



30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **10-5-129**, as enacted by Chapter 34, Laws of Utah 1983

35 **10-6-150**, as last amended by Chapter 300, Laws of Utah 1999

36 **10-9a-103**, as last amended by Chapter 7 and renumbered and amended by Chapter  
37 254, Laws of Utah 2005

38 **10-9a-202**, as enacted by Chapter 254, Laws of Utah 2005

39 **10-9a-509**, as enacted by Chapter 254, Laws of Utah 2005

40 **10-9a-603**, as renumbered and amended by Chapter 254, Laws of Utah 2005

41 **11-36-102**, as last amended by Chapter 239, Laws of Utah 2002

42 **11-36-202**, as last amended by Chapter 254, Laws of Utah 2005

43 **17-27a-103**, as last amended by Chapter 7 and renumbered and amended by Chapter  
44 254, Laws of Utah 2005

45 **17-27a-202**, as enacted by Chapter 254, Laws of Utah 2005

46 **17-27a-508**, as enacted by Chapter 254, Laws of Utah 2005

47 **17-27a-603**, as renumbered and amended by Chapter 254, Laws of Utah 2005

48 **17-36-37**, as last amended by Chapter 300, Laws of Utah 1999

49 **17A-1-443**, as renumbered and amended by Chapter 186, Laws of Utah 1990



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

52 Section 1. Section **10-5-129** is amended to read:

53 **10-5-129. Annual financial report.**

54 (1) (a) Within 180 days after the close of each fiscal year the town clerk or other  
55 delegated person shall present to the council an annual financial report. [~~This section]~~

56 (b) Each annual financial report shall identify impact fee funds by the year in which  
57 they were received, the project from which the funds were collected, the capital projects for

58 which the funds are budgeted, and the projected schedule for expenditure.

59 (2) The requirement under Subsection (1)(a) to present an annual financial report may  
60 be satisfied by an audit report or annual financial report of an independent auditor.

61 Section 2. Section **10-6-150** is amended to read:

62 **10-6-150. Annual financial reports -- Independent audit reports.**

63 (1) (a) Within 180 days after the close of each fiscal period or, for a city that has  
64 adopted a fiscal period that is a biennial period, within 180 days after both the mid-point and  
65 the close of the fiscal period, the city recorder or other delegated person shall present to the  
66 governing body an annual financial report prepared in conformity with generally accepted  
67 accounting principles, as prescribed in the Uniform Accounting Manual for Utah Cities. [~~This~~  
68 requirement]

69 (b) Each annual financial report shall identify impact fee funds by the year in which  
70 they were received, the project from which the funds were collected, the capital projects for  
71 which the funds are budgeted, and the projected schedule for expenditure.

72 (2) (a) The requirement under Subsection (1)(a) to present an annual financial report  
73 may be satisfied by presentation of the audit report furnished by the independent auditor, if the  
74 financial statements included are appropriately prepared and reviewed with the governing body.

75 (b) Notwithstanding the acceptability of the audit report furnished by the independent  
76 auditor in substitution for financial statements prepared by an officer of the city, the governing  
77 body has the responsibility for those financial statements.

78 (c) The independent auditor has the responsibility of reporting whether the governing  
79 body's financial statements are prepared in conformity with generally accepted accounting  
80 principles.

81 (3) Copies of the annual financial report or the audit report furnished by the  
82 independent auditor shall be filed with the state auditor and shall be filed as a public document  
83 in the office of the city recorder.

84 Section 3. Section **10-9a-103** is amended to read:

85 **10-9a-103. Definitions.**

86 As used in this chapter:

87 (1) "Affected entity" means a county, municipality, independent special district under  
88 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,  
89 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter  
90 13, Interlocal Cooperation Act, specified public utility, a property owner, a property owners  
91 association, or the Utah Department of Transportation, if:

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

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

96 (c) the ~~[entity's boundaries or facilities are within one mile of land which is the subject~~  
97 ~~of a general plan amendment or land use ordinance change]~~ entity has filed with the  
98 municipality a request for notice during the same calendar year and before the municipality  
99 provides notice to an affected entity in compliance with a requirement imposed under this  
100 chapter.

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

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

107 (4) "Charter school" includes:

108 (a) an operating charter school;

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

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

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

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

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

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

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

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

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

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

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

132 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
133 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
134 802.

