

- 30 ▶ modifies a provision relating to permissible expenditures of impact fees;
- 31 ▶ clarifies that a local political subdivision may act by resolution in establishing an
- 32 administrative impact fee appeals procedure;
- 33 ▶ requires a local political subdivision or private entity to participate in mediation of
- 34 an impact fee challenge if a specified public agency requests mediation; and
- 35 ▶ makes technical changes.

36 **Monies Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 None

40 **Utah Code Sections Affected:**

41 **AMENDS:**

- 42 **10-9a-103**, as last amended by Laws of Utah 2008, Chapters 19, 112, 326, and 360
- 43 **10-9a-305**, as last amended by Laws of Utah 2008, Chapter 290
- 44 **10-9a-509**, as last amended by Laws of Utah 2008, Chapters 112 and 279
- 45 **10-9a-510**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 46 **11-36-102**, as last amended by Laws of Utah 2008, Chapters 70 and 360
- 47 **11-36-201**, as last amended by Laws of Utah 2008, Chapters 70, 360, and 382
- 48 **11-36-202**, as last amended by Laws of Utah 2008, Chapter 70
- 49 **11-36-302**, as enacted by Laws of Utah 1995, First Special Session, Chapter 11
- 50 **11-36-401**, as last amended by Laws of Utah 2005, Chapter 254
- 51 **17-27a-103**, as last amended by Laws of Utah 2008, Chapters 112, 250, 326, and 360
- 52 **17-27a-305**, as last amended by Laws of Utah 2008, Chapter 290
- 53 **17-27a-508**, as last amended by Laws of Utah 2008, Chapters 112 and 279
- 54 **17-27a-509**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 55 **17D-1-106**, as enacted by Laws of Utah 2008, Chapter 360

56 **ENACTS:**

- 57 **11-36-401.5**, Utah Code Annotated 1953

58 **17B-1-118**, Utah Code Annotated 1953

59

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

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

62 **10-9a-103. Definitions.**

63 As used in this chapter:

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

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

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

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

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

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

83 (4) "Charter school" includes:

84 (a) an operating charter school;

85 (b) a charter school applicant that has its application approved by a chartering entity

86 in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

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

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

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

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

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

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

100 (8) "Development activity" means:

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

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

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

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

110 (b) "Disability" does not include current illegal use of, or addiction to, any federally
111 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
112 802.

113 (10) "Elderly person" means a person who is 60 years old or older, who desires or

114 needs to live with other elderly persons in a group setting, but who is capable of living
115 independently.

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

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

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

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

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

128 (14) "Geologic hazard" means:

129 (a) a surface fault rupture;

130 (b) shallow groundwater;

131 (c) liquefaction;

132 (d) a landslide;

133 (e) a debris flow;

134 (f) unstable soil;

135 (g) a rock fall; or

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

137 (i) to life;

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

139 (iii) of substantial damage to real property.

140 (15) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
141 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other

142 utility system.

143 ~~[(15)]~~ (16) "Identical plans" means building plans submitted to a municipality that are
144 substantially identical to building plans that were previously submitted to and reviewed and
145 approved by the municipality and describe a building that is:

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

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

150 (17) "Impact fee" means a payment of money imposed under Title 11, Chapter 36,
151 Impact Fees Act.

152 ~~[(16)]~~ (18) "Improvement assurance" means a surety bond, letter of credit, cash, or
153 other security:

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

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

156 (i) recording a subdivision plat; or

157 (ii) beginning development activity; and

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

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

161 (ii) issue a permit for development activity.

162 ~~[(17)]~~ (19) "Improvement assurance warranty" means a promise that the materials and
163 workmanship of improvements:

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

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

166 ~~[(18)]~~ (20) "Land use application" means an application required by a municipality's
167 land use ordinance.

168 ~~[(19)]~~ (21) "Land use authority" means a person, board, commission, agency, or other
169 body designated by the local legislative body to act upon a land use application.

170 [~~(20)~~] (22) "Land use ordinance" means a planning, zoning, development, or
171 subdivision ordinance of the municipality, but does not include the general plan.

172 [~~(21)~~] (23) "Land use permit" means a permit issued by a land use authority.

173 [~~(22)~~] (24) "Legislative body" means the municipal council.

174 [~~(23)~~] (25) "Local district" means an entity under Title 17B, Limited Purpose Local
175 Government Entities - Local Districts, and any other governmental or quasi-governmental
176 entity that is not a county, municipality, school district, or ~~[unit of]~~ the state.

177 [~~(24)~~] (26) "Lot line adjustment" means the relocation of the property boundary line in
178 a subdivision between two adjoining lots with the consent of the owners of record.

179 [~~(25)~~] (27) "Moderate income housing" means housing occupied or reserved for
180 occupancy by households with a gross household income equal to or less than 80% of the
181 median gross income for households of the same size in the county in which the city is
182 located.

183 [~~(26)~~] (28) "Nominal fee" means a fee that reasonably reimburses a municipality only
184 for time spent and expenses incurred in:

- 185 (a) verifying that building plans are identical plans; and
- 186 (b) reviewing and approving those minor aspects of identical plans that differ from the
187 previously reviewed and approved building plans.

188 [~~(27)~~] (29) "Noncomplying structure" means a structure that:

- 189 (a) legally existed before its current land use designation; and
- 190 (b) because of one or more subsequent land use ordinance changes, does not conform
191 to the setback, height restrictions, or other regulations, excluding those regulations, which
192 govern the use of land.

193 [~~(28)~~] (30) "Nonconforming use" means a use of land that:

- 194 (a) legally existed before its current land use designation;
- 195 (b) has been maintained continuously since the time the land use ordinance governing
196 the land changed; and
- 197 (c) because of one or more subsequent land use ordinance changes, does not conform

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

199 ~~[(29)]~~ (31) "Official map" means a map drawn by municipal authorities and recorded
200 in a county recorder's office that:

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

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

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

207 ~~[(30)]~~ (32) "Person" means an individual, corporation, partnership, organization,
208 association, trust, governmental agency, or any other legal entity.

209 ~~[(31)]~~ (33) "Plan for moderate income housing" means a written document adopted by
210 a city legislative body that includes:

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

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

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

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

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

220 ~~[(32)]~~ (34) "Plat" means a map or other graphical representation of lands being laid
221 out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

222 ~~[(33)]~~ (35) "Potential geologic hazard area" means an area that:

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

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

229 (36) "Public agency" means:

230 (a) the federal government;

231 (b) the state;

232 (c) a county, municipality, school district, local district, special service district, or
233 other political subdivision of the state; or

234 (d) a charter school.

235 [~~34~~] (37) "Public hearing" means a hearing at which members of the public are
236 provided a reasonable opportunity to comment on the subject of the hearing.

237 [~~35~~] (38) "Public meeting" means a meeting that is required to be open to the public
238 under Title 52, Chapter 4, Open and Public Meetings Act.

239 [~~36~~] (39) "Record of survey map" means a map of a survey of land prepared in
240 accordance with Section 17-23-17.

241 [~~37~~] (40) "Receiving zone" means an area of a municipality that the municipality's
242 land use authority designates as an area in which an owner of land may receive transferrable
243 development rights.

244 [~~38~~] (41) "Residential facility for elderly persons" means a single-family or
245 multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not
246 include a health care facility as defined by Section 26-21-2.

247 [~~39~~] (42) "Residential facility for persons with a disability" means a residence:

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

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

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

253 [~~40~~] (43) "Sanitary sewer authority" means the department, agency, or public entity

254 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
255 wastewater systems.

256 ~~[(41)]~~ (44) "Sending zone" means an area of a municipality that the municipality's
257 land use authority designates as an area from which an owner of land may transfer
258 transferrable development rights to an owner of land in a receiving zone.

259 (45) "Specified public agency" means:

260 (a) the state;

261 (b) a school district; or

262 (c) a charter school.

263 ~~[(42)]~~ (46) "Specified public utility" means an electrical corporation, gas corporation,
264 or telephone corporation, as those terms are defined in Section 54-2-1.

265 (47) "State" includes any department, division, or agency of the state.

266 ~~[(43)]~~ (48) "Street" means a public right-of-way, including a highway, avenue,
267 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
268 or other way.

269 ~~[(44)]~~ (49) (a) "Subdivision" means any land that is divided, resubdivided or proposed
270 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
271 purpose, whether immediate or future, for offer, sale, lease, or development either on the
272 installment plan or upon any and all other plans, terms, and conditions.

