

**DEVELOPMENT EXACTIONS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Patrick Painter**

Senate Sponsor: Gregory S. Bell

---

---

**LONG TITLE**

**General Description:**

This bill modifies provisions relating to development exactions of counties and municipalities.

**Highlighted Provisions:**

This bill:

- ▶ enacts a definition of "water interest";
- ▶ places limitations and restrictions on the imposition of an exaction for a water interest by a county, a county's culinary water authority, or a municipality; and
- ▶ requires culinary water authorities to provide the basis for its calculations of projected water interest requirements.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-9a-103**, as last amended by Laws of Utah 2008, Chapters 19, 112, 326, and 360

**10-9a-508**, as last amended by Laws of Utah 2008, Chapter 35

**17-27a-103**, as last amended by Laws of Utah 2008, Chapters 112, 250, 326, and 360

**17-27a-507**, as last amended by Laws of Utah 2008, Chapter 35

---

---

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

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

31 **10-9a-103. Definitions.**

32 As used in this chapter:

33 (1) "Affected entity" means a county, municipality, local district, special service  
34 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal  
35 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,  
36 specified public utility, a property owner, a property owners association, or the Utah  
37 Department of Transportation, if:

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

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

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

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

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

52 (4) "Charter school" includes:

53 (a) an operating charter school;

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

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

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

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

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

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

66 (7) "Culinary water authority" means the department, agency, or public entity with  
67 responsibility to review and approve the feasibility of the culinary water system and sources  
68 for the subject property.

69 (8) "Development activity" means:

70 (a) any construction or expansion of a building, structure, or use that creates additional  
71 demand and need for public facilities;

72 (b) any change in use of a building or structure that creates additional demand and  
73 need for public facilities; or

74 (c) any change in the use of land that creates additional demand and need for public  
75 facilities.

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

79 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
80 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
81 802.

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

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

86 responsibility to review and approve the feasibility of fire protection and suppression services  
87 for the subject property.

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

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

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

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

97 (14) "Geologic hazard" means:

98 (a) a surface fault rupture;

99 (b) shallow groundwater;

100 (c) liquefaction;

101 (d) a landslide;

102 (e) a debris flow;

103 (f) unstable soil;

104 (g) a rock fall; or

105 (h) any other geologic condition that presents a risk:

106 (i) to life;

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

108 (iii) of substantial damage to real property.

109 (15) "Identical plans" means building plans submitted to a municipality that are  
110 substantially identical to building plans that were previously submitted to and reviewed and  
111 approved by the municipality and describe a building that is:

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

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

116 (16) "Improvement assurance" means a surety bond, letter of credit, cash, or other  
117 security:

118 (a) to guaranty the proper completion of an improvement;

119 (b) that is required as a condition precedent to:

120 (i) recording a subdivision plat; or

121 (ii) beginning development activity; and

122 (c) that is offered to a land use authority to induce the land use authority, before actual  
123 construction of required improvements, to:

124 (i) consent to the recording of a subdivision plat; or

125 (ii) issue a permit for development activity.

126 (17) "Improvement assurance warranty" means a promise that the materials and  
127 workmanship of improvements:

128 (a) comport with standards that the municipality has officially adopted; and

129 (b) will not fail in any material respect within a warranty period.

130 (18) "Land use application" means an application required by a municipality's land  
131 use ordinance.

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

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

136 (21) "Land use permit" means a permit issued by a land use authority.

137 (22) "Legislative body" means the municipal council.

138 (23) "Local district" means an entity under Title 17B, Limited Purpose Local  
139 Government Entities - Local Districts, and any other governmental or quasi-governmental  
140 entity that is not a county, municipality, school district, or unit of the state.

141 (24) "Lot line adjustment" means the relocation of the property boundary line in a

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

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

146 (26) "Nominal fee" means a fee that reasonably reimburses a municipality only for  
147 time spent and expenses incurred in:

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

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

151 (27) "Noncomplying structure" means a structure that:

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

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

156 (28) "Nonconforming use" means a use of land that:

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

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

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

162 (29) "Official map" means a map drawn by municipal authorities and recorded in a  
163 county recorder's office that:

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

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

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

170 (30) "Person" means an individual, corporation, partnership, organization, association,  
171 trust, governmental agency, or any other legal entity.