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

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

140 (12) "Identical plans" means building plans submitted to a municipality that are  
141 substantially identical to building plans that were previously submitted to and reviewed and

142 approved by the municipality and describe a building that is:

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

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

147 (13) "Land use application" means an application required by a municipality's land use  
148 ordinance.

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

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

153 (16) "Legislative body" means the municipal council.

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

156 (18) "Moderate income housing" means housing occupied or reserved for occupancy  
157 by households with a gross household income equal to or less than 80% of the median gross  
158 income for households of the same size in the county in which the city is located.

159 (19) "Nominal fee" means a fee that reasonably reimburses a municipality only for time  
160 spent and expenses incurred in:

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

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

164 (20) "Noncomplying structure" means a structure that:

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

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

169 (21) "Nonconforming use" means a use of land that:

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

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

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

175 (22) "Official map" means a map drawn by municipal authorities and recorded in a  
176 county recorder's office that:

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

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

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

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

185 (24) "Plan for moderate income housing" means a written document adopted by a city  
186 legislative body that includes:

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

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

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

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

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

196 (25) "Plat" means a map or other graphical representation of lands being laid out and  
197 prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

198           (26) "Public hearing" means a hearing at which members of the public are provided a  
199 reasonable opportunity to comment on the subject of the hearing.

200           (27) "Public meeting" means a meeting that is required to be open to the public under  
201 Title 52, Chapter 4, Open and Public Meetings.

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

204           (29) "Residential facility for elderly persons" means a single-family or multiple-family  
205 dwelling unit that meets the requirements of Part 4, General Plan, but does not include a health  
206 care facility as defined by Section 26-21-2.

207           (30) "Residential facility for persons with a disability" means a residence:

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

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

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

213           (31) "Sanitary sewer authority" means the department, agency, or public entity with  
214 responsibility to review and approve the feasibility of sanitary sewer services or onsite  
215 wastewater systems.

216           (32) "Special district" means an entity established under the authority of Title 17A,  
217 Special Districts, and any other governmental or quasi-governmental entity that is not a county,  
218 municipality, school district, or unit of the state.

219           (33) "Specified public utility" means an electrical corporation, gas corporation, or  
220 telephone corporation, as those terms are defined in Section 54-2-1.

221           (34) "Street" means a public right-of-way, including a highway, avenue, boulevard,  
222 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other  
223 way.

224           (35) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be  
225 divided into two or more lots, parcels, sites, units, plots, or other division of land for the



226 purpose, whether immediate or future, for offer, sale, lease, or development either on the  
227 installment plan or upon any and all other plans, terms, and conditions.

228 (b) "Subdivision" includes:

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

231 (ii) except as provided in Subsection (35)(c), divisions of land for residential and  
232 nonresidential uses, including land used or to be used for commercial, agricultural, and  
233 industrial purposes.

234 (c) "Subdivision" does not include:

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

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

241 (A) no new lot is created; and

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

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

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

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

248 (d) The joining of a subdivided parcel of property to another parcel of property that has  
249 not been subdivided does not constitute a subdivision under this Subsection (35) as to the  
250 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's  
251 subdivision ordinance.

252 (36) "Unincorporated" means the area outside of the incorporated area of a city or  
253 town.

254 (37) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts  
255 land use zones, overlays, or districts.

256 Section 4. Section **10-9a-202** is amended to read:

257 **10-9a-202. Applicant notice -- Waiver of requirements.**

258 (1) For each land use application, the municipality shall:

259 (a) notify the applicant of the date, time, and place of each public hearing and public  
260 meeting to consider the application [~~and~~];

261 (b) provide to each applicant a copy of each staff report regarding the applicant or the  
262 pending application at least three business days before the public hearing or public meeting;  
263 and

264 (c) notify the applicant of any final action on a pending application.

265 (2) If a municipality fails to comply with the requirements of Subsection (1)(a) or (b)  
266 or both, an applicant may waive the failure so that the application may stay on the public  
267 hearing or public meeting agenda and be considered as if the requirements had been met.