273 (b) "Subdivision" includes:

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

276 (ii) except as provided in Subsection ~~[(44)]~~ (49)(c), divisions of land for residential
277 and nonresidential uses, including land used or to be used for commercial, agricultural, and
278 industrial purposes.

279 (c) "Subdivision" does not include:

280 (i) a bona fide division or partition of agricultural land for the purpose of joining one
281 of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if

282 neither the resulting combined parcel nor the parcel remaining from the division or partition
283 violates an applicable land use ordinance;

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

286 (A) no new lot is created; and

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

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

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

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

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

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

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

297 (d) The joining of a subdivided parcel of property to another parcel of property that
298 has not been subdivided does not constitute a subdivision under this Subsection [~~(44)~~] (49) as
299 to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
300 subdivision ordinance.

301 [~~(45)~~] (50) "Transferrable development right" means the entitlement to develop land
302 within a sending zone that would vest according to the municipality's existing land use
303 ordinances on the date that a completed land use application is filed seeking the approval of
304 development activity on the land.

305 [~~(46)~~] (51) "Unincorporated" means the area outside of the incorporated area of a city
306 or town.

307 [~~(47)~~] (52) "Zoning map" means a map, adopted as part of a land use ordinance, that
308 depicts land use zones, overlays, or districts.

309 Section 2. Section **10-9a-305** is amended to read:

310 **10-9a-305. Other entities required to conform to municipality's land use**
311 **ordinances -- Exceptions -- School districts and charter schools -- Submission of**
312 **development plan and schedule.**

313 (1) (a) Each county, municipality, school district, charter school, local district, special
314 service district, and political subdivision of the state shall conform to any applicable land use
315 ordinance of any municipality when installing, constructing, operating, or otherwise using any
316 area, land, or building situated within that municipality.

317 (b) In addition to any other remedies provided by law, when a municipality's land use
318 ordinance is violated or about to be violated by another political subdivision, that municipality
319 may institute an injunction, mandamus, abatement, or other appropriate action or proceeding
320 to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

321 (2) (a) Notwithstanding Subsection (1), a public transit district under Title 17B,
322 Chapter 2a, Part 8, Public Transit District Act, is not required to conform to any applicable
323 land use ordinance of a municipality located within the boundaries of a county of the first
324 class when constructing a:

325 (i) rail fixed guideway public transit facility that extends across two or more counties;

326 or

327 (ii) structure that serves a rail fixed guideway public transit facility that extends across
328 two or more counties, including:

329 (A) platforms;

330 (B) passenger terminals or stations;

331 (C) park and ride facilities;

332 (D) maintenance facilities;

333 (E) all related utility lines, roadways, and other facilities serving the public transit
334 facility; or

335 (F) other auxiliary facilities.

336 (b) The exemption from municipal land use ordinances under this Subsection (2) does
337 not extend to any property not necessary for the construction or operation of a rail fixed

338 guideway public transit facility.

339 (c) A municipality located within the boundaries of a county of the first class may not,
340 through an agreement under Title 11, Chapter 3, Interlocal Cooperation Act, require a public
341 transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act, to obtain
342 approval from the municipality prior to constructing a:

343 (i) rail fixed guideway public transit facility that extends across two or more counties;

344 or

345 (ii) structure that serves a rail fixed guideway public transit facility that extends across
346 two or more counties, including:

347 (A) platforms;

348 (B) passenger terminals or stations;

349 (C) park and ride facilities;

350 (D) maintenance facilities;

351 (E) all related utility lines, roadways, and other facilities serving the public transit
352 facility; or

353 (F) other auxiliary facilities.

354 (3) (a) Except as provided in Subsection (4), a school district or charter school is
355 subject to a municipality's land use ordinances.

356 (b) (i) Notwithstanding Subsection (4), a municipality may:

357 (A) subject a charter school to standards within each zone pertaining to setback,
358 height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and
359 construction staging; and

360 (B) impose regulations upon the location of a project that are necessary to avoid
361 unreasonable risks to health or safety, as provided in Subsection (4)(f).

362 (ii) The standards to which a municipality may subject a charter school under
363 Subsection (3)(b)(i) shall be objective standards only and may not be subjective.

364 (iii) Except as provided in Subsection (8)(d), the only basis upon which a municipality
365 may deny or withhold approval of a charter school's land use application is the charter school's

366 failure to comply with a standard imposed under Subsection (3)(b)(i).

367 (iv) Nothing in Subsection (3)(b)(iii) may be construed to relieve a charter school of
368 an obligation to comply with a requirement of an applicable building or safety code to which it
369 is otherwise obligated to comply.

370 (4) A municipality may not:

371 (a) impose requirements for landscaping, fencing, aesthetic considerations,
372 construction methods or materials, additional building inspections, municipal building codes,
373 building use for educational purposes, or the placement or use of temporary classroom
374 facilities on school property;

375 (b) except as otherwise provided in this section, require a school district or charter
376 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
377 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
378 children and not located on or contiguous to school property, unless the roadway or sidewalk
379 is required to connect an otherwise isolated school site to an existing roadway;

380 (c) require a district or charter school to pay fees not authorized by this section;

381 (d) provide for inspection of school construction or assess a fee or other charges for
382 inspection, unless the school district or charter school is unable to provide for inspection by an
383 inspector, other than the project architect or contractor, who is qualified under criteria
384 established by the state superintendent;

385 (e) require a school district or charter school to pay any impact fee for an improvement
386 project unless the impact fee is imposed as provided in Title 11, Chapter 36, Impact Fees Act;
387 or

388 (f) impose regulations upon the location of a project except as necessary to avoid
389 unreasonable risks to health or safety.

390 (5) Subject to Section 53A-20-108, a school district or charter school shall coordinate
391 the siting of a new school with the municipality in which the school is to be located, to:

392 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
393 the impacts between the new school and future highways; and

394 (b) maximize school, student, and site safety.

395 (6) Notwithstanding Subsection (4)(d), a municipality may, at its discretion:

396 (a) provide a walk-through of school construction at no cost and at a time convenient
397 to the district or charter school; and

398 (b) provide recommendations based upon the walk-through.

399 (7) (a) Notwithstanding Subsection (4)(d), a school district or charter school shall use:

400 (i) a municipal building inspector;

401 (ii) (A) for a school district, a school district building inspector from that school
402 district; or

403 (B) for a charter school, a school district building inspector from the school district in
404 which the charter school is located; or

405 (iii) an independent, certified building inspector who is:

406 (A) not an employee of the contractor;

407 (B) approved by:

408 (I) a municipal building inspector; or

409 (II) (Aa) for a school district, a school district building inspector from that school
410 district; or

411 (Bb) for a charter school, a school district building inspector from the school district
412 in which the charter school is located; and

413 (C) licensed to perform the inspection that the inspector is requested to perform.

414 (b) The approval under Subsection (7)(a)(iii)(B) may not be unreasonably withheld.

415 (c) If a school district or charter school uses a school district or independent building
416 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit
417 to the state superintendent of public instruction and municipal building official, on a monthly
418 basis during construction of the school building, a copy of each inspection certificate
419 regarding the school building.

420 (8) (a) A charter school shall be considered a permitted use in all zoning districts
421 within a municipality.

422 (b) Each land use application for any approval required for a charter school, including
423 an application for a building permit, shall be processed on a first priority basis.

424 (c) Parking requirements for a charter school may not exceed the minimum parking
425 requirements for schools or other institutional public uses throughout the municipality.

426 (d) If a municipality has designated zones for a sexually oriented business, or a
427 business which sells alcohol, a charter school may be prohibited from a location which would
428 otherwise defeat the purpose for the zone unless the charter school provides a waiver.

429 (e) (i) A school district or a charter school may seek a certificate authorizing
430 permanent occupancy of a school building from:

431 (A) the state superintendent of public instruction, as provided in Subsection
432 53A-20-104(3), if the school district or charter school used an independent building inspector
433 for inspection of the school building; or

434 (B) a municipal official with authority to issue the certificate, if the school district or
435 charter school used a municipal building inspector for inspection of the school building.

436 (ii) A school district may issue its own certificate authorizing permanent occupancy of
437 a school building if it used its own building inspector for inspection of the school building,
438 subject to the notification requirement of Subsection 53A-20-104(3)(a)(ii).

439 (iii) A charter school may seek a certificate authorizing permanent occupancy of a
440 school building from a school district official with authority to issue the certificate, if the
441 charter school used a school district building inspector for inspection of the school building.

