

**COUNTY AND MUNICIPAL LAND USE  
REGULATION OF POTENTIAL GEOLOGIC  
HAZARD AREAS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael T. Morley**

Senate Sponsor: Wayne L. Niederhauser

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**LONG TITLE**

**General Description:**

This bill modifies county and municipal land use and development provisions relating to the regulation of potential geologic hazard areas.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ authorizes counties and municipalities to enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to protect life or prevent the substantial loss of or damage to real property; and
- ▶ provides a process for assembling a panel of experts to decide the technical aspects

of an appeal of a land use authority's decision administering or interpreting a county or municipal ordinance regulating land use and development in a flood plain or potential geologic hazard area.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



28 AMENDS:

29 **10-9a-103**, as last amended by Laws of Utah 2007, Chapters 188, 199, and 329

30 **10-9a-505**, as renumbered and amended by Laws of Utah 2005, Chapter 254

31 **10-9a-603**, as last amended by Laws of Utah 2007, Chapters 160 and 188

32 **10-9a-703**, as enacted by Laws of Utah 2005, Chapter 254

33 **17-27a-103**, as last amended by Laws of Utah 2007, Chapters 188, 199, and 329

34 **17-27a-505**, as renumbered and amended by Laws of Utah 2005, Chapter 254

35 **17-27a-603**, as last amended by Laws of Utah 2007, Chapters 160 and 188

36 **17-27a-703**, as enacted by Laws of Utah 2005, Chapter 254



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

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

40 **10-9a-103. Definitions.**

41 As used in this chapter:

42 (1) "Affected entity" means a county, municipality, local district, special service  
43 district under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, school district,  
44 interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,  
45 specified public utility, a property owner, a property owners association, or the Utah  
46 Department of Transportation, if:

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

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

51 (c) the entity has filed with the municipality a request for notice during the same  
52 calendar year and before the municipality provides notice to an affected entity in compliance  
53 with a requirement imposed under this chapter.

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

57 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or  
58 residential property if the sign is designed or intended to direct attention to a business, product,

59 or service that is not sold, offered, or existing on the property where the sign is located.

60 (4) "Charter school" includes:

61 (a) an operating charter school;

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

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

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

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

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

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

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

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

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

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

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

85 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
86 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
87 802.

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

90 independently.

91 (11) "Fire authority" means the department, agency, or public entity with responsibility  
92 to review and approve the feasibility of fire protection and suppression services for the subject  
93 property.

94 (12) "Flood plain" means land that:

95 (a) is within the 100-year flood plain designated by the Federal Emergency

96 Management Agency; or

97 (b) has not been studied or designated by the Federal Emergency Management Agency  
98 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because  
99 the land has characteristics that are similar to those of a 100-year flood plain designated by the  
100 Federal Emergency Management Agency.

101 [~~12~~] (13) "General plan" means a document that a municipality adopts that sets forth  
102 general guidelines for proposed future development of the land within the municipality.

103 (14) "Geologic hazard" means:

104 (a) a surface fault rupture;

105 (b) shallow groundwater;

106 (c) liquefaction;

107 (d) a landslide;

108 (e) a debris flow;

109 (f) unstable soil;

110 (g) a rock fall; or

111 (h) any other geologic condition that presents a risk;

112 (i) to life; ~~H~~→ [or] ←~~H~~

113 (ii) of substantial loss of ~~H~~→ real property; ←~~H~~ or

113a ~~H~~→ (iii) of substantial ←~~H~~ damage to real property.

114 [~~13~~] (15) "Identical plans" means building plans submitted to a municipality that are  
115 substantially identical to building plans that were previously submitted to and reviewed and  
116 approved by the municipality and describe a building that is:

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

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

121           ~~[(14)]~~ (16) "Land use application" means an application required by a municipality's  
122 land use ordinance.

123           ~~[(15)]~~ (17) "Land use authority" means a person, board, commission, agency, or other  
124 body designated by the local legislative body to act upon a land use application.