172 (31) "Plan for moderate income housing" means a written document adopted by a city  
173 legislative body that includes:

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

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

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

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

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

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

185 (33) "Potential geologic hazard area" means an area that:

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

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

192 (34) "Public hearing" means a hearing at which members of the public are provided a  
193 reasonable opportunity to comment on the subject of the hearing.

194 (35) "Public meeting" means a meeting that is required to be open to the public under  
195 Title 52, Chapter 4, Open and Public Meetings Act.

196 (36) "Record of survey map" means a map of a survey of land prepared in accordance  
197 with Section 17-23-17.

198 (37) "Receiving zone" means an area of a municipality that the municipality's land use  
199 authority designates as an area in which an owner of land may receive transferrable  
200 development rights.

201 (38) "Residential facility for elderly persons" means a single-family or multiple-family  
202 dwelling unit that meets the requirements of Section 10-9a-516, but does not include a health  
203 care facility as defined by Section 26-21-2.

204 (39) "Residential facility for persons with a disability" means a residence:

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

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

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

210 (40) "Sanitary sewer authority" means the department, agency, or public entity with  
211 responsibility to review and approve the feasibility of sanitary sewer services or onsite  
212 wastewater systems.

213 (41) "Sending zone" means an area of a municipality that the municipality's land use  
214 authority designates as an area from which an owner of land may transfer transferrable  
215 development rights to an owner of land in a receiving zone.

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

218 (43) "Street" means a public right-of-way, including a highway, avenue, boulevard,  
219 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other  
220 way.

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

225 (b) "Subdivision" includes:

- 226 (i) the division or development of land whether by deed, metes and bounds  
227 description, devise and testacy, map, plat, or other recorded instrument; and
- 228 (ii) except as provided in Subsection (44)(c), divisions of land for residential and  
229 nonresidential uses, including land used or to be used for commercial, agricultural, and  
230 industrial purposes.
- 231 (c) "Subdivision" does not include:
- 232 (i) a bona fide division or partition of agricultural land for the purpose of joining one  
233 of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if  
234 neither the resulting combined parcel nor the parcel remaining from the division or partition  
235 violates an applicable land use ordinance;
- 236 (ii) a recorded agreement between owners of adjoining unsubdivided properties  
237 adjusting their mutual boundary if:
- 238 (A) no new lot is created; and  
239 (B) the adjustment does not violate applicable land use ordinances;
- 240 (iii) a recorded document, executed by the owner of record:
- 241 (A) revising the legal description of more than one contiguous unsubdivided parcel of  
242 property into one legal description encompassing all such parcels of property; or  
243 (B) joining a subdivided parcel of property to another parcel of property that has not  
244 been subdivided, if the joinder does not violate applicable land use ordinances; or
- 245 (iv) a recorded agreement between owners of adjoining subdivided properties  
246 adjusting their mutual boundary if:
- 247 (A) no new dwelling lot or housing unit will result from the adjustment; and  
248 (B) the adjustment will not violate any applicable land use ordinance.
- 249 (d) The joining of a subdivided parcel of property to another parcel of property that  
250 has not been subdivided does not constitute a subdivision under this Subsection (44) as to the  
251 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's  
252 subdivision ordinance.
- 253 (45) "Transferrable development right" means the entitlement to develop land within a

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

257 (46) "Unincorporated" means the area outside of the incorporated area of a city or  
258 town.

259 (47) "Water interest" means any right to the beneficial use of water, including:

260 (a) each of the rights listed in Section 73-1-11; and

261 (b) an ownership interest in the right to the beneficial use of water represented by:

262 (i) a contract; or

263 (ii) a share in a water company, as defined in Section 73-3-3.5.

264 [~~47~~] (48) "Zoning map" means a map, adopted as part of a land use ordinance, that  
265 depicts land use zones, overlays, or districts.

266 Section 2. Section **10-9a-508** is amended to read:

267 **10-9a-508. Exactions -- Exaction for water interest -- Requirement to offer to**  
268 **original owner property acquired by exaction.**

269 (1) A municipality may impose an exaction or exactions on development proposed in a  
270 land use application, including, subject to Subsection (2), an exaction for a water interest, if:

271 (a) an essential link exists between a legitimate governmental interest and each  
272 exaction; and

273 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of  
274 the proposed development.