442 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
443 of public instruction under Subsection 53A-20-104(3) or a school district official with
444 authority to issue the certificate shall be considered to satisfy any municipal requirement for
445 an inspection or a certificate of occupancy.

446 (9) (a) A specified public agency intending to develop its land shall submit to the land
447 use authority a development plan and schedule:

448 (i) as early as practicable in the development process, but no later than the
449 commencement of construction; and

- 450 (ii) with sufficient detail to enable the land use authority to assess:
- 451 (A) the specified public agency's compliance with applicable land use ordinances;
- 452 (B) the demand for public facilities listed in Subsections 11-36-102(12)(a), (b), (c),
- 453 (d), (e), and (g) caused by the development;
- 454 (C) the amount of any applicable fee listed in Subsection 10-9a-510(5);
- 455 (D) any credit against an impact fee; and
- 456 (E) the potential for waiving an impact fee.

457 (b) The land use authority shall respond to a specified public agency's submission
458 under Subsection (9)(a) with reasonable promptness in order to allow the specified public
459 agency to consider information the municipality provides under Subsection (9)(a)(ii) in the
460 process of preparing the budget for the development.

461 (10) Nothing in this section may be construed to modify or supersede Section
462 10-9a-304.

463 Section 3. Section **10-9a-509** is amended to read:

464 **10-9a-509. Entitlement to approval of land use application -- High priority**
465 **transportation corridor -- Limitations on municipality -- Vesting upon submission of**
466 **development plan and schedule.**

467 (1) (a) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
468 land use application if the application conforms to the requirements of the municipality's land
469 use maps, zoning map, and applicable land use ordinance in effect when a complete
470 application is submitted and all application fees have been paid, unless:

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

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

476 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
477 of a land use application until the requirements of this Subsection (1)(b) have been met if the

478 land use application relates to land located within the boundaries of a high priority
479 transportation corridor designated in accordance with Section 72-5-403.

480 (ii) (A) A municipality shall notify the executive director of the Department of
481 Transportation of any land use applications that relate to land located within the boundaries of
482 a high priority transportation corridor.

483 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
484 certified or registered mail to the executive director of the Department of Transportation.

485 (iii) Except as provided in Subsection (1)(c), a municipality may not approve a land
486 use application that relates to land located within the boundaries of a high priority
487 transportation corridor until:

488 (A) 30 days after the notification under Subsection (1)(b)(ii) is received by the
489 Department of Transportation if the land use application is for a building permit; or

490 (B) 45 days after the notification under Subsection (1)(b)(ii) is received by the
491 Department of Transportation if the land use application is for any land use other than a
492 building permit.

493 (c) (i) A land use application is exempt from the requirements of Subsection (1)(b) if:

494 (A) the land use application relates to land that was the subject of a previous land use
495 application; and

496 (B) the previous land use application described under Subsection (1)(c)(i)(A)
497 complied with the requirements of Subsection (1)(b).

498 (ii) A municipality may approve a land use application without making the required
499 notifications under Subsection (1)(b) if:

500 (A) the land use application relates to land that was the subject of a previous land use
501 application; and

502 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
503 complied with the requirements of Subsection (1)(b).

504 (d) After a municipality has complied with the requirements of Subsection (1)(b) for a
505 land use application, the municipality may not withhold approval of the land use application

506 for which the applicant is otherwise entitled under Subsection (1)(a).

507 (e) The municipality shall process an application without regard to proceedings
508 initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii) if:

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

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

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

515 (g) The continuing validity of an approval of a land use application is conditioned
516 upon the applicant proceeding after approval to implement the approval with reasonable
517 diligence.

518 (h) A municipality may not impose on a holder of an issued land use permit or
519 approved subdivision plat a requirement that is not expressed:

520 (i) in the land use permit or subdivision plat, documents on which the land use permit
521 or subdivision plat is based, or the written record evidencing approval of the land use permit
522 or subdivision plat; or

523 (ii) in this chapter or the municipality's ordinances.

524 (i) A municipality may not withhold issuance of a certificate of occupancy or
525 acceptance of subdivision improvements because of an applicant's failure to comply with a
526 requirement that is not expressed:

527 (i) in the building permit or subdivision plat, documents on which the building permit
528 or subdivision plat is based, or the written record evidencing approval of the land use permit
529 or subdivision plat; or

530 (ii) in this chapter or the municipality's ordinances.

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

533 (3) Upon a specified public agency's submission of a development plan and schedule

534 as required in Subsection 10-9a-305(9) that complies with the requirements of that subsection,
535 the specified public agency vests in the municipality's applicable land use maps, zoning map,
536 hookup fees, impact fees, other applicable development fees, and land use ordinances in effect
537 on the date of submission.

538 Section 4. Section **10-9a-510** is amended to read:

539 **10-9a-510. Limit on fees.**

540 (1) A municipality may not impose or collect a fee for reviewing or approving the
541 plans for a commercial or residential building that exceeds the lesser of:

- 542 (a) the actual cost of performing the plan review; and
- 543 (b) 65% of the amount the municipality charges for a building permit fee for that
544 building.

545 (2) Subject to Subsection (1), a municipality may impose and collect only a nominal
546 fee for reviewing and approving identical plans.

547 (3) A municipality may not impose or collect a hookup fee that exceeds the reasonable
548 cost of installing and inspecting the pipe, line, meter, and appurtenance to connect to the
549 municipal water, sewer, storm water, power, or other utility system.

550 (4) A municipality may not impose or collect:

- 551 (a) a land use application fee that exceeds the reasonable cost of processing the
552 application; or
- 553 (b) an inspection or review fee that exceeds the reasonable cost of performing the
554 inspection or review.

555 (5) A municipality may not impose on or collect from a public agency any fee
556 associated with the public agency's development of its land other than:

- 557 (a) subject to Subsection (4), a fee for a development service that the public agency
558 does not itself provide;
- 559 (b) subject to Subsection (3), a hookup fee; and
- 560 (c) an impact fee for a public facility listed in Subsection 11-36-102(12)(a), (b), (c),
561 (d), (e), or (g), subject to any applicable credit under Subsection 11-36-202(2)(b).

562 Section 5. Section **11-36-102** is amended to read:

563 **11-36-102. Definitions.**

564 As used in this chapter:

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

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

569 (3) "Development activity" means any construction or expansion of a building,
570 structure, or use, any change in use of a building or structure, or any changes in the use of land
571 that creates additional demand and need for public facilities.

572 (4) "Development approval" means:

573 (a) except as provided in Subsection (4)(b), any written authorization from a local
574 political subdivision that authorizes the commencement of development activity[-]; or

575 (b) development activity, for a public entity that may develop without written
576 authorization from a local political subdivision.

577 (5) "Enactment" means:

578 (a) a municipal ordinance, for a municipality;

579 (b) a county ordinance, for a county; and

580 (c) a governing board resolution, for a local district, special service district, or private
581 entity.

582 (6) "Hookup [~~fees~~] fee" means [~~reasonable fees, not in excess of the approximate~~
583 ~~average costs to the political subdivision, for services provided for and directly attributable to~~
584 ~~the connection to utility services, including] a fee for the installation and inspection of any
585 pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or
586 other [municipal] utility system of a municipality, county, local district, [or] special service
587 district [utility services], or private entity.~~

588 (7) (a) "Impact fee" means a payment of money imposed upon new development
589 activity as a condition of development approval to mitigate the impact of the new development

590 on public facilities.

591 (b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a
592 hookup fee, a fee for project improvements, or other reasonable permit or application fee.

593 (8) (a) "Local political subdivision" means a county, a municipality, a local district
594 under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special
595 service district under Title 17D, Chapter 1, Special Service District Act.

596 (b) "Local political subdivision" does not mean a school district, whose impact fee
597 activity is governed by Section 53A-20-100.5.

598 (9) "Private entity" means an entity with private ownership that provides culinary
599 water that is required to be used as a condition of development.

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

601 (i) planned and designed to provide service for development resulting from a
602 development activity; [~~and~~]

603 (ii) necessary for the use and convenience of the occupants or users of development
604 resulting from a development activity[-]; and

605 (iii) not identified or reimbursed as a system improvement.

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

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

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

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

614 (b) wastewater collection and treatment facilities;

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

616 (d) municipal power facilities;

617 (e) roadway facilities;

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

619 (g) public safety facilities.

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

621 (i) a building constructed or leased to house police, fire, or other public safety entities;

622 or

623 (ii) a fire suppression vehicle with a ladder reach of at least 75 feet, costing in excess

624 of \$1,250,000, that is necessary for fire suppression in commercial areas with one or more

625 buildings at least five stories high.