268 Section 5. Section **10-9a-509** is amended to read:

269 **10-9a-509. When a land use applicant is entitled to approval -- Exception --**  
270 **Municipality required to comply with land use ordinances.**

271 (1) (a) An applicant is entitled to approval of a land use application if the application  
272 conforms to the requirements of an applicable land use ordinance in effect when a complete  
273 application is submitted and all fees have been paid, unless:

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

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

279 (b) The municipality shall process an application without regard to proceedings  
280 initiated to amend the municipality's ordinances if:

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

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

284 (c) An application for a land use approval is considered submitted and complete when  
285 the application is provided in a form that complies with the requirements of applicable  
286 ordinances and all applicable fees have been paid.

287 (d) The continuing validity of an approval of a land use application is conditioned upon  
288 the applicant proceeding after approval to implement the approval with reasonable diligence.

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

291 (3) Each municipality shall process and render a decision on each land use application  
292 with reasonable diligence.

293 Section 6. Section **10-9a-603** is amended to read:

294 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Recording**  
295 **plat.**

296 (1) Unless exempt under Section 10-9a-605 or excluded from the definition of  
297 subdivision under Subsection 10-9a-103[~~(34)~~](35), whenever any land is laid out and platted,  
298 the owner of the land shall provide an accurate plat that describes or specifies:

299 (a) a name or designation of the subdivision that is distinct from any plat already  
300 recorded in the county recorder's office;

301 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by  
302 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is  
303 intended to be used as a street or for any other public use, and whether any such area is  
304 reserved or proposed for dedication for a public purpose;

305 (c) the lot or unit reference, block or building reference, street or site address, street  
306 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length  
307 and width of the blocks and lots intended for sale; and

308 (d) every existing right-of-way and easement grant of record for underground facilities,  
309 as defined in Section 54-8a-2, and for other utility facilities.

310           (2) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's  
311 ordinances and this part and has been approved by the culinary water authority and the sanitary  
312 sewer authority, the municipality shall approve the plat.

313           (3) The municipality may withhold an otherwise valid plat approval until the owner of  
314 the land provides the legislative body with a tax clearance indicating that all taxes, interest, and  
315 penalties owing on the land have been paid.

316           (4) (a) The owner of the land shall acknowledge the plat before an officer authorized  
317 by law to take the acknowledgement of conveyances of real estate and shall obtain the  
318 signature of each individual designated by the municipality.

319           (b) The surveyor making the plat shall certify that the surveyor:

320           (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and  
321 Professional Land Surveyors Licensing Act;

322           (ii) has completed a survey of the property described on the plat in accordance with  
323 Section 17-23-17 and has verified all measurements; and

324           (iii) has placed monuments as represented on the plat.

325           (c) As applicable, the owner or operator of the underground and utility facilities shall  
326 approve the:

327           (i) boundary, course, dimensions, and intended use of the right-of-way and easement  
328 grants of record;

329           (ii) location of existing underground and utility facilities; and

330           (iii) conditions or restrictions governing the location of the facilities within the  
331 right-of-way, and easement grants of records, and utility facilities within the subdivision.

332           (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the  
333 land shall, within the time period designated by ordinance, record the plat in the county  
334 recorder's office in the county in which the lands platted and laid out are situated.

335           (b) An owner's failure to record a plat within the time period designated by ordinance  
336 renders the plat voidable.

337           Section 7. Section **11-36-102** is amended to read:

338 **11-36-102. Definitions.**

339 As used in this chapter:

340 (1) "Building permit fee" means the fees charged to enforce the uniform codes adopted  
341 pursuant to Title 58, Chapter 56, Utah Uniform Building Standards Act, that are not greater  
342 than the fees indicated in the appendix to the [~~Uniform~~] International Building Code.

343 (2) "Capital facilities plan" means the plan required by Section 11-36-201.

344 (3) "Development activity" means any construction or expansion of a building,  
345 structure, or use, any change in use of a building or structure, or any changes in the use of land  
346 that creates additional demand and need for public facilities.347 (4) "Development approval" means any written authorization from a local political  
348 subdivision that authorizes the commencement of development activity.

349 (5) "Enactment" means:

350 (a) a municipal ordinance, for municipalities;

351 (b) a county ordinance, for counties; and

352 (c) a governing board resolution, for special districts.

