transportation facilities;

128 (b) provides a basis for restricting development in designated rights-of-way or between
129 designated setbacks to allow the government authorities time to purchase or otherwise reserve
130 the land; and

131 (c) has been adopted as an element of the municipality's general plan.

132 ~~H~~→ [(23)] (24) ←~~H~~ "Person" means an individual, corporation, partnership, organization,
132a association,
133 trust, governmental agency, or any other legal entity.

134 ~~H~~→ [(24)] (25) ←~~H~~ "Plan for moderate income housing" means a written document adopted
134a by a city
135 legislative body that includes:

136 (a) an estimate of the existing supply of moderate income housing located within the
137 city;

138 (b) an estimate of the need for moderate income housing in the city for the next five
139 years as revised biennially;

140 (c) a survey of total residential land use;

141 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
142 income housing; and

143 (e) a description of the city's program to encourage an adequate supply of moderate
144 income housing.

145 ~~H~~→ [(25)] (26) ←~~H~~ "Plat" means a map or other graphical representation of lands being laid
145a out and
146 prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

147 ~~H~~→ [(26)] (27) ←~~H~~ "Public hearing" means a hearing at which members of the public are
147a provided a
148 reasonable opportunity to comment on the subject of the hearing.

149 ~~H~~→ [(27)] (28) ←~~H~~ "Public meeting" means a meeting that is required to be open to the
public under

150 Title 52, Chapter 4, Open and Public Meetings.

151 ~~H~~→ [(28)] (29) ←~~H~~ "Record of survey map" means a map of a survey of land prepared in
151a accordance
152 with Section 17-23-17.

153 ~~H~~→ [(29)] (30) ←~~H~~ "Residential facility for elderly persons" means a single-family or
153a multiple-family
154 dwelling unit that meets the requirements of Part 4, General Plan, but does not include a health
155 care facility as defined by Section 26-21-2.

156 ~~H~~→ [(30)] (31) ←~~H~~ "Residential facility for persons with a disability" means a residence:

157 (a) in which more than one person with a disability resides; and

158 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
159 Chapter 2, Licensure of Programs and Facilities; or

160 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
161 Health Care Facility Licensing and Inspection Act.

162 ~~H~~→ [(31)] (32) ←~~H~~ "Sanitary sewer authority" means the department, agency, or public
162a entity with
163 responsibility to review and approve the feasibility of sanitary sewer services or onsite
164 wastewater systems.

165 ~~H~~→ [(32)] (33) ←~~H~~ "Special district" means an entity established under the authority of Title
165a 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 ~~H~~→ [(33)] (34) ←~~H~~ "Specified public utility" means an electrical corporation, gas
168a corporation, or
169 telephone corporation, as those terms are defined in Section 54-2-1.

170 ~~H~~→ [(34)] (35) ←~~H~~ "Street" means a public right-of-way, including a highway, avenue,
170a boulevard,
171 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
172 way.

173 ~~H~~→ [(35)] (36) ←~~H~~ (a) "Subdivision" means any land that is divided, resubdivided or
173a proposed to be
174 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
175 purpose, whether immediate or future, for offer, sale, lease, or development either on the
176 installment plan or upon any and all other plans, terms, and conditions.

177 (b) "Subdivision" includes:

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

180 (ii) except as provided in Subsection ~~H~~→ [(35)] (36) ←~~H~~ (c), divisions of land for
180a residential and

181 nonresidential uses, including land used or to be used for commercial, agricultural, and
 182 industrial purposes.

183 (c) "Subdivision" does not include:

184 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
 185 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
 186 neither the resulting combined parcel nor the parcel remaining from the division or partition
 187 violates an applicable land use ordinance;

188 (ii) a recorded agreement between owners of adjoining unsubdivided properties
 189 adjusting their mutual boundary if:

190 (A) no new lot is created; and

191 (B) the adjustment does not violate applicable land use ordinances; or

192 (iii) a recorded document, executed by the owner of record:

193 (A) revising the legal description of more than one contiguous unsubdivided parcel of
 194 property into one legal description encompassing all such parcels of property; or

195 (B) joining a subdivided parcel of property to another parcel of property that has not
 196 been subdivided, if the joinder does not violate applicable land use ordinances.