626 (b) "Public safety facility" does not mean a jail, prison, or other place of involuntary

627 incarceration.

628 (14) (a) "Roadway facilities" means streets or roads that have been designated on an

629 officially adopted subdivision plat, roadway plan, or general plan of a political subdivision,

630 together with all necessary appurtenances.

631 (b) "Roadway facilities" includes associated improvements to federal or state

632 roadways only when the associated improvements:

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

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

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

636 (15) (a) "Service area" means a geographic area designated by a local political

637 subdivision on the basis of sound planning or engineering principles in which a defined set of

638 public facilities provide service within the area.

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

640 (16) "Specified public agency" means:

641 (a) the state;

642 (b) a school district; or

643 (c) a charter school.

644 [~~16~~] (17) (a) "System improvements" means:

645 (i) existing public facilities that are;

646 (A) identified in the impact fee analysis under Section 11-36-201; and
 647 (B) designed to provide services to service areas within the community at large; and
 648 (ii) future public facilities identified in [a capital facilities plan] the impact fee
 649 analysis under Section 11-36-201 that are intended to provide services to service areas within
 650 the community at large.

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

652 Section 6. Section **11-36-201** is amended to read:

653 **11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan --**
 654 **Summary -- Exemptions.**

655 (1) (a) (i) Each local political subdivision and private entity shall comply with the
 656 requirements of this chapter before establishing or modifying any impact fee.

657 (ii) A fee that meets the definition of impact fee under Section 11-36-102 is an impact
 658 fee subject to this chapter, regardless of what term the local political subdivision or private
 659 entity uses to refer to the fee.

660 (iii) A local political subdivision or private entity may not avoid application of this
 661 chapter to a fee that meets the definition of an impact fee under Section 11-36-102 by
 662 referring to the fee by another name.

663 (b) A local political subdivision may not:

664 (i) establish any new impact fees that are not authorized by this chapter; or

665 (ii) impose or charge any other fees as a condition of development approval unless
 666 those fees are a reasonable charge for the service provided.

667 (c) Notwithstanding any other requirements of this chapter, each local political
 668 subdivision shall ensure that each existing impact fee that is charged for any public facility not
 669 authorized by Subsection 11-36-102(12) is repealed by July 1, 1995.

670 ~~[(d) (i) Existing impact fees that a local political subdivision charges for public~~
 671 ~~facilities authorized in Subsection 11-36-102(12) need not comply with the requirements of~~
 672 ~~this chapter until July 1, 1997.]~~

673 ~~[(ii) By July 1, 1997, each local political subdivision shall:]~~

674 ~~[(A) review any impact fees in existence as of the effective date of this act, and~~
675 ~~prepare and approve the analysis required by this section for each of those impact fees; and]~~

676 ~~[(B)]~~ (d) Each local political subdivision shall ensure that the impact fees comply with
677 the requirements of this chapter.

678 (2) (a) Before imposing impact fees, each local political subdivision and private entity
679 shall, except as provided in Subsection (2)(f), prepare a capital facilities plan to determine the
680 public facilities required to serve development resulting from new development activity.

681 (b) (i) As used in this Subsection (2)(b):

682 (A) (I) "Affected entity" means each county, municipality, local district under Title
683 17B, Limited Purpose Local Government Entities - Local Districts, special service district
684 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation
685 entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

686 (Aa) whose services or facilities are likely to require expansion or significant
687 modification because of the facilities proposed in the proposed capital facilities plan; or

688 (Bb) that has filed with the local political subdivision or private entity a copy of the
689 general or long-range plan of the county, municipality, local district, special service district,
690 school district, interlocal cooperation entity, or specified public utility.

691 (II) "Affected entity" does not include the local political subdivision or private entity
692 that is required under this Subsection (2) to provide notice.

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

695 (ii) Before preparing or amending a capital facilities plan, each local political
696 subdivision and each private entity shall provide written notice, as provided in this Subsection
697 (2)(b), of its intent to prepare or amend a capital facilities plan.

698 (iii) Each notice under Subsection (2)(b)(ii) shall:

699 (A) indicate that the local political subdivision or private entity intends to prepare or
700 amend a capital facilities plan;

701 (B) describe or provide a map of the geographic area where the proposed capital

702 facilities will be located;

703 (C) be sent to:

704 (I) each county in whose unincorporated area and each municipality in whose
705 boundaries is located the land on which the proposed facilities will be located;

706 (II) each affected entity;

707 (III) the Automated Geographic Reference Center created in Section 63F-1-506;

708 (IV) the association of governments, established pursuant to an interlocal agreement
709 under Title 11, Chapter 13, Interlocal Cooperation Act, in which the facilities are proposed to
710 be located;

711 (V) the state planning coordinator appointed under Section 63J-4-202;

712 (VI) the registered agent of the Utah Home Builders Association;

713 (VII) the registered agent of the Utah Association of Realtors; and

714 (VIII) the registered agent of the Utah Chapter of the Associated General Contractors
715 of America; and

716 (D) with respect to the notice to an affected entity, invite the affected entity to provide
717 information for the local political subdivision or private entity to consider in the process of
718 preparing, adopting, and implementing or amending a capital facilities plan concerning:

719 (I) impacts that the facilities proposed in the capital facilities plan may have on the
720 affected entity; and

721 (II) facilities or uses of land that the affected entity is planning or considering that may
722 conflict with the facilities proposed in the capital facilities plan.

723 (c) The plan shall identify:

724 (i) demands placed upon existing public facilities by new development activity; and

725 (ii) the proposed means by which the local political subdivision will meet those
726 demands.

727 (d) A municipality or county need not prepare a separate capital facilities plan if the
728 general plan required by Section 10-9a-401 or 17-27a-401, respectively, contains the elements
729 required by Subsection (2)(c).

730 (e) (i) If a local political subdivision chooses to prepare an independent capital
731 facilities plan rather than include a capital facilities element in the general plan, the local
732 political subdivision shall:

733 (A) before preparing or contracting to prepare or amending or contracting to amend
734 the independent capital facilities plan, send written notice:

735 (I) to:

736 (Aa) the registered agent of the Utah Home Builders Association;

737 (Bb) the registered agent of the Utah Association of Realtors; and

738 (Cc) the registered agent of the Utah Chapter of the Associated General Contractors of
739 America;

740 (II) stating the local political subdivision's intent to prepare or amend a capital
741 facilities plan; and

742 (III) inviting each of the notice recipients to participate in the preparation of or
743 amendment to the capital facilities plan; and

744 (B) before adopting or amending the capital facilities plan:

745 (I) give public notice of the plan or amendment according to Subsection (2)(e)(ii)(A),
746 (B), or (C), as the case may be, at least 14 days before the date of the public hearing;

747 (II) make a copy of the plan or amendment, together with a summary designed to be
748 understood by a lay person, available to the public;

749 (III) place a copy of the plan or amendment and summary in each public library within
750 the local political subdivision; and

751 (IV) hold a public hearing to hear public comment on the plan or amendment.

752 (ii) With respect to the public notice required under Subsection (2)(e)(i)(B)(I):

753 (A) each municipality shall comply with the notice and hearing requirements of, and,
754 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections
755 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);

756 (B) each county shall comply with the notice and hearing requirements of, and, except
757 as provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and

758 17-27a-801 and Subsection 17-27a-502(2); and

759 (C) each local district, special service district, and private entity shall comply with the
760 notice and hearing requirements of, and receive the protections of, Section 17B-1-111.

761 (iii) Nothing contained in this Subsection (2)(e) or in the subsections referenced in
762 Subsections (2)(e)(ii)(A) and (B) may be construed to require involvement by a planning
763 commission in the capital facilities planning process.

764 (f) (i) A local political subdivision with a population or serving a population of less
765 than 5,000 as of the last federal census need not comply with the capital facilities plan
766 requirements of this part, but shall ensure that:

767 (A) the impact fees that the local political subdivision imposes are based upon a
768 reasonable plan; and

769 (B) each applicable notice required by this chapter is given.

770 (ii) Subsection (2)(f)(i) does not apply to private entities.

771 (3) In preparing the plan, each local political subdivision shall generally consider all
772 revenue sources, including impact fees and anticipated dedication of system improvements, to
773 finance the impacts on system improvements.