353 (6) "Hookup fees" means reasonable fees, not in excess of the approximate average  
354 costs to the political subdivision, for services provided for and directly attributable to the  
355 connection to utility services, including gas, water, sewer, power, or other municipal, county,  
356 or independent special district utility services.357 (7) (a) "Impact fee" means a payment of money imposed upon development activity as  
358 a condition of development approval.359 (b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a  
360 hookup fee, a fee for project improvements, or other reasonable permit or application fee.361 (8) (a) "Local political subdivision" means a county, a municipality, or a special district  
362 created under Title 17A, Special Districts.363 (b) "Local political subdivision" does not mean school districts, whose impact fee  
364 activity is governed by Section 53A-20-100.5.

365 (9) "Private entity" means an entity with private ownership that provides culinary water

366 that is required to be used as a condition of development.

367 (10) (a) "Project improvements" means site improvements and facilities that are:

368 (i) planned and designed to provide service for development resulting from a  
369 development activity; and

370 (ii) necessary for the use and convenience of the occupants or users of development  
371 resulting from a development activity.

372 (b) "Project improvements" does not mean system improvements.

373 (11) "Proportionate share" means the cost of public facility improvements that are  
374 roughly proportionate and reasonably related to the service demands and needs of any  
375 development activity.

376 (12) "Public facilities" means only the following capital facilities that have a life  
377 expectancy of ten or more years and are owned or operated by or on behalf of a local political  
378 subdivision or private entity:

379 (a) water rights and water supply, treatment, and distribution facilities;

380 (b) wastewater collection and treatment facilities;

381 (c) storm water, drainage, and flood control facilities;

382 (d) municipal power facilities;

383 (e) roadway facilities;

384 (f) parks, recreation facilities, open space, and trails; and

385 (g) public safety facilities.

386 (13) (a) "Public safety facility" means:

387 (i) a building constructed or leased to house police, fire, or other public safety  
388 entities[-]; or

389 (ii) a fire suppression vehicle with a ladder reach of at least 75 feet, costing in excess of  
390 \$1,250,000, that is necessary for fire suppression in commercial areas with one or more  
391 buildings at least five stories high.

392 (b) "Public safety facility" does not mean a jail, prison, or other place of involuntary  
393 incarceration.

394 (14) (a) "Roadway facilities" means streets or roads that have been designated on an  
395 officially adopted subdivision plat, roadway plan, or general plan of a political subdivision,  
396 together with all necessary appurtenances.

397 (b) "Roadway facilities" includes associated improvements to federal or state roadways  
398 only when the associated improvements:

399 (i) are necessitated by the new development; and

400 (ii) are not funded by the state or federal government.

401 (c) "Roadway facilities" does not mean federal or state roadways.

402 (15) (a) "Service area" means a geographic area designated by a local political  
403 subdivision on the basis of sound planning or engineering principles in which a defined set of  
404 public facilities provide service within the area.

405 (b) "Service area" may include the entire local political subdivision.

406 (16) (a) "System improvements" means:

407 (i) existing public facilities that are designed to provide services to service areas within  
408 the community at large; and

409 (ii) future public facilities identified in a capital facilities plan that are intended to  
410 provide services to service areas within the community at large.

411 (b) "System improvements" does not mean project improvements.

412 Section 8. Section **11-36-202** is amended to read:

413 **11-36-202. Impact fees -- Enactment -- Required provisions.**

414 (1) (a) Each local political subdivision wishing to impose impact fees shall pass an  
415 impact fee enactment.

416 (b) The impact fee imposed by that enactment may not exceed the highest fee justified  
417 by the impact fee analysis performed pursuant to Section 11-36-201.

418 (c) In calculating the impact fee, each local political subdivision may include:

419 (i) the construction contract price;

420 (ii) the cost of acquiring land, improvements, materials, and fixtures;

421 (iii) the cost for planning, surveying, and engineering fees for services provided for and

422 directly related to the construction of the system improvements; and

423 (iv) debt service charges, if the political subdivision might use impact fees as a revenue  
424 stream to pay the principal and interest on bonds, notes, or other obligations issued to finance  
425 the costs of the system improvements.

426 (d) In calculating an impact fee, a local political subdivision may not include an  
427 expense for overhead unless the expense is calculated pursuant to a methodology that is  
428 consistent with:

429 (i) generally accepted cost accounting practices; and

430 (ii) the methodological standards set forth by the federal Office of Management and  
431 Budget for federal grant reimbursement.