275 (2) (a) (i) A municipality shall base any exaction for a water interest on the culinary  
276 water authority's established calculations of projected water interest requirements.

277 (ii) Upon an applicant's request, the culinary water authority shall provide the  
278 applicant with the basis for the culinary water authority's calculations under Subsection

279 (2)(a)(i) on which an exaction for a water interest is based.

280 (b) A municipality may not impose an exaction for a water interest if the culinary  
281 water authority's existing available water interests exceed the water interests needed to meet

282 the reasonable future water requirement of the public, as determined under Subsection  
283 73-1-4(2)(f).

284 [~~2~~] (3) (a) If a municipality plans to dispose of surplus real property that was  
285 acquired under this section and has been owned by the municipality for less than 15 years, the  
286 municipality shall first offer to reconvey the property, without receiving additional  
287 consideration, to the person who granted the property to the municipality.

288 (b) A person to whom a municipality offers to reconvey property under Subsection  
289 [~~2~~] (3)(a) has 90 days to accept or reject the municipality's offer.

290 (c) If a person to whom a municipality offers to reconvey property declines the offer,  
291 the municipality may offer the property for sale.

292 (d) Subsection [~~2~~] (3)(a) does not apply to the disposal of property acquired by  
293 exaction by a community development [~~or urban~~] and renewal agency.

294 Section 3. Section **17-27a-103** is amended to read:

295 **17-27a-103. Definitions.**

296 As used in this chapter:

297 (1) "Affected entity" means a county, municipality, local district, special service  
298 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal  
299 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,  
300 specified property owner, property owners association, public utility, or the Utah Department  
301 of Transportation, if:

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

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

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

309 (2) "Appeal authority" means the person, board, commission, agency, or other body

310 designated by ordinance to decide an appeal of a decision of a land use application or a  
311 variance.

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

316 (4) "Charter school" includes:

317 (a) an operating charter school;

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

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

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

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

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

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

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

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

335 (9) "Development activity" means:

336 (a) any construction or expansion of a building, structure, or use that creates additional  
337 demand and need for public facilities;

338 (b) any change in use of a building or structure that creates additional demand and  
339 need for public facilities; or

340 (c) any change in the use of land that creates additional demand and need for public  
341 facilities.

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

345 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
346 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
347 802.

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

351 (12) "Fire authority" means the department, agency, or public entity with  
352 responsibility to review and approve the feasibility of fire protection and suppression services  
353 for the subject property.

354 (13) "Flood plain" means land that:

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

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

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

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

364 (16) "Geologic hazard" means:

365 (a) a surface fault rupture;

- 366 (b) shallow groundwater;
- 367 (c) liquefaction;
- 368 (d) a landslide;
- 369 (e) a debris flow;
- 370 (f) unstable soil;
- 371 (g) a rock fall; or
- 372 (h) any other geologic condition that presents a risk:
- 373 (i) to life;
- 374 (ii) of substantial loss of real property; or
- 375 (iii) of substantial damage to real property.
- 376 (17) "Identical plans" means building plans submitted to a county that are
- 377 substantially identical building plans that were previously submitted to and reviewed and
- 378 approved by the county and describe a building that is:
- 379 (a) located on land zoned the same as the land on which the building described in the
- 380 previously approved plans is located; and
- 381 (b) subject to the same geological and meteorological conditions and the same law as
- 382 the building described in the previously approved plans.
- 383 (18) "Improvement assurance" means a surety bond, letter of credit, cash, or other
- 384 security:
- 385 (a) to guaranty the proper completion of an improvement;
- 386 (b) that is required as a condition precedent to:
- 387 (i) recording a subdivision plat; or
- 388 (ii) beginning development activity; and
- 389 (c) that is offered to a land use authority to induce the land use authority, before actual
- 390 construction of required improvements, to:
- 391 (i) consent to the recording of a subdivision plat; or
- 392 (ii) issue a permit for development activity.
- 393 (19) "Improvement assurance warranty" means a promise that the materials and

394 workmanship of improvements:

395 (a) comport with standards that the county has officially adopted; and

396 (b) will not fail in any material respect within a warranty period.

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

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

403 (22) "Land use application" means an application required by a county's land use  
404 ordinance.

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

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

409 (25) "Land use permit" means a permit issued by a land use authority.