774 (4) A local political subdivision or private entity may only impose impact fees on
775 development activities when its plan for financing system improvements establishes that
776 impact fees are necessary to achieve an equitable allocation to the costs borne in the past and
777 to be borne in the future, in comparison to the benefits already received and yet to be received.

778 (5) (a) Subject to the notice requirement of Subsection (5)(b), each local political
779 subdivision and private entity intending to impose an impact fee shall prepare a written
780 analysis of each impact fee that:

781 (i) identifies the anticipated impact on or consumption of any existing capacity of a
782 public facility by the anticipated development activity;

783 [(†)] (ii) identifies the anticipated impact on system improvements required by the
784 anticipated development activity to maintain the established level of service for each public
785 facility;

786 [(ii)] (iii) demonstrates how those anticipated impacts [~~on system improvements~~] are
 787 reasonably related to the anticipated development activity;

788 [(iii)] (iv) estimates the proportionate share of:
 789 (A) the costs for existing capacity that will be recouped; and
 790 (B) the costs of impacts on system improvements that are reasonably related to the
 791 new development activity; and

792 (iv) based upon those factors and the requirements of this chapter, identifies how the
 793 impact fee was calculated.

794 (b) Before preparing or contracting to prepare the written analysis required under
 795 Subsection (5)(a), each local political subdivision or private entity shall provide:

796 (i) public notice; and

797 (ii) written notice:

798 (A) to:

799 (I) the registered agent of the Utah Home Builders Association;

800 (II) the registered agent of the Utah Association of Realtors; and

801 (III) the registered agent of the Utah Chapter of the Associated General Contractors of
 802 America;

803 (B) indicating the local political subdivision or private entity's intent to prepare or
 804 contract to prepare a written analysis of an impact fee; and

805 (C) inviting each notice recipient to participate in the preparation of the written
 806 analysis.

807 (c) In analyzing whether or not the proportionate share of the costs of public facilities
 808 are reasonably related to the new development activity, the local political subdivision or
 809 private entity, as the case may be, shall identify, if applicable:

810 (i) the cost of each existing public [~~facilities~~] facility that has excess capacity to serve
 811 the anticipated development resulting from the new development activity;

812 (ii) the cost of system improvements for each public facility;

813 [(ii)] (iii) other than impact fees, the manner of financing [~~existing~~] each public

814 [~~facilities~~] facility, such as user charges, special assessments, bonded indebtedness, general
815 taxes, or federal grants;

816 [~~(iii)~~] (iv) the relative extent to which [~~the newly developed properties and other~~
817 ~~properties have already contributed to the cost of~~] development activity will contribute to
818 financing the excess capacity of and system improvements for each existing public [~~facilities~~]
819 facility, by such means as user charges, special assessments, or payment from the proceeds of
820 general taxes;

821 [~~(iv)~~] (v) the relative extent to which [~~the newly developed properties and other~~
822 ~~properties~~] development activity will contribute to the cost of existing public facilities and
823 system improvements in the future;

824 [~~(v)~~] (vi) the extent to which the [~~newly developed properties are~~] development
825 activity is entitled to a credit against impact fees because the [~~local political subdivision or~~
826 ~~private entity, as the case may be, requires its developers or owners, by contractual~~
827 ~~arrangement or otherwise, to provide common facilities~~] development activity will dedicate
828 system improvements or public facilities that will offset the demand for system improvements,
829 inside or outside the proposed development [~~, that have been provided by the local political~~
830 ~~subdivision or private entity, respectively, and financed through general taxation or other~~
831 ~~means, apart from user charges, in other parts of the service area~~];

832 [~~(vi)~~] (vii) extraordinary costs, if any, in servicing the newly developed properties; and

833 [~~(vii)~~] (viii) the time-price differential inherent in fair comparisons of amounts paid at
834 different times.

835 (d) Each local political subdivision and private entity that prepares a written analysis
836 under this Subsection (5) on or after July 1, 2000 shall also prepare a summary of the written
837 analysis, designed to be understood by a lay person.

838 (6) Each local political subdivision that adopts an impact fee enactment under Section
839 11-36-202 on or after July 1, 2000 shall, at least 14 days before adopting the enactment,
840 submit a copy of the written analysis required by Subsection (5)(a) and a copy of the
841 summary required by Subsection (5)(d) to:

- 842 (a) each public library within the local political subdivision;
- 843 (b) the registered agent of the Utah Home Builders Association;
- 844 (c) the registered agent of the Utah Association of Realtors; and
- 845 (d) the registered agent of the Utah Chapter of the Associated General Contractors of
- 846 America.

847 (7) Nothing in this chapter may be construed to repeal or otherwise eliminate any
848 impact fee in effect on the effective date of this chapter that is pledged as a source of revenues
849 to pay bonded indebtedness that was incurred before the effective date of this chapter.

850 Section 7. Section **11-36-202** is amended to read:

851 **11-36-202. Impact fees -- Enactment -- Required provisions -- Effective date.**

852 (1) (a) Each local political subdivision and private entity wishing to impose impact
853 fees shall pass an impact fee enactment.

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

856 (c) In calculating the impact fee, a local political subdivision or private entity may
857 include:

- 858 (i) the construction contract price;
- 859 (ii) the cost of acquiring land, improvements, materials, and fixtures;
- 860 (iii) the cost for planning, surveying, and engineering fees for services provided for
861 and directly related to the construction of the system improvements; and
- 862 (iv) debt service charges, if the political subdivision might use impact fees as a
863 revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to
864 finance the costs of the system improvements.

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

- 868 (i) generally accepted cost accounting practices; and
- 869 (ii) the methodological standards set forth by the federal Office of Management and

870 Budget for federal grant reimbursement.

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

874 (f) Each local political subdivision and private entity that intends to enact an impact
875 fee enactment shall:

876 (i) at least 14 days before the date of the public hearing:

877 (A) make a copy of the impact fee enactment available to the public; and

878 (B) mail a written copy of the impact fee enactment to:

879 (I) the registered agent of the Utah Home Builders Association;

880 (II) the registered agent of the Utah Association of Realtors; and

881 (III) the registered agent of the Utah Chapter of the Associated General Contractors of
882 America; and

883 (ii) (A) for a municipality, comply with the notice and hearing requirements of, and,
884 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections
885 10-9a-205 and 10-9a-801;

886 (B) for a county, comply with the notice and hearing requirements of, and, except as
887 provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and
888 17-27a-801; and

889 (C) for a local district or special service district, comply with the notice and hearing
890 requirements of, and receive the protections of, Section 17B-1-111.

891 (g) Nothing contained in Subsection (1)(f) may be construed to require involvement
892 by a planning commission in the impact fee enactment process.

893 (2) The local political subdivision or private entity shall ensure that the impact fee
894 enactment:

895 (a) contains:

896 (i) a provision establishing one or more service areas within which the local political
897 subdivision or private entity calculates and imposes impact fees for various land use

898 categories;

899 (ii) (A) a schedule of impact fees for each type of development activity that specifies
900 the amount of the impact fee to be imposed for each type of system improvement; or
901 (B) the formula that the local political subdivision or private entity, as the case may
902 be, will use to calculate each impact fee;

903 (iii) a provision authorizing the local political subdivision or private entity, as the case
904 may be, to adjust the standard impact fee at the time the fee is charged to:

905 (A) respond to:

906 (I) unusual circumstances in specific cases; [and] or
907 (II) a request for a prompt and individualized impact fee review for the development
908 activity of the state or a school district or charter school; and

909 (B) ensure that the impact fees are imposed fairly; and

910 (iv) a provision governing calculation of the amount of the impact fee to be imposed
911 on a particular development that permits adjustment of the amount of the fee based upon
912 studies and data submitted by the developer; and

913 (b) allows a developer to receive a credit against or proportionate reimbursement of an
914 impact fee if:

915 (i) ~~the developer [is required by the local political subdivision, as a condition of~~
916 ~~development activity approval, to]:~~

917 (A) ~~[dedicate]~~ dedicates land for a system improvement;

918 (B) ~~[improve]~~ builds and dedicates some or all of a system improvement; or

919 (C) ~~[provide new construction]~~ dedicates a public facility that the local political
920 subdivision or private entity and the developer agree will reduce the need for a system
921 improvement[;].