197 (d) The joining of a subdivided parcel of property to another parcel of property that has
 198 not been subdivided does not constitute a subdivision under this Subsection ~~H→ [(35)]~~ (36) ~~←H~~ as
 198a to the
 199 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
 200 subdivision ordinance.

201 ~~H→ [(36)]~~ (37) ~~←H~~ "Unincorporated" means the area outside of the incorporated area of a
 201a city or
 202 town.

203 ~~H→ [(37)]~~ (38) ~~←H~~ "Zoning map" means a map, adopted as part of a land use ordinance,
 203a that depicts
 204 land use zones, overlays, or districts.

205 Section ~~H→ [22]~~ 2 ~~←H~~ . Section **10-9a-509** is amended to read:

206 **10-9a-509. When a land use applicant is entitled to approval -- Exception --**
 207 **Municipality required to comply with land use ordinances.**

208 (1) (a) An applicant is entitled to approval of a land use application if the application
 209 conforms to the requirements of ~~H→ [an]~~ the municipality's land use maps ~~S→ [or]~~ , zoning
 209a1 map, and ~~←S~~ ~~←H~~ applicable
 209a land use ordinance in effect when a complete
 210 application is submitted and all fees have been paid, unless:

211 (i) the land use authority, on the record, finds that a compelling, countervailing public

212 interest would be jeopardized by approving the application; or

213 (ii) in the manner provided by local ordinance and before the application is submitted,
214 the municipality has formally initiated proceedings to amend its ordinances in a manner that
215 would prohibit approval of the application as submitted.

216 ~~H→ [(b) Except as provided in Subsections (1)(a)(i) and (ii), a municipality may not~~
217 ~~withhold approval of a land use application because of an applicant's failure to comply with a~~
218 ~~requirement that is not expressed in H→ this chapter or ←H the municipality's ordinances.~~

219 ——— [] (b) [] ~~(c)~~ ←H The municipality shall process an application without regard to
219a proceedings

220 initiated to amend the municipality's ordinances if:

221 (i) 180 days have passed since the proceedings were initiated; and

222 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
223 application as submitted.

224 H→ [] (c) [] ~~(d)~~ ←H An application for a land use approval is considered submitted
224a and complete

225 when the application is provided in a form that complies with the requirements of applicable
226 ordinances and all applicable fees have been paid.

227 H→ [] (d) [] ~~(e)~~ ←H The continuing validity of an approval of a land use application is
227a conditioned

228 upon the applicant proceeding after approval to implement the approval with reasonable
229 diligence.

230 H→ ~~[(f)] (e)~~ ←H A municipality may not impose on a holder of an issued H→ [building]
230a land use ←H permit a

231 requirement that is not expressed:

232 (i) in the H→ [building] land use ←H permit or in documents on which the H→ [building]
232a land use ←H permit is based; or

233 (ii) in H→ this chapter or ←H the municipality's ordinances.

234 H→ ~~[(g)] (f)~~ ←H A municipality may not withhold issuance of a certificate of occupancy
234a because of

235 an applicant's failure to comply with a requirement that is not expressed:

236 (i) in the building permit or in documents on which the building permit is based; or

237 (ii) in H→ this chapter or ←H the municipality's ordinances.

238 (2) A municipality is bound by the terms and standards of applicable land use
239 ordinances and shall comply with mandatory provisions of those ordinances.

240 Section H→ [33] 3 ←H . Section 17-27a-103 is amended to read:

241 **17-27a-103. Definitions.**

242 As used in this chapter:

243 (1) "Affected entity" means a county, municipality, independent special district under
244 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
245 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
246 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of
247 Transportation, if:

248 (a) the entity's services or facilities are likely to require expansion or significant
249 modification because of an intended use of land;

250 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
251 or

252 (c) the entity's boundaries or facilities are within one mile of land that is the subject of
253 a general plan amendment or land use ordinance change.

254 (2) "Appeal authority" means the person, board, commission, agency, or other body
255 designated by ordinance to decide an appeal of a decision of a land use application or a
256 variance.

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

260 (4) "Charter school" includes:

261 (a) an operating charter school;

262 (b) a charter school applicant that has its application approved by a chartering entity in
263 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

264 (c) an entity who is working on behalf of a charter school or approved charter applicant
265 to develop or construct a charter school building.

266 (5) "Chief executive officer" means the person or body that exercises the executive
267 powers of the county.