432 (e) In calculating an impact fee, each local political subdivision shall base amounts  
433 calculated under Subsection (1)(c) on realistic estimates, and the assumptions underlying those  
434 estimates shall be disclosed in the impact fee analysis.

435 [~~(f)~~] (f) In enacting an impact fee enactment:

436 (i) municipalities shall:

437 (A) make a copy of the impact fee enactment available to the public at least 14 days  
438 before the date of the public hearing; and

439 (B) comply with the notice and hearing requirements of, and, except as provided in  
440 Subsection 11-36-401(4)(f), receive the protections of Sections 10-9a-207 and 10-9a-801;

441 (ii) counties shall:

442 (A) make a copy of the impact fee enactment available to the public at least 14 days  
443 before the date of the public hearing; and

444 (B) comply with the notice and hearing requirements of, and, except as provided in  
445 Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-207 and 17-27a-801;

446 and

447 (iii) special districts shall:

448 (A) make a copy of the impact fee enactment available to the public at least 14 days  
449 before the date of the public hearing; and



450 (B) comply with the notice and hearing requirements of, and receive the protections of,  
451 Section 17A-1-203.

452 ~~(e)~~ (g) Nothing contained in Subsection (1)~~(d)~~(f) or in the subsections referenced in  
453 Subsections (1)~~(d)~~(f)(i)(B) and (ii)(B) may be construed to require involvement by a planning  
454 commission in the impact fee enactment process.

455 (2) The local political subdivision shall ensure that the impact fee enactment contains:

456 (a) a provision establishing one or more service areas within which it shall calculate  
457 and impose impact fees for various land use categories;

458 (b) either:

459 (i) a schedule of impact fees for each type of development activity that specifies the  
460 amount of the impact fee to be imposed for each type of system improvement; or

461 (ii) the formula that the local political subdivision will use to calculate each impact fee;

462 (c) a provision authorizing the local political subdivision to adjust the standard impact  
463 fee at the time the fee is charged to:

464 (i) respond to unusual circumstances in specific cases; and

465 (ii) ensure that the impact fees are imposed fairly; and

466 (d) a provision governing calculation of the amount of the impact fee to be imposed on  
467 a particular development that permits adjustment of the amount of the fee based upon studies  
468 and data submitted by the developer.

469 (3) The local political subdivision may include a provision in the impact fee enactment  
470 that:

471 (a) exempts low income housing and other development activities with broad public  
472 purposes from impact fees and establishes one or more sources of funds other than impact fees  
473 to pay for that development activity;

474 (b) imposes an impact fee for public facility costs previously incurred by a local  
475 political subdivision to the extent that new growth and development will be served by the  
476 previously constructed improvement; and

477 (c) allows a credit against impact fees for any dedication of land for, improvement to,

478 or new construction of, any system improvements provided by the developer if the facilities:

479 (i) are identified in the capital facilities plan; and

480 (ii) are required by the local political subdivision as a condition of approving the  
481 development activity.

482 (4) Except as provided in Subsection (3)(b), the local political subdivision may not  
483 impose an impact fee to cure deficiencies in public facilities serving existing development.

484 (5) Notwithstanding the requirements and prohibitions of this chapter, a local political  
485 subdivision may impose and assess an impact fee for environmental mitigation when:

486 (a) the local political subdivision has formally agreed to fund a Habitat Conservation  
487 Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec 1531, et seq.  
488 or other state or federal environmental law or regulation;

489 (b) the impact fee bears a reasonable relationship to the environmental mitigation  
490 required by the Habitat Conservation Plan; and

491 (c) the legislative body of the local political subdivision adopts an ordinance or  
492 resolution:

493 (i) declaring that an impact fee is required to finance the Habitat Conservation Plan;

494 (ii) establishing periodic sunset dates for the impact fee; and

495 (iii) requiring the legislative body to:

496 (A) review the impact fee on those sunset dates;

497 (B) determine whether or not the impact fee is still required to finance the Habitat  
498 Conservation Plan; and

499 (C) affirmatively reauthorize the impact fee if the legislative body finds that the impact  
500 fee must remain in effect.

501 (6) Each political subdivision shall ensure that any existing impact fee for  
502 environmental mitigation meets the requirements of Subsection (5) by July 1, 1995.