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

412 (27) "Local district" means any entity under Title 17B, Limited Purpose Local  
413 Government Entities - Local Districts, and any other governmental or quasi-governmental  
414 entity that is not a county, municipality, school district, or unit of the state.

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

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

420 (30) "Nominal fee" means a fee that reasonably reimburses a county only for time  
421 spent and expenses incurred in:

422 (a) verifying that building plans are identical plans; and  
423 (b) reviewing and approving those minor aspects of identical plans that differ from the  
424 previously reviewed and approved building plans.

425 (31) "Noncomplying structure" means a structure that:

426 (a) legally existed before its current land use designation; and  
427 (b) because of one or more subsequent land use ordinance changes, does not conform  
428 to the setback, height restrictions, or other regulations, excluding those regulations that govern  
429 the use of land.

430 (32) "Nonconforming use" means a use of land that:

431 (a) legally existed before its current land use designation;  
432 (b) has been maintained continuously since the time the land use ordinance regulation  
433 governing the land changed; and  
434 (c) because of one or more subsequent land use ordinance changes, does not conform  
435 to the regulations that now govern the use of the land.

436 (33) "Official map" means a map drawn by county authorities and recorded in the  
437 county recorder's office that:

438 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for  
439 highways and other transportation facilities;  
440 (b) provides a basis for restricting development in designated rights-of-way or between  
441 designated setbacks to allow the government authorities time to purchase or otherwise reserve  
442 the land; and  
443 (c) has been adopted as an element of the county's general plan.

444 (34) "Person" means an individual, corporation, partnership, organization, association,  
445 trust, governmental agency, or any other legal entity.

446 (35) "Plan for moderate income housing" means a written document adopted by a  
447 county legislative body that includes:

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

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

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

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

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

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

459 (37) "Potential geologic hazard area" means an area that:

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

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

466 (38) "Public hearing" means a hearing at which members of the public are provided a  
467 reasonable opportunity to comment on the subject of the hearing.

468 (39) "Public meeting" means a meeting that is required to be open to the public under  
469 Title 52, Chapter 4, Open and Public Meetings Act.

470 (40) "Receiving zone" means an unincorporated area of a county that the county's land  
471 use authority designates as an area in which an owner of land may receive transferrable  
472 development rights.

473 (41) "Record of survey map" means a map of a survey of land prepared in accordance  
474 with Section 17-23-17.

475 (42) "Residential facility for elderly persons" means a single-family or multiple-family  
476 dwelling unit that meets the requirements of Section 17-27a-515, but does not include a health  
477 care facility as defined by Section 26-21-2.

- 478 (43) "Residential facility for persons with a disability" means a residence:  
479 (a) in which more than one person with a disability resides; and  
480 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,  
481 Chapter 2, Licensure of Programs and Facilities; or  
482 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,  
483 Health Care Facility Licensing and Inspection Act.
- 484 (44) "Sanitary sewer authority" means the department, agency, or public entity with  
485 responsibility to review and approve the feasibility of sanitary sewer services or onsite  
486 wastewater systems.
- 487 (45) "Sending zone" means an unincorporated area of a county that the county's land  
488 use authority designates as an area from which an owner of land may transfer transferrable  
489 development rights to an owner of land in a receiving zone.
- 490 (46) "Specified public utility" means an electrical corporation, gas corporation, or  
491 telephone corporation, as those terms are defined in Section 54-2-1.
- 492 (47) "Street" means a public right-of-way, including a highway, avenue, boulevard,  
493 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other  
494 way.
- 495 (48) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be  
496 divided into two or more lots, parcels, sites, units, plots, or other division of land for the  
497 purpose, whether immediate or future, for offer, sale, lease, or development either on the  
498 installment plan or upon any and all other plans, terms, and conditions.
- 499 (b) "Subdivision" includes:  
500 (i) the division or development of land whether by deed, metes and bounds  
501 description, devise and testacy, map, plat, or other recorded instrument; and  
502 (ii) except as provided in Subsection (48)(c), divisions of land for residential and  
503 nonresidential uses, including land used or to be used for commercial, agricultural, and  
504 industrial purposes.
- 505 (c) "Subdivision" does not include:

- 506 (i) a bona fide division or partition of agricultural land for agricultural purposes;
- 507 (ii) a recorded agreement between owners of adjoining properties adjusting their
- 508 mutual boundary if:
  - 509 (A) no new lot is created; and
  - 510 (B) the adjustment does not violate applicable land use ordinances;
- 511 (iii) a recorded document, executed by the owner of record:
  - 512 (A) revising the legal description of more than one contiguous unsubdivided parcel of
  - 513 property into one legal description encompassing all such parcels of property; or
  - 514 (B) joining a subdivided parcel of property to another parcel of property that has not
  - 515 been subdivided, if the joinder does not violate applicable land use ordinances;
- 516 (iv) a bona fide division or partition of land in a county other than a first class county
- 517 for the purpose of siting, on one or more of the resulting separate parcels:
  - 518 (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
  - 519 corporation, interstate pipeline company, or intrastate pipeline company; or
  - 520 (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
  - 521 utility service regeneration, transformation, retransmission, or amplification facility; or
- 522 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
- 523 their mutual boundary if:
  - 524 (A) no new dwelling lot or housing unit will result from the adjustment; and
  - 525 (B) the adjustment will not violate any applicable land use ordinance.
- 526 (d) The joining of a subdivided parcel of property to another parcel of property that
- 527 has not been subdivided does not constitute a subdivision under this Subsection (48) as to the
- 528 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
- 529 ordinance.
- 530 (49) "Township" means a contiguous, geographically defined portion of the
- 531 unincorporated area of a county, established under this part or reconstituted or reinstated under
- 532 Section 17-27a-306, with planning and zoning functions as exercised through the township
- 533 planning commission, as provided in this chapter, but with no legal or political identity

534 separate from the county and no taxing authority, except that "township" means a former  
535 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

536 (50) "Transferrable development right" means the entitlement to develop land within a  
537 sending zone that would vest according to the county's existing land use ordinances on the  
538 date that a completed land use application is filed seeking the approval of development  
539 activity on the land.

540 (51) "Unincorporated" means the area outside of the incorporated area of a  
541 municipality.

542 (52) "Water interest" means any right to the beneficial use of water, including:

543 (a) each of the rights listed in Section 73-1-11; and

544 (b) an ownership interest in the right to the beneficial use of water represented by:

545 (i) a contract; or

546 (ii) a share in a water company, as defined in Section 73-3-3.5.

547 [(52)] (53) "Zoning map" means a map, adopted as part of a land use ordinance, that  
548 depicts land use zones, overlays, or districts.

549 Section 4. Section 17-27a-507 is amended to read:

550 **17-27a-507. Exactions -- Exaction for water interest --Requirement to offer to**  
551 **original owner property acquired by exaction.**

552 (1) A county may impose an exaction or exactions on development proposed in a land  
553 use application [~~provided that~~], including, subject to Subsection (2), an exaction for a water  
554 interest, if:

555 (a) an essential link exists between a legitimate governmental interest and each  
556 exaction; and

557 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of  
558 the proposed development.

559 (2) (a) (i) A county or, if applicable, the county's culinary water authority shall base  
560 any exaction for a water interest on the culinary water authority's established calculations of  
561 projected water interest requirements.

562            (ii) Upon an applicant's request, the culinary water authority shall provide the  
563 applicant with the basis for the culinary water authority's calculations under Subsection  
564 (2)(a)(i) on which an exaction for a water interest is based.

565            (b) A county or its culinary water authority may not impose an exaction for a water  
566 interest if the culinary water authority's existing available water interests exceed the water  
567 interests needed to meet the reasonable future water requirement of the public, as determined  
568 under Subsection 73-1-4(2)(f).

569            [~~2~~] (3) (a) If a county plans to dispose of surplus real property under Section  
570 17-50-312 that was acquired under this section and has been owned by the county for less than  
571 15 years, the county shall first offer to reconvey the property, without receiving additional  
572 consideration, to the person who granted the property to the county.

573            (b) A person to whom a county offers to reconvey property under Subsection [~~2~~]  
574 (3)(a) has 90 days to accept or reject the county's offer.

575            (c) If a person to whom a county offers to reconvey property declines the offer, the  
576 county may offer the property for sale.

577            (d) Subsection [~~2~~] (3)(a) does not apply to the disposal of property acquired by  
578 exaction by a community development or urban renewal agency.