268 (6) "Conditional use" means a land use that, because of its unique characteristics or
269 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
270 compatible in some areas or may be compatible only if certain conditions are required that
271 mitigate or eliminate the detrimental impacts.

272 (7) "Constitutional taking" means a governmental action that results in a taking of
273 private property so that compensation to the owner of the property is required by the:

- 274 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
275 (b) Utah Constitution Article I, Section 22.
- 276 (8) "Culinary water authority" means the department, agency, or public entity with
277 responsibility to review and approve the feasibility of the culinary water system and sources for
278 the subject property.
- 279 (9) (a) "Disability" means a physical or mental impairment that substantially limits one
280 or more of a person's major life activities, including a person having a record of such an
281 impairment or being regarded as having such an impairment.
- 282 (b) "Disability" does not include current illegal use of, or addiction to, any federally
283 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
284 802.
- 285 (10) "Elderly person" means a person who is 60 years old or older, who desires or
286 needs to live with other elderly persons in a group setting, but who is capable of living
287 independently.
- 288 (11) "Gas corporation" has the same meaning as defined in Section 54-2-1.
- 289 (12) "General plan" means a document that a county adopts that sets forth general
290 guidelines for proposed future development of the unincorporated land within the county.
- 291 (13) "Identical plans" means building plans submitted to a county that are substantially
292 identical building plans that were previously submitted to and reviewed and approved by the
293 county and describe a building that is:
- 294 (a) located on land zoned the same as the land on which the building described in the
295 previously approved plans is located; and
- 296 (b) subject to the same geological and meteorological conditions and the same law as
297 the building described in the previously approved plans.
- 298 (14) "Interstate pipeline company" means a person or entity engaged in natural gas
299 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
300 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 301 (15) "Intrastate pipeline company" means a person or entity engaged in natural gas
302 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
303 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 304 (16) "Land use application" means an application required by a county's land use

305 ordinance ~~H→~~ [F] . [F] [and includes an application for:

306 ~~————~~ (a) a change in zoning designation;

307 ~~————~~ (b) a conditional use permit;

308 ~~————~~ (c) a variance; ~~H→~~ [or] ~~←H~~

309 ~~————~~ (d) a building permit ~~H→~~; or

309a ~~————~~ (e) subdivision approval ~~←H~~.] ~~←H~~

310 (17) "Land use authority" means a person, board, commission, agency, or other body
311 designated by the local legislative body to act upon a land use application.

312 (18) "Land use ordinance" means a planning, zoning, development, or subdivision
313 ordinance of the county, but does not include the general plan.

313a ~~H→~~ (19) "Land use permit" means a permit issued by a land use authority.

314 ~~[(19)] (20) ←H~~ "Legislative body" means the county legislative body, or for a county
314a that has

315 adopted an alternative form of government, the body exercising legislative powers.

316 ~~H→~~ ~~[(20)] (21) ←H~~ "Lot line adjustment" means the relocation of the property boundary line
316a in a
317 subdivision between two adjoining lots with the consent of the owners of record.

318 ~~H→~~ ~~[(21)] (22) ←H~~ "Moderate income housing" means housing occupied or reserved for
318a occupancy
319 by households with a gross household income equal to or less than 80% of the median gross
320 income for households of the same size in the county in which the housing is located.

321 ~~H→~~ ~~[(22)] (23) ←H~~ "Nominal fee" means a fee that reasonably reimburses a county only for
321a time spent
322 and expenses incurred in:

323 (a) verifying that building plans are identical plans; and

324 (b) reviewing and approving those minor aspects of identical plans that differ from the
325 previously reviewed and approved building plans.

326 ~~H→~~ ~~[(23)] (24) ←H~~ "Noncomplying structure" means a structure that:

327 (a) legally existed before its current land use designation; and

328 (b) because of one or more subsequent land use ordinance changes, does not conform
329 to the setback, height restrictions, or other regulations, excluding those regulations that govern
330 the use of land.

331 ~~H→~~ ~~[(24)] (25) ←H~~ "Nonconforming use" means a use of land that:

332 (a) legally existed before its current land use designation;

333 (b) has been maintained continuously since the time the land use ordinance regulation
334 governing the land changed; and

335 (c) because of one or more subsequent land use ordinance changes, does not conform

336 to the regulations that now govern the use of the land.