125           ~~[(16)]~~ (18) "Land use ordinance" means a planning, zoning, development, or  
126 subdivision ordinance of the municipality, but does not include the general plan.

127           ~~[(17)]~~ (19) "Land use permit" means a permit issued by a land use authority.

128           ~~[(18)]~~ (20) "Legislative body" means the municipal council.

129           ~~[(19)]~~ (21) "Local district" means an entity under Title 17B, Limited Purpose Local  
130 Government Entities - Local Districts, and any other governmental or quasi-governmental  
131 entity that is not a county, municipality, school district, or unit of the state.

132           ~~[(20)]~~ (22) "Lot line adjustment" means the relocation of the property boundary line in  
133 a subdivision between two adjoining lots with the consent of the owners of record.

134           ~~[(21)]~~ (23) "Moderate income housing" means housing occupied or reserved for  
135 occupancy by households with a gross household income equal to or less than 80% of the  
136 median gross income for households of the same size in the county in which the city is located.

137           ~~[(22)]~~ (24) "Nominal fee" means a fee that reasonably reimburses a municipality only  
138 for time spent and expenses incurred in:

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

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

142           ~~[(23)]~~ (25) "Noncomplying structure" means a structure that:

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

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

147           ~~[(24)]~~ (26) "Nonconforming use" means a use of land that:

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

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

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

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

153 ~~[(25)]~~ (27) "Official map" means a map drawn by municipal authorities and recorded in  
154 a county recorder's office that:

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

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

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

161 ~~[(26)]~~ (28) "Person" means an individual, corporation, partnership, organization,  
162 association, trust, governmental agency, or any other legal entity.

163 ~~[(27)]~~ (29) "Plan for moderate income housing" means a written document adopted by  
164 a city legislative body that includes:

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

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

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

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

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

174 ~~[(28)]~~ (30) "Plat" means a map or other graphical representation of lands being laid out  
175 and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

176 (31) "Potential geologic hazard area" means an area that:

177 (a) is designated by a Utah Geological Survey map, county geologist map, or other  
178 relevant map or report as needing further study to determine the area's potential for geologic  
179 hazard; or

180 (b) has not been studied by the Utah Geological Survey or a county geologist but  
181 presents the potential of geologic hazard because the area has characteristics similar to those of  
182 a designated geologic hazard area.

183            [~~(29)~~] (32) "Public hearing" means a hearing at which members of the public are  
184 provided a reasonable opportunity to comment on the subject of the hearing.

185            [~~(30)~~] (33) "Public meeting" means a meeting that is required to be open to the public  
186 under Title 52, Chapter 4, Open and Public Meetings Act.

187            [~~(31)~~] (34) "Record of survey map" means a map of a survey of land prepared in  
188 accordance with Section 17-23-17.

189            [~~(32)~~] (35) "Receiving zone" means an area of a municipality that the municipality's  
190 land use authority designates as an area in which an owner of land may receive transferrable  
191 development rights.

192            [~~(33)~~] (36) "Residential facility for elderly persons" means a single-family or  
193 multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not  
194 include a health care facility as defined by Section 26-21-2.

195            [~~(34)~~] (37) "Residential facility for persons with a disability" means a residence:

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

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

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

201            [~~(35)~~] (38) "Sanitary sewer authority" means the department, agency, or public entity  
202 with responsibility to review and approve the feasibility of sanitary sewer services or onsite  
203 wastewater systems.

204            [~~(36)~~] (39) "Sending zone" means an area of a municipality that the municipality's land  
205 use authority designates as an area from which an owner of land may transfer transferrable  
206 development rights to an owner of land in a receiving zone.

207            [~~(37)~~] (40) "Specified public utility" means an electrical corporation, gas corporation,  
208 or telephone corporation, as those terms are defined in Section 54-2-1.

209            [~~(38)~~] (41) "Street" means a public right-of-way, including a highway, avenue,  
210 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,  
211 or other way.