922 ~~[(ii) the system improvement is included in the impact fee analysis; and]~~

923 ~~[(iii) the land, improvement, or new construction provides a system improvement that~~
924 ~~exceeds the requirements for the project.]~~

925 (3) A local political subdivision or private entity may include a provision in an impact

926 fee enactment that:

927 (a) provides an impact fee exemption for:

928 (i) development activity attributable to:

929 ~~[(a) exempts] (A) low income housing [and];~~

930 (B) the state;

931 (C) a school district; or

932 (D) a charter school; or

933 (ii) other development [activities] activity with a broad public [purposes from impact
934 fees] purpose; and

935 (b) establishes one or more sources of funds other than impact fees to pay for that
936 development activity[;].

937 ~~[(b) imposes an impact fee for public facility costs previously incurred by a local~~
938 ~~political subdivision or private entity, as the case may be, to the extent that new growth and~~
939 ~~development will be served by the previously constructed improvement; and]~~

940 ~~[(c) allows] (4) A local political subdivision or private entity shall include a provision~~
941 in an impact fee enactment that requires a credit against impact fees for any dedication of land
942 for, improvement to, or new construction of, any system improvements provided by the
943 developer if the facilities:

944 ~~[(i) are identified in the capital facilities plan; and]~~

945 ~~[(ii) are required by the local political subdivision as a condition of approving the~~
946 ~~development activity.]~~

947 (a) are system improvements; or

948 (b) (i) are dedicated to the public; and

949 (ii) offset the need for an identified system improvement.

950 ~~[(4)] (5) [Except as provided in Subsection (3)(b), the] A local political subdivision~~
951 may not impose an impact fee to:

952 (a) cure deficiencies in a public [facilities] facility serving existing development[-]; or

953 (b) raise the established level of service of a public facility serving existing

954 development.

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

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

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

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

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

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

966 (iii) requiring the legislative body to:

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

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

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

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

974 [~~(7)~~] (6) Notwithstanding any other provision of this chapter:

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

977 (b) an impact fee to pay for a public safety facility that is a fire suppression vehicle
978 may not be imposed with respect to land that has a zoning designation other than
979 commercial[-];

980 (c) an impact fee for a road facility may be imposed on the state only if and to the
981 extent that:

- 982 (i) the state's development causes an impact on the road facility; and
- 983 (ii) the portion of the road facility related to an impact fee is not funded by the state or
- 984 by the federal government; and
- 985 (d) to the extent that the impact fee includes a component for a law enforcement
- 986 facility, the impact fee may not be imposed on development activity for:
- 987 (i) the Utah National Guard;
- 988 (ii) the Utah Highway Patrol; or
- 989 (iii) a state institution of higher education that has its own police force.

990 ~~[(8)]~~ (7) Notwithstanding any other provision of this chapter, a local political
 991 subdivision may impose and collect impact fees on behalf of a school district if authorized by
 992 Section 53A-20-100.5.

993 ~~[(9)]~~ (8) An impact fee enactment may not take effect until 90 days after it is enacted.
 994 Section 8. Section **11-36-302** is amended to read:

995 **11-36-302. Impact fees -- Expenditure.**

996 (1) A local political subdivision may expend impact fees only for a system
 997 improvement:

998 (a) ~~[system improvements for public facilities]~~ identified in the capital facilities plan;
 999 and

1000 (b) ~~[system improvements]~~ for the specific public facility type for which the fee was
 1001 collected.

1002 (2) (a) Except as provided in Subsection ~~(2)~~(b), a local political subdivision shall
 1003 expend or encumber the impact fees for a permissible use within six years of their receipt.

1004 (b) A local political subdivision may hold the fees for longer than six years if it
 1005 identifies, in writing:

1006 (i) an extraordinary and compelling reason why the fees should be held longer than six
 1007 years; and

1008 (ii) an absolute date by which the fees will be expended.

1009 Section 9. Section **11-36-401** is amended to read:

1010 **11-36-401. Impact fees -- Challenges -- Appeals.**

1011 (1) Any person or entity residing in or owning property within a service area, and any
1012 organization, association, or corporation representing the interests of persons or entities
1013 owning property within a service area, may file a declaratory judgment action challenging the
1014 validity of the fee.

1015 (2) (a) Any person or entity required to pay an impact fee who believes the fee does
1016 not meet the requirements of law may file a written request for information with the local
1017 political subdivision who established the fee.

1018 (b) Within two weeks ~~[of]~~ after the receipt of the request for information, the local
1019 political subdivision shall provide the person or entity with the written analysis required by
1020 Section 11-36-201, the capital facilities plan, and with any other relevant information relating
1021 to the impact fee.

1022 (3) (a) Any local political subdivision may establish, by ordinance or resolution, an
1023 administrative appeals procedure to consider and decide challenges to impact fees.

1024 (b) If the local political subdivision establishes an administrative appeals procedure,
1025 the local political subdivision shall ensure that the procedure includes a requirement that the
1026 local political subdivision make its decision no later than 30 days after the date the challenge
1027 to the impact fee is filed.

1028 (4) (a) In addition to the method of challenging an impact fee under Subsection (1), a
1029 person or entity that has paid an impact fee that was imposed by a local political subdivision
1030 may challenge:

1031 (i) if the impact fee enactment was adopted on or after July 1, 2000:

1032 (A) whether the local political subdivision complied with the notice requirements of
1033 this chapter with respect to the imposition of the impact fee; and

1034 (B) whether the local political subdivision complied with other procedural
1035 requirements of this chapter for imposing the impact fee; and

1036 (ii) except as limited by Subsection (4)(a)(i), the impact fee.

1037 (b) A challenge under Subsection (4)(a) may not be initiated unless it is initiated

1038 within:

1039 (i) for a challenge under Subsection (4)(a)(i)(A), 30 days after the person or entity
1040 pays the impact fee;

1041 (ii) for a challenge under Subsection (4)(a)(i)(B), 180 days after the person or entity
1042 pays the impact fee; or

1043 (iii) for a challenge under Subsection (4)(a)(ii), one year after the person or entity pays
1044 the impact fee.

1045 (c) A challenge under Subsection (4)(a) is initiated by filing:

1046 (i) if the local political subdivision has established an administrative appeals
1047 procedure under Subsection (3), the necessary document, under the administrative appeals
1048 procedure, for initiating the administrative appeal;

1049 (ii) a request for arbitration as provided in Subsection 11-36-402(1); or

1050 (iii) an action in district court.

1051 (d) (i) The sole remedy for a challenge under Subsection (4)(a)(i)(A) is the equitable
1052 remedy of requiring the local political subdivision to correct the defective notice and repeat
1053 the process.

1054 (ii) The sole remedy for a challenge under Subsection (4)(a)(i)(B) is the equitable
1055 remedy of requiring the local political subdivision to correct the defective process.

1056 (iii) The sole remedy for a challenge under Subsection (4)(a)(ii) is a refund of the
1057 difference between what the person or entity paid as an impact fee and the amount the impact
1058 fee should have been if it had been correctly calculated.

1059 (e) Nothing in this Subsection (4) may be construed as requiring a person or entity to
1060 exhaust administrative remedies with the local political subdivision before filing an action in
1061 district court under this Subsection (4).

1062 (f) The protections given to a municipality under Section 10-9a-801 and to a county
1063 under Section 17-27a-801 do not apply in a challenge under Subsection (4)(a)(i)(A).

1064 (5) The judge may award reasonable attorneys' fees and costs to the prevailing party in
1065 any action brought under this section.

1066 (6) Nothing in this chapter may be construed as restricting or limiting any rights to
1067 challenge impact fees that were paid before the effective date of this chapter.

1068 Section 10. Section **11-36-401.5** is enacted to read:

1069 **11-36-401.5. Mediation.**

1070 (1) In addition to the methods of challenging an impact fee under Section 11-36-401, a
1071 specified public agency may require a local political subdivision or private entity to participate
1072 in mediation of any applicable fee.

1073 (2) To require mediation, the specified public agency shall submit a written request for
1074 mediation to the local political subdivision or private entity.

1075 (3) The specified public agency may submit a request for mediation under this section
1076 at any time, but no later than 30 days after the impact fee is paid.

1077 (4) Upon the submission of a request for mediation under this section, the local
1078 political subdivision or private entity shall:

1079 (a) cooperate with the specified public agency in the selection of a mediator; and

1080 (b) participate in the mediation process.

1081 Section 11. Section **17-27a-103** is amended to read:

1082 **17-27a-103. Definitions.**

1083 As used in this chapter:

1084 (1) "Affected entity" means a county, municipality, local district, special service
1085 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
1086 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
1087 specified property owner, property owners association, public utility, or the Utah Department
1088 of Transportation, if:

1089 (a) the entity's services or facilities are likely to require expansion or significant
1090 modification because of an intended use of land;

1091 (b) the entity has filed with the county a copy of the entity's general or long-range
1092 plan; or

1093 (c) the entity has filed with the county a request for notice during the same calendar

1094 year and before the county provides notice to an affected entity in compliance with a
1095 requirement imposed under this chapter.