337 ~~H~~→ [(25)] (26) ←~~H~~ "Official map" means a map drawn by county authorities and recorded
337a in the
338 county recorder's office that:

339 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
340 highways and other transportation facilities;

341 (b) provides a basis for restricting development in designated rights-of-way or between
342 designated setbacks to allow the government authorities time to purchase or otherwise reserve
343 the land; and

344 (c) has been adopted as an element of the county's general plan.

345 ~~H~~→ [(26)] (27) ←~~H~~ "Person" means an individual, corporation, partnership, organization,
345a association,
346 trust, governmental agency, or any other legal entity.

347 ~~H~~→ [(27)] (28) ←~~H~~ "Plan for moderate income housing" means a written document adopted
347a by a
348 county legislative body that includes:

349 (a) an estimate of the existing supply of moderate income housing located within the
350 county;

351 (b) an estimate of the need for moderate income housing in the county for the next five
352 years as revised biennially;

353 (c) a survey of total residential land use;

354 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
355 income housing; and

356 (e) a description of the county's program to encourage an adequate supply of moderate
357 income housing.

358 ~~H~~→ [(28)] (29) ←~~H~~ "Plat" means a map or other graphical representation of lands being laid
358a out and
359 prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

360 ~~H~~→ [(29)] (30) ←~~H~~ "Public hearing" means a hearing at which members of the public are
360a provided a
361 reasonable opportunity to comment on the subject of the hearing.

362 ~~H~~→ [(30)] (31) ←~~H~~ "Public meeting" means a meeting that is required to be open to the
362a public under
363 Title 52, Chapter 4, Open and Public Meetings.

364 ~~H~~→ [(31)] (32) ←~~H~~ "Record of survey map" means a map of a survey of land prepared in
364a accordance
365 with Section 17-23-17.

366 ~~H~~→ [(32)] (33) ←~~H~~ "Residential facility for elderly persons" means a single-family or
366a multiple-family

367 dwelling unit that meets the requirements of Part 4, General Plan, but does not include a health
368 care facility as defined by Section 26-21-2.

369 ~~H~~→ [(33)] (34) ←~~H~~ "Residential facility for persons with a disability" means a residence:

370 (a) in which more than one person with a disability resides; and

371 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
372 Chapter 2, Licensure of Programs and Facilities; or

373 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
374 Health Care Facility Licensing and Inspection Act.

375 ~~H~~→ [(34)] (35) ←~~H~~ "Sanitary sewer authority" means the department, agency, or public
375a entity with

376 responsibility to review and approve the feasibility of sanitary sewer services or onsite
377 wastewater systems.

378 ~~H~~→ [(35)] (36) ←~~H~~ "Special district" means any entity established under the authority of
378a Title 17A,

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

381 ~~H~~→ [(36)] (37) ←~~H~~ "Specified public utility" means an electrical corporation, gas
381a corporation, or

382 telephone corporation, as those terms are defined in Section 54-2-1.

383 ~~H~~→ [(37)] (38) ←~~H~~ "Street" means a public right-of-way, including a highway, avenue,
383a boulevard,

384 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
385 way.

386 ~~H~~→ [(38)] (39) ←~~H~~ (a) "Subdivision" means any land that is divided, resubdivided or
386a proposed to be

387 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
388 purpose, whether immediate or future, for offer, sale, lease, or development either on the
389 installment plan or upon any and all other plans, terms, and conditions.

390 (b) "Subdivision" includes:

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

393 (ii) except as provided in Subsection ~~H~~→ [(38)] (39) ←~~H~~ (c), divisions of land for
393a residential and

394 nonresidential uses, including land used or to be used for commercial, agricultural, and
395 industrial purposes.

396 (c) "Subdivision" does not include:

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

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

400 (A) no new lot is created; and

401 (B) the adjustment does not violate applicable land use ordinances;

402 (iii) a recorded document, executed by the owner of record:

403 (A) revising the legal description of more than one contiguous unsubdivided parcel of
404 property into one legal description encompassing all such parcels of property; or

405 (B) joining a subdivided parcel of property to another parcel of property that has not
406 been subdivided, if the joinder does not violate applicable land use ordinances; or

407 (iv) a bona fide division or partition of land in a county other than a first class county
408 for the purpose of siting, on one or more of the resulting separate parcels:

409 (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
410 corporation, interstate pipeline company, or intrastate pipeline company; or

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

413 (d) The joining of a subdivided parcel of property to another parcel of property that has
414 not been subdivided does not constitute a subdivision under this Subsection ~~H→ [(38)]~~ (39) ←H as
414a to the
415 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
416 ordinance.