503 (7) Notwithstanding any other provision of this chapter[~~-, municipalities~~]:

504 (a) a municipality imposing impact fees to fund fire trucks as of the effective date of  
505 this act may impose impact fees for fire trucks until July 1, 1997[~~-~~]; and

506           (b) an impact fee to pay for a public safety facility that is a fire suppression vehicle  
507 may not be imposed with respect to land that has a zoning designation other than commercial.

508           (8) Notwithstanding any other provision of this chapter, a local political subdivision  
509 may impose and collect impact fees on behalf of a school district if authorized by Section  
510 53A-20-100.5.

511           Section 9. Section **17-27a-103** is amended to read:

512           **17-27a-103. Definitions.**

513           As used in this chapter:

514           (1) "Affected entity" means a county, municipality, independent special district under  
515 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,  
516 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter  
517 13, Interlocal Cooperation Act, specified public utility, property owner, property owners  
518 association, or the Utah Department of Transportation, if:

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

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

523           (c) the [~~entity's boundaries or facilities are within one mile of land that is the subject of~~  
524 ~~a general plan amendment or land use ordinance change~~] entity has filed with the county a  
525 request for notice during the same calendar year and before the county provides notice to an  
526 affected entity in compliance with a requirement imposed under this chapter.

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

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

533           (4) "Charter school" includes:

- 534 (a) an operating charter school;
- 535 (b) a charter school applicant that has its application approved by a chartering entity in  
536 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and
- 537 (c) an entity who is working on behalf of a charter school or approved charter applicant  
538 to develop or construct a charter school building.
- 539 (5) "Chief executive officer" means the person or body that exercises the executive  
540 powers of the county.
- 541 (6) "Conditional use" means a land use that, because of its unique characteristics or  
542 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be  
543 compatible in some areas or may be compatible only if certain conditions are required that  
544 mitigate or eliminate the detrimental impacts.
- 545 (7) "Constitutional taking" means a governmental action that results in a taking of  
546 private property so that compensation to the owner of the property is required by the:
- 547 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or  
548 (b) Utah Constitution Article I, Section 22.
- 549 (8) "Culinary water authority" means the department, agency, or public entity with  
550 responsibility to review and approve the feasibility of the culinary water system and sources for  
551 the subject property.
- 552 (9) (a) "Disability" means a physical or mental impairment that substantially limits one  
553 or more of a person's major life activities, including a person having a record of such an  
554 impairment or being regarded as having such an impairment.
- 555 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
556 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
557 802.
- 558 (10) "Elderly person" means a person who is 60 years old or older, who desires or  
559 needs to live with other elderly persons in a group setting, but who is capable of living  
560 independently.
- 561 (11) "Gas corporation" has the same meaning as defined in Section 54-2-1.

562 (12) "General plan" means a document that a county adopts that sets forth general  
563 guidelines for proposed future development of the unincorporated land within the county.

564 (13) "Identical plans" means building plans submitted to a county that are substantially  
565 identical building plans that were previously submitted to and reviewed and approved by the  
566 county and describe a building that is:

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

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

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

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

577 (16) "Land use application" means an application required by a county's land use  
578 ordinance.

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

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

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

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

587 (21) "Moderate income housing" means housing occupied or reserved for occupancy  
588 by households with a gross household income equal to or less than 80% of the median gross  
589 income for households of the same size in the county in which the housing is located.

590 (22) "Nominal fee" means a fee that reasonably reimburses a county only for time spent  
591 and expenses incurred in:

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

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

595 (23) "Noncomplying structure" means a structure that:

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

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

600 (24) "Nonconforming use" means a use of land that:

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

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

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

606 (25) "Official map" means a map drawn by county authorities and recorded in the  
607 county recorder's office that:

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

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

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

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

616 (27) "Plan for moderate income housing" means a written document adopted by a  
617 county legislative body that includes:

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

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

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

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

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

627 (28) "Plat" means a map or other graphical representation of lands being laid out and  
628 prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

629 (29) "Public hearing" means a hearing at which members of the public are provided a  
630 reasonable opportunity to comment on the subject of the hearing.

631 (30) "Public meeting" means a meeting that is required to be open to the public under  
632 Title 52, Chapter 4, Open and Public Meetings.

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

635 (32) "Residential facility for elderly persons" means a single-family or multiple-family  
636 dwelling unit that meets the requirements of Part 4, General Plan, but does not include a health  
637 care facility as defined by Section 26-21-2.