1096 (2) "Appeal authority" means the person, board, commission, agency, or other body
1097 designated by ordinance to decide an appeal of a decision of a land use application or a
1098 variance.

1099 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
1100 residential property if the sign is designed or intended to direct attention to a business,
1101 product, or service that is not sold, offered, or existing on the property where the sign is
1102 located.

1103 (4) "Charter school" includes:

1104 (a) an operating charter school;

1105 (b) a charter school applicant that has its application approved by a chartering entity
1106 in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

1107 (c) an entity who is working on behalf of a charter school or approved charter
1108 applicant to develop or construct a charter school building.

1109 (5) "Chief executive officer" means the person or body that exercises the executive
1110 powers of the county.

1111 (6) "Conditional use" means a land use that, because of its unique characteristics or
1112 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
1113 compatible in some areas or may be compatible only if certain conditions are required that
1114 mitigate or eliminate the detrimental impacts.

1115 (7) "Constitutional taking" means a governmental action that results in a taking of
1116 private property so that compensation to the owner of the property is required by the:

1117 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

1118 (b) Utah Constitution Article I, Section 22.

1119 (8) "Culinary water authority" means the department, agency, or public entity with
1120 responsibility to review and approve the feasibility of the culinary water system and sources
1121 for the subject property.

- 1122 (9) "Development activity" means:
- 1123 (a) any construction or expansion of a building, structure, or use that creates additional
1124 demand and need for public facilities;
- 1125 (b) any change in use of a building or structure that creates additional demand and
1126 need for public facilities; or
- 1127 (c) any change in the use of land that creates additional demand and need for public
1128 facilities.
- 1129 (10) (a) "Disability" means a physical or mental impairment that substantially limits
1130 one or more of a person's major life activities, including a person having a record of such an
1131 impairment or being regarded as having such an impairment.
- 1132 (b) "Disability" does not include current illegal use of, or addiction to, any federally
1133 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
1134 802.
- 1135 (11) "Elderly person" means a person who is 60 years old or older, who desires or
1136 needs to live with other elderly persons in a group setting, but who is capable of living
1137 independently.
- 1138 (12) "Fire authority" means the department, agency, or public entity with
1139 responsibility to review and approve the feasibility of fire protection and suppression services
1140 for the subject property.
- 1141 (13) "Flood plain" means land that:
- 1142 (a) is within the 100-year flood plain designated by the Federal Emergency
1143 Management Agency; or
- 1144 (b) has not been studied or designated by the Federal Emergency Management Agency
1145 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event
1146 because the land has characteristics that are similar to those of a 100-year flood plain
1147 designated by the Federal Emergency Management Agency.
- 1148 (14) "Gas corporation" has the same meaning as defined in Section 54-2-1.
- 1149 (15) "General plan" means a document that a county adopts that sets forth general

1150 guidelines for proposed future development of the unincorporated land within the county.

1151 (16) "Geologic hazard" means:

1152 (a) a surface fault rupture;

1153 (b) shallow groundwater;

1154 (c) liquefaction;

1155 (d) a landslide;

1156 (e) a debris flow;

1157 (f) unstable soil;

1158 (g) a rock fall; or

1159 (h) any other geologic condition that presents a risk:

1160 (i) to life;

1161 (ii) of substantial loss of real property; or

1162 (iii) of substantial damage to real property.

1163 (17) "Hookup fee" means a fee for the installation and inspection of any pipe, line,

1164 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility

1165 system.

1166 [~~17~~] (18) "Identical plans" means building plans submitted to a county that are

1167 substantially identical building plans that were previously submitted to and reviewed and

1168 approved by the county and describe a building that is:

1169 (a) located on land zoned the same as the land on which the building described in the
1170 previously approved plans is located; and

1171 (b) subject to the same geological and meteorological conditions and the same law as
1172 the building described in the previously approved plans.

1173 (19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36,

1174 Impact Fees Act.

1175 [~~18~~] (20) "Improvement assurance" means a surety bond, letter of credit, cash, or
1176 other security:

1177 (a) to guaranty the proper completion of an improvement;

1178 (b) that is required as a condition precedent to:
1179 (i) recording a subdivision plat; or
1180 (ii) beginning development activity; and
1181 (c) that is offered to a land use authority to induce the land use authority, before actual
1182 construction of required improvements, to:
1183 (i) consent to the recording of a subdivision plat; or
1184 (ii) issue a permit for development activity.
1185 [~~19~~] (21) "Improvement assurance warranty" means a promise that the materials and
1186 workmanship of improvements:
1187 (a) comport with standards that the county has officially adopted; and
1188 (b) will not fail in any material respect within a warranty period.
1189 [~~20~~] (22) "Interstate pipeline company" means a person or entity engaged in natural
1190 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
1191 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
1192 [~~21~~] (23) "Intrastate pipeline company" means a person or entity engaged in natural
1193 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
1194 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
1195 [~~22~~] (24) "Land use application" means an application required by a county's land
1196 use ordinance.
1197 [~~23~~] (25) "Land use authority" means a person, board, commission, agency, or other
1198 body designated by the local legislative body to act upon a land use application.
1199 [~~24~~] (26) "Land use ordinance" means a planning, zoning, development, or
1200 subdivision ordinance of the county, but does not include the general plan.
1201 [~~25~~] (27) "Land use permit" means a permit issued by a land use authority.
1202 [~~26~~] (28) "Legislative body" means the county legislative body, or for a county that
1203 has adopted an alternative form of government, the body exercising legislative powers.
1204 [~~27~~] (29) "Local district" means any entity under Title 17B, Limited Purpose Local
1205 Government Entities - Local Districts, and any other governmental or quasi-governmental

1206 entity that is not a county, municipality, school district, or ~~[unit of]~~ the state.

1207 ~~[(28)]~~ (30) "Lot line adjustment" means the relocation of the property boundary line in
1208 a subdivision between two adjoining lots with the consent of the owners of record.

1209 ~~[(29)]~~ (31) "Moderate income housing" means housing occupied or reserved for
1210 occupancy by households with a gross household income equal to or less than 80% of the
1211 median gross income for households of the same size in the county in which the housing is
1212 located.

1213 ~~[(30)]~~ (32) "Nominal fee" means a fee that reasonably reimburses a county only for
1214 time spent and expenses incurred in:

- 1215 (a) verifying that building plans are identical plans; and
- 1216 (b) reviewing and approving those minor aspects of identical plans that differ from the
1217 previously reviewed and approved building plans.

1218 ~~[(31)]~~ (33) "Noncomplying structure" means a structure that:

- 1219 (a) legally existed before its current land use designation; and
- 1220 (b) because of one or more subsequent land use ordinance changes, does not conform
1221 to the setback, height restrictions, or other regulations, excluding those regulations that govern
1222 the use of land.

1223 ~~[(32)]~~ (34) "Nonconforming use" means a use of land that:

- 1224 (a) legally existed before its current land use designation;
- 1225 (b) has been maintained continuously since the time the land use ordinance regulation
1226 governing the land changed; and
- 1227 (c) because of one or more subsequent land use ordinance changes, does not conform
1228 to the regulations that now govern the use of the land.

1229 ~~[(33)]~~ (35) "Official map" means a map drawn by county authorities and recorded in
1230 the county recorder's office that:

- 1231 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
1232 highways and other transportation facilities;
- 1233 (b) provides a basis for restricting development in designated rights-of-way or between

1234 designated setbacks to allow the government authorities time to purchase or otherwise reserve
1235 the land; and

1236 (c) has been adopted as an element of the county's general plan.

1237 ~~[(34)]~~ (36) "Person" means an individual, corporation, partnership, organization,
1238 association, trust, governmental agency, or any other legal entity.

1239 ~~[(35)]~~ (37) "Plan for moderate income housing" means a written document adopted by
1240 a county legislative body that includes:

1241 (a) an estimate of the existing supply of moderate income housing located within the
1242 county;

1243 (b) an estimate of the need for moderate income housing in the county for the next five
1244 years as revised biennially;

1245 (c) a survey of total residential land use;

1246 (d) an evaluation of how existing land uses and zones affect opportunities for
1247 moderate income housing; and

1248 (e) a description of the county's program to encourage an adequate supply of moderate
1249 income housing.