417 ~~H→ [(39)]~~ (40) ←H "Township" means a contiguous, geographically defined portion of the
418 unincorporated area of a county, established under this part or reconstituted or reinstated under
419 Section ~~H→ [17-27a-307]~~ 17-27a-306 ←H , with planning and zoning functions as exercised
419a through the township
420 planning commission, as provided in this chapter, but with no legal or political identity
421 separate from the county and no taxing authority, except that "township" means a former
422 township under Chapter 308, Laws of Utah 1996 where the context so indicates.

423 ~~H→ [(40)]~~ (41) ←H "Unincorporated" means the area outside of the incorporated area of a
424 municipality.

425 ~~H→ [(41)]~~ (42) ←H "Zoning map" means a map, adopted as part of a land use ordinance,
425a that depicts
426 land use zones, overlays, or districts.

427 Section ~~H→ [44]~~ 4 ←H . Section **17-27a-508** is amended to read:

428 **17-27a-508. When a land use applicant is entitled to approval -- Exception --**

429 **County required to comply with land use ordinances.**

430 (1) (a) An applicant is entitled to approval of a land use application if the application
 431 conforms to the requirements of ~~H→~~ [an] the county's land use maps ~~S→~~ [or] , zoning map,
 431a1 and ~~S→~~ ~~H→~~ applicable land use

431a ordinance in effect when a complete
 432 application is submitted and all fees have been paid, unless:

433 (i) the land use authority, on the record, finds that a compelling, countervailing public
 434 interest would be jeopardized by approving the application; or

435 (ii) in the manner provided by local ordinance and before the application is submitted,
 436 the county has formally initiated proceedings to amend its ordinances in a manner that would
 437 prohibit approval of the application as submitted.

438 ~~H→~~ [~~(b)~~ ~~Except as provided in Subsections (1)(a)(i) and (ii), a county may not withhold~~
 439 ~~approval of a land use application because of an applicant's failure to comply with a~~
 440 ~~requirement that is not expressed in~~ ~~H→~~ this chapter or ~~H→~~ the ~~H→~~ [~~municipality's~~]
 440a county's ~~H→~~ ordinances.

441 ~~—~~ [~~H→~~ (b) (i)] [~~(c)~~] ~~H→~~ The county shall process an application without regard to
 441a proceedings initiated

442 to amend the county's ordinances if:

443 (i) 180 days have passed since the proceedings were initiated; and

444 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
 445 application as submitted.

446 ~~H→~~ [(f) (c) (i)] [~~(d)~~] ~~H→~~ An application for a land use approval is considered submitted
 446a and complete

447 when the application is provided in a form that complies with the requirements of applicable
 448 ordinances and all applicable fees have been paid.

449 ~~H→~~ [(f) (d) (i)] [~~(e)~~] ~~H→~~ The continuing validity of an approval of a land use application is
 449a conditioned

450 upon the applicant proceeding after approval to implement the approval with reasonable
 451 diligence.

452 ~~H→~~ [(f) (e)] ~~H→~~ A county may not impose on a holder of an issued ~~H→~~ [~~building~~]
 452a land use ~~H→~~ permit a requirement

453 that is not expressed:

454 (i) in the ~~H→~~ [~~building~~] land use ~~H→~~ permit or in documents on which the ~~H→~~ [~~building~~]
 454a land use ~~H→~~ permit is based; or

455 (ii) in ~~H→~~ this chapter or ~~H→~~ the county's ordinances.

456 ~~H→~~ [~~(g)~~] (f) ~~H→~~ A county may not withhold issuance of a certificate of occupancy because
 456a of an

457 applicant's failure to comply with a requirement that is not expressed:

458 (i) in the building permit or in documents on which the building permit is based; or

459 (ii) in ~~H~~→ **this chapter** or ~~←H~~ the county's ordinances.

460 (2) A county is bound by the terms and standards of applicable land use ordinances and
461 shall comply with mandatory provisions of those ordinances.

461a **H→ Section 5. Effective date.**

461b **This bill takes effect July 1, 2006. ←H**

Fiscal Note
Bill Number HB0132S01

Local Land Use Requirements

30-Jan-06

9:32 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst

