

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

4 2008 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Michael T. Morley**

7 Senate Sponsor: Wayne L. Niederhauser

8
9 **LONG TITLE**

10 **General Description:**

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

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ defines terms;
- 16 ▶ authorizes counties and municipalities to enact an ordinance regulating land use and
17 development in a flood plain or potential geologic hazard area to protect life or
18 prevent the substantial loss of or damage to real property; and
- 19 ▶ provides a process for assembling a panel of experts to decide the technical aspects
20 of an appeal of a land use authority's decision administering or interpreting a county
21 or municipal ordinance regulating land use and development in a flood plain or
22 potential geologic hazard area.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **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 district
 43 under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, school district, interlocal
 44 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
 45 public utility, a property owner, a property owners association, or the Utah Department of
 46 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 Management
96 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;

113 (ii) of substantial loss of real property; or

114 (iii) of substantial damage to real property.

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

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

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

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

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

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

128 [~~(17)~~] (19) "Land use permit" means a permit issued by a land use authority.

129 [~~(18)~~] (20) "Legislative body" means the municipal council.

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

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

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

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

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

141 (b) reviewing and approving those minor aspects of identical plans that differ from the

142 previously reviewed and approved building plans.

143 [~~(23)~~] (25) "Noncomplying structure" means a structure that:

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

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

148 [~~(24)~~] (26) "Nonconforming use" means a use of land that:

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

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

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

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

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

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

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

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

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

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

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

- 170 (c) a survey of total residential land use;
- 171 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
- 172 income housing; and
- 173 (e) a description of the city's program to encourage an adequate supply of moderate
- 174 income housing.

175 [~~(28)~~] (30) "Plat" means a map or other graphical representation of lands being laid out

176 and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

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

178 (a) is designated by a Utah Geological Survey map, county geologist map, or other

179 relevant map or report as needing further study to determine the area's potential for geologic

180 hazard; or

181 (b) has not been studied by the Utah Geological Survey or a county geologist but

182 presents the potential of geologic hazard because the area has characteristics similar to those of

183 a designated geologic hazard area.

184 [~~(29)~~] (32) "Public hearing" means a hearing at which members of the public are

185 provided a reasonable opportunity to comment on the subject of the hearing.

186 [~~(30)~~] (33) "Public meeting" means a meeting that is required to be open to the public

187 under Title 52, Chapter 4, Open and Public Meetings Act.

188 [~~(31)~~] (34) "Record of survey map" means a map of a survey of land prepared in

189 accordance with Section 17-23-17.

190 [~~(32)~~] (35) "Receiving zone" means an area of a municipality that the municipality's land

191 use authority designates as an area in which an owner of land may receive transferrable

192 development rights.

193 [~~(33)~~] (36) "Residential facility for elderly persons" means a single-family or

194 multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not

195 include a health care facility as defined by Section 26-21-2.

196 [~~(34)~~] (37) "Residential facility for persons with a disability" means a residence:

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

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

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

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

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

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

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

213 [~~(39)~~] (42) (a) "Subdivision" means any land that is divided, resubdivided or proposed
214 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
215 purpose, whether immediate or future, for offer, sale, lease, or development either on the
216 installment plan or upon any and all other plans, terms, and conditions.

217 (b) "Subdivision" includes:

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

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

223 (c) "Subdivision" does not include:

224 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
225 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither

226 the resulting combined parcel nor the parcel remaining from the division or partition violates an
227 applicable land use ordinance;

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

230 (A) no new lot is created; and

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

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

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

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

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

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

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

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

245 [~~(40)~~ (43) "Transferrable development right" means the entitlement to develop land
246 within a sending zone that would vest according to the municipality's existing land use
247 ordinances on the date that a completed land use application is filed seeking the approval of
248 development activity on the land.

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

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

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

254 **10-9a-505. Zoning districts.**

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

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

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

263 (i) protect life; and

264 (ii) prevent:

265 (A) the substantial loss of real property; or

266 (B) substantial damage to real property.

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

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

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

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

276 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**
277 **acknowledgment, surveyor certification, and underground utility facilities owner**
278 **approval of plat -- Recording plat.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

324 (IV) any other provision of law.

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

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

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

331 **10-9a-703. Appealing a land use authority's decision -- Panel of experts for**
332 **appeals of geologic hazard decisions.**

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

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

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

345 (i) one expert designated by the municipality;

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

347 (iii) one expert chosen jointly by the municipality's designated expert and the applicant's
348 designated expert.

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

351 (d) The applicant shall pay:

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

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

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

355 **17-27a-103. Definitions.**

356 As used in this chapter:

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

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

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

366 (c) the entity has filed with the county a request for notice during the same calendar
367 year and before the county provides notice to an affected entity in compliance with a
368 requirement imposed under this chapter.

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

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

375 (4) "Charter school" includes:

376 (a) an operating charter school;

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

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

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

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

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

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

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

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

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

397 (b) "Disability" does not include current illegal use of, or addiction to, any federally
398 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
399 802.

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

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

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

407 (a) is within the 100-year flood plain designated by the Federal Emergency Management
408 Agency; or

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

413 ~~[(12)]~~ (13) "Gas corporation" has the same meaning as defined in Section 54-2-1.

414 ~~[(13)]~~ (14) "General plan" means a document that a county adopts that sets forth
415 general guidelines for proposed future development of the unincorporated land within the
416 county.

417 (15) "Geologic hazard" means:

418 (a) a surface fault rupture;

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421 (d) a landslide;

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- 424 (g) a rock fall; or
- 425 (h) any other geologic condition that presents a risk:
- 426 (i) to life;
- 427 (ii) of substantial loss of real property; or
- 428 (iii) of substantial damage to real property.