638 (33) "Residential facility for persons with a disability" means a residence:

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

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

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

644 (34) "Sanitary sewer authority" means the department, agency, or public entity with  
645 responsibility to review and approve the feasibility of sanitary sewer services or onsite

646 wastewater systems.

647 (35) "Special district" means any entity established under the authority of Title 17A,  
648 Special Districts, and any other governmental or quasi-governmental entity that is not a county,  
649 municipality, school district, or unit of the state.

650 (36) "Specified public utility" means an electrical corporation, gas corporation, or  
651 telephone corporation, as those terms are defined in Section 54-2-1.

652 (37) "Street" means a public right-of-way, including a highway, avenue, boulevard,  
653 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other  
654 way.

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

659 (b) "Subdivision" includes:

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

662 (ii) except as provided in Subsection (38)(c), divisions of land for residential and  
663 nonresidential uses, including land used or to be used for commercial, agricultural, and  
664 industrial purposes.

665 (c) "Subdivision" does not include:

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

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

669 (A) no new lot is created; and

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

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

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



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

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

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

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

682 (d) The joining of a subdivided parcel of property to another parcel of property that has  
683 not been subdivided does not constitute a subdivision under this Subsection (38) as to the  
684 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision  
685 ordinance.

686 (39) "Township" means a contiguous, geographically defined portion of the  
687 unincorporated area of a county, established under this part or reconstituted or reinstated under  
688 Section 17-27a-307, with planning and zoning functions as exercised through the township  
689 planning commission, as provided in this chapter, but with no legal or political identity  
690 separate from the county and no taxing authority, except that "township" means a former  
691 township under Chapter 308, Laws of Utah 1996 where the context so indicates.

692 (40) "Unincorporated" means the area outside of the incorporated area of a  
693 municipality.

694 (41) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts  
695 land use zones, overlays, or districts.

696 Section 10. Section **17-27a-202** is amended to read:

697 **17-27a-202. Applicant notice -- Waiver of requirements.**

698 (1) For each land use application, the county shall:

699 (a) notify the applicant of the date, time, and place of each public hearing and public  
700 meeting to consider the application [~~and~~];

701 (b) provide to each applicant a copy of each staff report regarding the applicant or the

702 pending application at least three business days before the public hearing or public meeting;  
703 and

704 (c) notify the applicant of any final action on a pending application.

705 (2) If a county fails to comply with the requirements of Subsection (1)(a) or (b) or both,  
706 an applicant may waive the failure so that the application may stay on the public hearing or  
707 public meeting agenda and be considered as if the requirements had been met.

708 Section 11. Section **17-27a-508** is amended to read:

709 **17-27a-508. When a land use applicant is entitled to approval -- Exception --**  
710 **County required to comply with land use ordinances.**

711 (1) (a) An applicant is entitled to approval of a land use application if the application  
712 conforms to the requirements of an applicable land use ordinance in effect when a complete  
713 application is submitted and all fees have been paid, unless:

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

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

719 (b) The county shall process an application without regard to proceedings initiated to  
720 amend the county's ordinances if:

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

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

724 (c) An application for a land use approval is considered submitted and complete when  
725 the application is provided in a form that complies with the requirements of applicable  
726 ordinances and all applicable fees have been paid.

727 (d) The continuing validity of an approval of a land use application is conditioned upon  
728 the applicant proceeding after approval to implement the approval with reasonable diligence.

729 (2) A county is bound by the terms and standards of applicable land use ordinances and

730 shall comply with mandatory provisions of those ordinances.

731 (3) Each county shall process and render a decision on each land use application with  
732 reasonable diligence.

733 Section 12. Section **17-27a-603** is amended to read:

734 **17-27a-603. Plat required when land is subdivided -- Approval of plat --**  
735 **Recording plat.**

736 (1) Unless exempt under Section 17-27a-605 or excluded from the definition of  
737 subdivision under Subsection 17-27a-103[~~(37)~~](38), whenever any land is laid out and platted,  
738 the owner of the land shall provide an accurate plat that describes or specifies:

739 (a) a name or designation of the subdivision that is distinct from any plat already  
740 recorded in the county recorder's office;

741 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by  
742 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is  
743 intended to be used as a street or for any other public use, and whether any such area is  
744 reserved or proposed for dedication for a public purpose;

745 (c) the lot or unit reference, block or building reference, street or site address, street  
746 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length  
747 and width of the blocks and lots intended for sale; and

748 (d) every existing right-of-way and easement grant of record for underground facilities,  
749 as defined in Section 54-8a-2, and for other utility facilities.

750 (2) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's  
751 ordinances and this part and has been approved by the culinary water authority and the sanitary  
752 sewer authority, the county shall approve the plat.

753 (3) The county may withhold an otherwise valid plat approval until the owner of the  
754 land provides the legislative body with a tax clearance indicating that all taxes, interest, and  
755 penalties owing on the land have been paid.

756 (4) (a) The owner of the land shall acknowledge the plat before an officer authorized  
757 by law to take the acknowledgment of conveyances of real estate and shall obtain the signature

758 of each individual designated by the county.

759 (b) The surveyor making the plat shall certify that the surveyor:

760 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and  
761 Land Surveyors Licensing Act;

762 (ii) has completed a survey of the property described on the plat in accordance with  
763 Section 17-23-17 and has verified all measurements; and

764 (iii) has placed monuments as represented on the plat.

765 (c) As applicable, the owner or operator of the underground and utility facilities shall  
766 approve the:

767 (i) boundary, course, dimensions, and intended use of the right-of-way and easement  
768 grants of record;

769 (ii) location of existing underground and utility facilities; and

770 (iii) conditions or restrictions governing the location of the facilities within the  
771 right-of-way, and easement grants of records, and utility facilities within the subdivision.

772 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the  
773 land shall, within the time period designated by ordinance, record the plat in the county  
774 recorder's office in the county in which the lands platted and laid out are situated.

775 (b) An owner's failure to record a plat within the time period designated by ordinance  
776 renders the plat voidable.

777 Section 13. Section **17-36-37** is amended to read:

778 **17-36-37. Budget officer -- Annual financial statement -- Contents.**

779 (1) The budget officer of each county, within 180 days after the close of each fiscal  
780 period or, for a county that has adopted a fiscal period that is a biennial period, within 180 days  
781 after both the midpoint and the close of the fiscal period, except as provided by Section  
782 17-36-38, shall prepare and make available to the governing body an annual financial report  
783 which shall contain:

784 (a) a statement of revenues and expenditures and a comparison with the budget of the  
785 general fund, similar statements of all other funds for which budgets are required, and

786 statements of revenues and expenditures or of income and expense, as the case may be, of all  
787 other operating funds of the county;

788 (b) a balance sheet of each fund and a combined balance sheet of all funds as of:

789 (i) for a county that has adopted a fiscal period that is a biennial period, the midpoint  
790 and the close of the fiscal period; and

791 (ii) for each other county, the close of the fiscal period; or

792 (c) any other reports the governing body may require, including work performance  
793 data, tax levies, taxable values, details of bonded indebtedness, and historical facts of interest  
794 to the governing body and the public.

795 (2) Each annual financial report required under Subsection (1) shall identify impact fee  
796 funds by the year in which they were received, the project from which the funds were collected,  
797 the capital projects for which the funds are budgeted, and the projected schedule for  
798 expenditure.

799 [~~(2)~~] (3) Copies of the annual report shall be furnished to the state auditor and made a  
800 matter of public record in the office of the budget officer.

801 Section 14. Section **17A-1-443** is amended to read:

802 **17A-1-443. Annual financial reports -- Independent audit reports.**

803 (1) (a) Within 180 days after the close of each fiscal year, the district shall prepare an  
804 annual financial report in conformity with generally accepted accounting principles as  
805 prescribed in the Uniform Accounting Manual for Special Districts. [~~This requirement~~]

806 (b) Each annual financial report shall identify impact fee funds by the year in which  
807 they were received, the project from which the funds were collected, the capital projects for  
808 which the funds are budgeted, and the projected schedule for expenditure.

809 (2) The requirement under Subsection (1)(a) to prepare an annual financial report may  
810 be satisfied by presentation of the audit report furnished by the independent auditor.

811 (3) Copies of the annual financial report or the audit report furnished by the  
812 independent auditor shall be filed with the state auditor and shall be filed as a public document  
813 in the district office.