212            [~~(39)~~] (42) (a) "Subdivision" means any land that is divided, resubdivided or proposed  
213 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the

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

216 (b) "Subdivision" includes:

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

219 (ii) except as provided in Subsection [~~(39)~~] (42)(c), divisions of land for residential and  
220 nonresidential uses, including land used or to be used for commercial, agricultural, and  
221 industrial purposes.

222 (c) "Subdivision" does not include:

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

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

229 (A) no new lot is created; and

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

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

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

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

236 (iv) a recorded agreement between owners of adjoining subdivided properties adjusting  
237 their mutual boundary if:

238 (A) no new dwelling lot or housing unit will result from the adjustment; and

239 (B) the adjustment will not violate any applicable land use ordinance.

240 (d) The joining of a subdivided parcel of property to another parcel of property that has  
241 not been subdivided does not constitute a subdivision under this Subsection [~~(39)~~] (42) as to  
242 the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's  
243 subdivision ordinance.

244 [~~(40)~~] (43) "Transferrable development right" means the entitlement to develop land



245 within a sending zone that would vest according to the municipality's existing land use  
 246 ordinances on the date that a completed land use application is filed seeking the approval of  
 247 development activity on the land.

248 ~~[(41)]~~ (44) "Unincorporated" means the area outside of the incorporated area of a city  
 249 or town.

250 ~~[(42)]~~ (45) "Zoning map" means a map, adopted as part of a land use ordinance, that  
 251 depicts land use zones, overlays, or districts.

252 Section 2. Section **10-9a-505** is amended to read:

253 **10-9a-505. Zoning districts.**

254 (1) (a) The legislative body may divide the territory over which it has jurisdiction into  
 255 zoning districts of a number, shape, and area that it considers appropriate to carry out the  
 256 purposes of this chapter.

257 (b) Within those zoning districts, the legislative body may regulate and restrict the  
 258 erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and  
 259 the use of land.

260 (c) A municipality may enact an ordinance regulating land use and development in a  
 261 flood plain or potential geologic hazard area to:

262 (i) protect life; and

263 (ii) prevent ~~H→~~ ;

263a (A) ~~←H~~ the substantial loss of ~~H→~~ [or damage to] ~~←H~~ real property ~~H→~~ [:] ; or

263b (B) substantial damage to real property. ~~←H~~

264 (2) The legislative body shall ensure that the regulations are uniform for each class or  
 265 kind of buildings throughout each zoning district, but the regulations in one zone may differ  
 266 from those in other zones.

267 (3) (a) There is no minimum area or diversity of ownership requirement for a zone  
 268 designation.

269 (b) Neither the size of a zoning district nor the number of landowners within the  
 270 district may be used as evidence of the illegality of a zoning district or of the invalidity of a  
 271 municipal decision.

272 Section 3. Section **10-9a-603** is amended to read:

273 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**  
 274 **acknowledgment, surveyor certification, and underground utility facilities owner**  
 275 **approval of plat -- Recording plat.**

276 (1) Unless exempt under Section 10-9a-605 or excluded from the definition of  
277 subdivision under Subsection 10-9a-103[(36)](42), whenever any land is laid out and platted,  
278 the owner of the land shall provide an accurate plat that describes or specifies:

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

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

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

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

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

293 (b) Municipalities are encouraged to receive a recommendation from the fire authority  
294 before approving a plat.

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

298 (4) (a) The owner of the land shall acknowledge the plat before an officer authorized  
299 by law to take the acknowledgment of conveyances of real estate and shall obtain the signature  
300 of each individual designated by the municipality.

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

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

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

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

307 (c) (i) As applicable, the owner or operator of the underground and utility facilities  
308 shall approve the:

309 (A) boundary, course, dimensions, and intended use of the right-of-way and easement  
310 grants of record;

311 (B) location of existing underground and utility facilities; and

312 (C) conditions or restrictions governing the location of the facilities within the  
313 right-of-way, and easement grants of records, and utility facilities within the subdivision.

314 (ii) The approval of an owner or operator under Subsection (4)(c)(i):

315 (A) indicates only that the plat approximates the location of the existing underground  
316 and utility facilities but does not warrant or verify their precise location; and

317 (B) does not affect a right that the owner or operator has under:

318 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

319 (II) a recorded easement or right-of-way;

320 (III) the law applicable to prescriptive rights; or

321 (IV) any other provision of law.

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

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

327 Section 4. Section **10-9a-703** is amended to read:

328 **10-9a-703. Appealing a land use authority's decision.**

329 (1) The applicant, a board or officer of the municipality, or any person adversely  
330 affected by the land use authority's decision administering or interpreting a land use ordinance  
331 may, within the time period provided by ordinance, appeal that decision to the appeal authority  
332 by alleging that there is error in any order, requirement, decision, or determination made by the  
333 land use authority in the administration or interpretation of the land use ordinance.

334 (2) (a) An applicant who has appealed a decision of the land use authority  
335 administering or interpreting the municipality's geologic hazard ordinance may request the  
336 municipality to assemble a panel of qualified experts to serve as the appeal authority for  
337 purposes of determining the technical aspects of the appeal.

338 (b) If an applicant makes a request under Subsection (2)(a), the municipality shall  
339 assemble the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the  
340 applicant and municipality:

- 341 (i) one expert designated by the municipality;
- 342 (ii) one expert designated by the applicant; and
- 343 (iii) one expert chosen jointly by the municipality's designated expert and the  
344 applicant's designated expert.

345 (c) A member of the panel assembled by the municipality under Subsection (2)(b) may  
346 not be associated with the application that is the subject of the appeal.

347 (d) The applicant shall pay:

- 348 (i) 1/2 of the cost of the panel; and
- 349 (ii) the municipality's published appeal fee.

350 Section 5. Section **17-27a-103** is amended to read:

351 **17-27a-103. Definitions.**

352 As used in this chapter:

353 (1) "Affected entity" means a county, municipality, local district, special service  
354 district under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, school district,  
355 interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,  
356 specified property owner, property owners association, public utility, or the Utah Department  
357 of Transportation, if:

- 358 (a) the entity's services or facilities are likely to require expansion or significant  
359 modification because of an intended use of land;
- 360 (b) the entity has filed with the county a copy of the entity's general or long-range plan;  
361 or
- 362 (c) the entity has filed with the county a request for notice during the same calendar  
363 year and before the county provides notice to an affected entity in compliance with a  
364 requirement imposed under this chapter.

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

368 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or

369 residential property if the sign is designed or intended to direct attention to a business, product,  
370 or service that is not sold, offered, or existing on the property where the sign is located.

371 (4) "Charter school" includes:

372 (a) an operating charter school;

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

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

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

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

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

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

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

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

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

393 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
394 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
395 802.

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

399 (11) "Fire authority" means the department, agency, or public entity with responsibility

400 to review and approve the feasibility of fire protection and suppression services for the subject  
401 property.

402 (12) "Flood plain" means land that:

403 (a) is within the 100-year flood plain designated by the Federal Emergency

404 Management Agency; or

405 (b) has not been studied or designated by the Federal Emergency Management Agency  
406 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because  
407 the land has characteristics that are similar to those of a 100-year flood plain designated by the  
408 Federal Emergency Management Agency.

409 [~~12~~] (13) "Gas corporation" has the same meaning as defined in Section 54-2-1.

410 [~~13~~] (14) "General plan" means a document that a county adopts that sets forth  
411 general guidelines for proposed future development of the unincorporated land within the  
412 county.

413 (15) "Geologic hazard" means:

414 (a) a surface fault rupture;

415 (b) shallow groundwater;

416 (c) liquefaction;

417 (d) a landslide;

418 (e) a debris flow;

419 (f) unstable soil;

420 (g) a rock fall; or

421 (h) any other geologic condition that presents a risk;

422 (i) to life; ~~H~~→ [or] ←~~H~~

423 (ii) of substantial loss of ~~H~~→ real property; ←~~H~~ or

423a ~~H~~→ (iii) of substantial ←~~H~~ damage to real property.

424 [~~14~~] (16) "Identical plans" means building plans submitted to a county that are  
425 substantially identical building plans that were previously submitted to and reviewed and  
426 approved by the county and describe a building that is:

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

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

431           ~~[(15)]~~ (17) "Interstate pipeline company" means a person or entity engaged in natural  
432 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission  
433 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

434           ~~[(16)]~~ (18) "Intrastate pipeline company" means a person or entity engaged in natural  
435 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory  
436 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

437           ~~[(17)]~~ (19) "Land use application" means an application required by a county's land use  
438 ordinance.

439           ~~[(18)]~~ (20) "Land use authority" means a person, board, commission, agency, or other  
440 body designated by the local legislative body to act upon a land use application.

441           ~~[(19)]~~ (21) "Land use ordinance" means a planning, zoning, development, or  
442 subdivision ordinance of the county, but does not include the general plan.

443           ~~[(20)]~~ (22) "Land use permit" means a permit issued by a land use authority.

444           ~~[(21)]~~ (23) "Legislative body" means the county legislative body, or for a county that  
445 has adopted an alternative form of government, the body exercising legislative powers.

446           ~~[(22)]~~ (24) "Local district" means any entity under Title 17B, Limited Purpose Local  
447 Government Entities - Local Districts, and any other governmental or quasi-governmental  
448 entity that is not a county, municipality, school district, or unit of the state.

449           ~~[(23)]~~ (25) "Lot line adjustment" means the relocation of the property boundary line in  
450 a subdivision between two adjoining lots with the consent of the owners of record.

451           ~~[(24)]~~ (26) "Moderate income housing" means housing occupied or reserved for  
452 occupancy by households with a gross household income equal to or less than 80% of the  
453 median gross income for households of the same size in the county in which the housing is  
454 located.

455           ~~[(25)]~~ (27) "Nominal fee" means a fee that reasonably reimburses a county only for  
456 time spent and expenses incurred in:

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

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

460           ~~[(26)]~~ (28) "Noncomplying structure" means a structure that:

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

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

465 [~~(27)~~] (29) "Nonconforming use" means a use of land that:

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

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

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

471 [~~(28)~~] (30) "Official map" means a map drawn by county authorities and recorded in  
472 the county recorder's office that:

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

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

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

479 [~~(29)~~] (31) "Person" means an individual, corporation, partnership, organization,  
480 association, trust, governmental agency, or any other legal entity.

481 [~~(30)~~] (32) "Plan for moderate income housing" means a written document adopted by  
482 a county legislative body that includes:

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

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

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

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

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

492 [~~(31)~~] (33) "Plat" means a map or other graphical representation of lands being laid out



493 and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

494 (34) "Potential geologic hazard area" means an area that:

495 (a) is designated by a Utah Geological Survey map, county geologist map, or other  
496 relevant map or report as needing further study to determine the area's potential for geologic  
497 hazard; or

498 (b) has not been studied by the Utah Geological Survey or a county geologist but  
499 presents the potential of geologic hazard because the area has characteristics similar to those of  
500 a designated geologic hazard area.

501 [~~(32)~~] (35) "Public hearing" means a hearing at which members of the public are  
502 provided a reasonable opportunity to comment on the subject of the hearing.

503 [~~(33)~~] (36) "Public meeting" means a meeting that is required to be open to the public  
504 under Title 52, Chapter 4, Open and Public Meetings Act.

505 [~~(34)~~] (37) "Receiving zone" means an unincorporated area of a county that the  
506 county's land use authority designates as an area in which an owner of land may receive  
507 transferrable development rights.

508 [~~(35)~~] (38) "Record of survey map" means a map of a survey of land prepared in  
509 accordance with Section 17-23-17.