429 ~~[(14)]~~ (16) "Identical plans" means building plans submitted to a county that are
430 substantially identical building plans that were previously submitted to and reviewed and
431 approved by the county and describe a building that is:

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

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

436 ~~[(15)]~~ (17) "Interstate pipeline company" means a person or entity engaged in natural
437 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
438 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

439 ~~[(16)]~~ (18) "Intrastate pipeline company" means a person or entity engaged in natural
440 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
441 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

442 ~~[(17)]~~ (19) "Land use application" means an application required by a county's land use
443 ordinance.

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445 body designated by the local legislative body to act upon a land use application.

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447 subdivision ordinance of the county, but does not include the general plan.

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449 ~~[(21)]~~ (23) "Legislative body" means the county legislative body, or for a county that

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

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452 Government Entities - Local Districts, and any other governmental or quasi-governmental entity
453 that is not a county, municipality, school district, or unit of the state.

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455 a subdivision between two adjoining lots with the consent of the owners of record.

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457 occupancy by households with a gross household income equal to or less than 80% of the
458 median gross income for households of the same size in the county in which the housing is
459 located.

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461 spent and expenses incurred in:

- 462 (a) verifying that building plans are identical plans; and
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464 previously reviewed and approved building plans.

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468 to the setback, height restrictions, or other regulations, excluding those regulations that govern
469 the use of land.

470 ~~[(27)]~~ (29) "Nonconforming use" means a use of land that:

- 471 (a) legally existed before its current land use designation;
- 472 (b) has been maintained continuously since the time the land use ordinance regulation
473 governing the land changed; and
- 474 (c) because of one or more subsequent land use ordinance changes, does not conform
475 to the regulations that now govern the use of the land.

476 ~~[(28)]~~ (30) "Official map" means a map drawn by county authorities and recorded in the
477 county recorder's office that:

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

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

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

484 [~~(29)~~] (31) "Person" means an individual, corporation, partnership, organization,
485 association, trust, governmental agency, or any other legal entity.

486 [~~(30)~~] (32) "Plan for moderate income housing" means a written document adopted by
487 a county legislative body that includes:

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

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

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

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

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

497 [~~(31)~~] (33) "Plat" means a map or other graphical representation of lands being laid out
498 and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

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

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

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

506 [~~(32)~~] (35) "Public hearing" means a hearing at which members of the public are
507 provided a reasonable opportunity to comment on the subject of the hearing.

508 [~~(33)~~] (36) "Public meeting" means a meeting that is required to be open to the public
509 under Title 52, Chapter 4, Open and Public Meetings Act.

510 [~~(34)~~] (37) "Receiving zone" means an unincorporated area of a county that the
511 county's land use authority designates as an area in which an owner of land may receive
512 transferrable development rights.

513 [~~(35)~~] (38) "Record of survey map" means a map of a survey of land prepared in
514 accordance with Section 17-23-17.

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

518 [~~(37)~~] (40) "Residential facility for persons with a disability" means a residence:

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

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

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

524 [~~(38)~~] (41) "Sanitary sewer authority" means the department, agency, or public entity
525 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
526 wastewater systems.

527 [~~(39)~~] (42) "Sending zone" means an unincorporated area of a county that the county's
528 land use authority designates as an area from which an owner of land may transfer transferrable
529 development rights to an owner of land in a receiving zone.

530 [~~(40)~~] (43) "Specified public utility" means an electrical corporation, gas corporation,
531 or telephone corporation, as those terms are defined in Section 54-2-1.

532 [~~(41)~~] (44) "Street" means a public right-of-way, including a highway, avenue,
533 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or

534 other way.

535 [~~(42)~~] (45) (a) "Subdivision" means any land that is divided, resubdivided or proposed
536 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
537 purpose, whether immediate or future, for offer, sale, lease, or development either on the
538 installment plan or upon any and all other plans, terms, and conditions.

539 (b) "Subdivision" includes:

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

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

545 (c) "Subdivision" does not include:

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

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

549 (A) no new lot is created; and

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

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

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

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

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

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

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

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

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

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

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

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

576 [~~(44)~~ (47) "Transferrable development right" means the entitlement to develop land
577 within a sending zone that would vest according to the county's existing land use ordinances on
578 the date that a completed land use application is filed seeking the approval of development
579 activity on the land.

580 [~~(45)~~ (48) "Unincorporated" means the area outside of the incorporated area of a
581 municipality.

582 [~~(46)~~ (49) "Zoning map" means a map, adopted as part of a land use ordinance, that
583 depicts land use zones, overlays, or districts.

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

585 **17-27a-505. Zoning districts.**

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

589 (b) Within those zoning districts, the legislative body may regulate and restrict the

590 erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and
591 the use of land.

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

594 (i) protect life; and

595 (ii) prevent:

596 (A) the substantial loss of real property; or

597 (B) substantial damage to real property.

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

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

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

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

607 **17-27a-603. Plat required when land is subdivided -- Approval of plat --**
608 **Recording plat.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

645 (C) conditions or restrictions governing the location of the facilities within the

646 right-of-way, and easement grants of records, and utility facilities within the subdivision.

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

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

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

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

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

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

654 (IV) any other provision of law.

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

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

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

661 **17-27a-703. Appealing a land use authority's decision -- Panel of experts for**
662 **appeals of geologic hazard decisions.**

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

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

672 (b) If an applicant makes a request under Subsection (2)(a), the county shall assemble
673 the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the applicant

674 and county:

675 (i) one expert designated by the county;

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

677 (iii) one expert chosen jointly by the county's designated expert and the applicant's

678 designated expert.

679 (c) A member of the panel assembled by the county under Subsection (2)(b) may not be

680 associated with the application that is the subject of the appeal.

681 (d) The applicant shall pay:

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

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