510 [~~(36)~~] (39) "Residential facility for elderly persons" means a single-family or  
511 multiple-family dwelling unit that meets the requirements of Section 17-27a-515, but does not  
512 include a health care facility as defined by Section 26-21-2.

513 [~~(37)~~] (40) "Residential facility for persons with a disability" means a residence:

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

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

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

519 [~~(38)~~] (41) "Sanitary sewer authority" means the department, agency, or public entity  
520 with responsibility to review and approve the feasibility of sanitary sewer services or onsite  
521 wastewater systems.

522 [~~(39)~~] (42) "Sending zone" means an unincorporated area of a county that the county's  
523 land use authority designates as an area from which an owner of land may transfer transferrable

524 development rights to an owner of land in a receiving zone.

525 [~~(40)~~] (43) "Specified public utility" means an electrical corporation, gas corporation,  
526 or telephone corporation, as those terms are defined in Section 54-2-1.

527 [~~(41)~~] (44) "Street" means a public right-of-way, including a highway, avenue,  
528 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,  
529 or other way.

530 [~~(42)~~] (45) (a) "Subdivision" means any land that is divided, resubdivided or proposed  
531 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the  
532 purpose, whether immediate or future, for offer, sale, lease, or development either on the  
533 installment plan or upon any and all other plans, terms, and conditions.

534 (b) "Subdivision" includes:

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

537 (ii) except as provided in Subsection [~~(42)~~] (45)(c), divisions of land for residential and  
538 nonresidential uses, including land used or to be used for commercial, agricultural, and  
539 industrial purposes.

540 (c) "Subdivision" does not include:

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

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

544 (A) no new lot is created; and

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

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

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

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

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

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

555 (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other  
556 utility service regeneration, transformation, retransmission, or amplification facility; or

557 (v) a recorded agreement between owners of adjoining subdivided properties adjusting  
558 their mutual boundary if:

559 (A) no new dwelling lot or housing unit will result from the adjustment; and

560 (B) the adjustment will not violate any applicable land use ordinance.

561 (d) The joining of a subdivided parcel of property to another parcel of property that has  
562 not been subdivided does not constitute a subdivision under this Subsection [~~(42)~~] (45) as to  
563 the unsubdivided parcel of property or subject the unsubdivided parcel to the county's  
564 subdivision ordinance.

565 [~~(43)~~] (46) "Township" means a contiguous, geographically defined portion of the  
566 unincorporated area of a county, established under this part or reconstituted or reinstated under  
567 Section 17-27a-306, with planning and zoning functions as exercised through the township  
568 planning commission, as provided in this chapter, but with no legal or political identity  
569 separate from the county and no taxing authority, except that "township" means a former  
570 township under Chapter 308, Laws of Utah 1996 where the context so indicates.

571 [~~(44)~~] (47) "Transferrable development right" means the entitlement to develop land  
572 within a sending zone that would vest according to the county's existing land use ordinances on  
573 the date that a completed land use application is filed seeking the approval of development  
574 activity on the land.

575 [~~(45)~~] (48) "Unincorporated" means the area outside of the incorporated area of a  
576 municipality.

577 [~~(46)~~] (49) "Zoning map" means a map, adopted as part of a land use ordinance, that  
578 depicts land use zones, overlays, or districts.

579 Section 6. Section **17-27a-505** is amended to read:

580 **17-27a-505. Zoning districts.**

581 (1) (a) The legislative body may divide the territory over which it has jurisdiction into  
582 zoning districts of a number, shape, and area that it considers appropriate to carry out the  
583 purposes of this chapter.

584 (b) Within those zoning districts, the legislative body may regulate and restrict the  
585 erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and

586 the use of land.

587 (c) A county may enact an ordinance regulating land use and development in a flood  
 588 plain or potential geologic hazard area to:

589 (i) protect life; and

590 (ii) prevent ~~it~~ :

590a (A) ~~it~~ the substantial loss of ~~it~~ [or damage to] ~~it~~ real property ~~it~~ [;] ; or

590b (B) substantial damage to real property. ~~it~~

591 (2) The legislative body shall ensure that the regulations are uniform for each class or  
 592 kind of buildings throughout each zone, but the regulations in one zone may differ from those  
 593 in other zones.

594 (3) (a) There is no minimum area or diversity of ownership requirement for a zone  
 595 designation.

596 (b) Neither the size of a zoning district nor the number of landowners within the  
 597 district may be used as evidence of the illegality of a zoning district or of the invalidity of a  
 598 county decision.

599 Section 7. Section **17-27a-603** is amended to read:

600 **17-27a-603. Plat required when land is subdivided -- Approval of plat --**  
 601 **Recording plat.**

602 (1) Unless exempt under Section 17-27a-605 or excluded from the definition of  
 603 subdivision under Subsection 17-27a-103[(39)](45), whenever any land is laid out and platted,  
 604 the owner of the land shall provide an accurate plat that describes or specifies:

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

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

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

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

616 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's

617 ordinances and this part and has been approved by the culinary water authority and the sanitary  
618 sewer authority, the county shall approve the plat.

619 (b) Counties are encouraged to receive a recommendation from the fire authority before  
620 approving a plat.

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

624 (4) (a) The owner of the land shall acknowledge the plat before an officer authorized  
625 by law to take the acknowledgment of conveyances of real estate and shall obtain the signature  
626 of each individual designated by the county.

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

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

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

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

633 (c) (i) As applicable, the owner or operator of the underground and utility facilities  
634 shall approve the:

635 (A) boundary, course, dimensions, and intended use of the right-of-way and easement  
636 grants of record;

637 (B) location of existing underground and utility facilities; and

638 (C) conditions or restrictions governing the location of the facilities within the  
639 right-of-way, and easement grants of records, and utility facilities within the subdivision.

640 (ii) The approval of an owner or operator under Subsection (4)(c)(i):

641 (A) indicates only that the plat approximates the location of the existing underground  
642 and utility facilities but does not warrant or verify their precise location; and

643 (B) does not affect a right that the owner or operator has under:

644 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

645 (II) a recorded easement or right-of-way;

646 (III) the law applicable to prescriptive rights; or

647 (IV) any other provision of law.

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

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

653 Section 8. Section **17-27a-703** is amended to read:

654 **17-27a-703. Appealing a land use authority's decision.**

655 (1) The applicant, a board or officer of the county, or any person adversely affected by  
656 the land use authority's decision administering or interpreting a land use ordinance may, within  
657 the time period provided by ordinance, appeal that decision to the appeal authority by alleging  
658 that there is error in any order, requirement, decision, or determination made by the land use  
659 authority in the administration or interpretation of the land use ordinance.

660 (2) (a) An applicant who has appealed a decision of the land use authority  
661 administering or interpreting the county's geologic hazard ordinance may request the county to  
662 assemble a panel of qualified experts to serve as the appeal authority for purposes of  
663 determining the technical aspects of the appeal.

664 (b) If an applicant makes a request under Subsection (2)(a), the county shall assemble  
665 the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the applicant  
666 and county:

667 (i) one expert designated by the county;

668 (ii) one expert designated by the applicant; and

669 (iii) one expert chosen jointly by the county's designated expert and the applicant's  
670 designated expert.

671 (c) A member of the panel assembled by the county under Subsection (2)(b) may not  
672 be associated with the application that is the subject of the appeal.

673 (d) The applicant shall pay:

674 (i) 1/2 of the cost of the panel; and

675 (ii) the municipality's published appeal fee.

**Legislative Review Note**  
as of 1-29-08 2:28 PM

**Office of Legislative Research and General Counsel**

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**Fiscal Note**

**H.B. 177 - County and Municipal Land Use Regulation of Potential Geologic  
Hazard Areas**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill could increase the compliance costs slightly for municipalities who choose to create environmentally restricted zoning districts.

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