1250 ~~[(36)]~~ (38) "Plat" means a map or other graphical representation of lands being laid
1251 out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

1252 ~~[(37)]~~ (39) "Potential geologic hazard area" means an area that:

1253 (a) is designated by a Utah Geological Survey map, county geologist map, or other
1254 relevant map or report as needing further study to determine the area's potential for geologic
1255 hazard; or

1256 (b) has not been studied by the Utah Geological Survey or a county geologist but
1257 presents the potential of geologic hazard because the area has characteristics similar to those
1258 of a designated geologic hazard area.

1259 (40) "Public agency" means:

1260 (a) the federal government;

1261 (b) the state;

1262 (c) a county, municipality, school district, local district, special service district, or
1263 other political subdivision of the state; or

1264 (d) a charter school.

1265 [~~(38)~~] (41) "Public hearing" means a hearing at which members of the public are
1266 provided a reasonable opportunity to comment on the subject of the hearing.

1267 [~~(39)~~] (42) "Public meeting" means a meeting that is required to be open to the public
1268 under Title 52, Chapter 4, Open and Public Meetings Act.

1269 [~~(40)~~] (43) "Receiving zone" means an unincorporated area of a county that the
1270 county's land use authority designates as an area in which an owner of land may receive
1271 transferrable development rights.

1272 [~~(41)~~] (44) "Record of survey map" means a map of a survey of land prepared in
1273 accordance with Section 17-23-17.

1274 [~~(42)~~] (45) "Residential facility for elderly persons" means a single-family or
1275 multiple-family dwelling unit that meets the requirements of Section 17-27a-515, but does not
1276 include a health care facility as defined by Section 26-21-2.

1277 [~~(43)~~] (46) "Residential facility for persons with a disability" means a residence:

1278 (a) in which more than one person with a disability resides; and

1279 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
1280 Chapter 2, Licensure of Programs and Facilities; or

1281 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
1282 Health Care Facility Licensing and Inspection Act.

1283 [~~(44)~~] (47) "Sanitary sewer authority" means the department, agency, or public entity
1284 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
1285 wastewater systems.

1286 [~~(45)~~] (48) "Sending zone" means an unincorporated area of a county that the county's
1287 land use authority designates as an area from which an owner of land may transfer
1288 transferrable development rights to an owner of land in a receiving zone.

1289 (49) "Specified public agency" means:

1290 (a) the state;
1291 (b) a school district; or
1292 (c) a charter school.
1293 ~~[(46)]~~ (50) "Specified public utility" means an electrical corporation, gas corporation,
1294 or telephone corporation, as those terms are defined in Section 54-2-1.
1295 (51) "State" includes any department, division, or agency of the state.
1296 ~~[(47)]~~ (52) "Street" means a public right-of-way, including a highway, avenue,
1297 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
1298 or other way.
1299 ~~[(48)]~~ (53) (a) "Subdivision" means any land that is divided, resubdivided or proposed
1300 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
1301 purpose, whether immediate or future, for offer, sale, lease, or development either on the
1302 installment plan or upon any and all other plans, terms, and conditions.
1303 (b) "Subdivision" includes:
1304 (i) the division or development of land whether by deed, metes and bounds
1305 description, devise and testacy, map, plat, or other recorded instrument; and
1306 (ii) except as provided in Subsection ~~[(48)]~~ (53)(c), divisions of land for residential
1307 and nonresidential uses, including land used or to be used for commercial, agricultural, and
1308 industrial purposes.
1309 (c) "Subdivision" does not include:
1310 (i) a bona fide division or partition of agricultural land for agricultural purposes;
1311 (ii) a recorded agreement between owners of adjoining properties adjusting their
1312 mutual boundary if:
1313 (A) no new lot is created; and
1314 (B) the adjustment does not violate applicable land use ordinances;
1315 (iii) a recorded document, executed by the owner of record:
1316 (A) revising the legal description of more than one contiguous unsubdivided parcel of
1317 property into one legal description encompassing all such parcels of property; or

1318 (B) joining a subdivided parcel of property to another parcel of property that has not
1319 been subdivided, if the joinder does not violate applicable land use ordinances;

1320 (iv) a bona fide division or partition of land in a county other than a first class county
1321 for the purpose of siting, on one or more of the resulting separate parcels:

1322 (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
1323 corporation, interstate pipeline company, or intrastate pipeline company; or

1324 (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
1325 utility service regeneration, transformation, retransmission, or amplification facility; or

1326 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
1327 their mutual boundary if:

1328 (A) no new dwelling lot or housing unit will result from the adjustment; and

1329 (B) the adjustment will not violate any applicable land use ordinance.

1330 (d) The joining of a subdivided parcel of property to another parcel of property that
1331 has not been subdivided does not constitute a subdivision under this Subsection [~~(48)~~] (53) as
1332 to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's
1333 subdivision ordinance.

1334 [~~(49)~~] (54) "Township" means a contiguous, geographically defined portion of the
1335 unincorporated area of a county, established under this part or reconstituted or reinstated under
1336 Section 17-27a-306, with planning and zoning functions as exercised through the township
1337 planning commission, as provided in this chapter, but with no legal or political identity
1338 separate from the county and no taxing authority, except that "township" means a former
1339 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

1340 [~~(50)~~] (55) "Transferrable development right" means the entitlement to develop land
1341 within a sending zone that would vest according to the county's existing land use ordinances
1342 on the date that a completed land use application is filed seeking the approval of development
1343 activity on the land.

1344 [~~(51)~~] (56) "Unincorporated" means the area outside of the incorporated area of a
1345 municipality.

1346 [~~(52)~~] (57) "Zoning map" means a map, adopted as part of a land use ordinance, that
1347 depicts land use zones, overlays, or districts.

1348 Section 12. Section **17-27a-305** is amended to read:

1349 **17-27a-305. Other entities required to conform to county's land use ordinances**
1350 **-- Exceptions -- School districts and charter schools -- Submission of development plan**
1351 **and schedule.**

1352 (1) (a) Each county, municipality, school district, charter school, local district, special
1353 service district, and political subdivision of the state shall conform to any applicable land use
1354 ordinance of any county when installing, constructing, operating, or otherwise using any area,
1355 land, or building situated within the unincorporated portion of the county.

1356 (b) In addition to any other remedies provided by law, when a county's land use
1357 ordinance is violated or about to be violated by another political subdivision, that county may
1358 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
1359 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

1360 (2) (a) Notwithstanding Subsection (1), a public transit district under Title 17B,
1361 Chapter 2a, Part 8, Public Transit District Act, is not required to conform to any applicable
1362 land use ordinance of a county of the first class when constructing a:

1363 (i) rail fixed guideway public transit facility that extends across two or more counties;
1364 or

1365 (ii) structure that serves a rail fixed guideway public transit facility that extends across
1366 two or more counties, including:

1367 (A) platforms;

1368 (B) passenger terminals or stations;

1369 (C) park and ride facilities;

1370 (D) maintenance facilities;

1371 (E) all related utility lines, roadways, and other facilities serving the public transit
1372 facility; or

1373 (F) other auxiliary facilities.

1374 (b) The exemption from county land use ordinances under this Subsection (2) does not
1375 extend to any property not necessary for the construction or operation of a rail fixed guideway
1376 public transit facility.

1377 (c) A county of the first class may not, through an agreement under Title 11, Chapter
1378 3, Interlocal Cooperation Act, require a public transit district under Title 17B, Chapter 2a, Part
1379 8, Public Transit District Act, to obtain approval from the county prior to constructing a:

1380 (i) rail fixed guideway public transit facility that extends across two or more counties;

1381 or

1382 (ii) structure that serves a rail fixed guideway public transit facility that extends across
1383 two or more counties, including:

1384 (A) platforms;

1385 (B) passenger terminals or stations;

1386 (C) park and ride facilities;

1387 (D) maintenance facilities;

1388 (E) all related utility lines, roadways, and other facilities serving the public transit
1389 facility; or

1390 (F) other auxiliary facilities.

1391 (3) (a) Except as provided in Subsection (4), a school district or charter school is
1392 subject to a county's land use ordinances.

1393 (b) (i) Notwithstanding Subsection (4), a county may:

1394 (A) subject a charter school to standards within each zone pertaining to setback,
1395 height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and
1396 construction staging; and

1397 (B) impose regulations upon the location of a project that are necessary to avoid
1398 unreasonable risks to health or safety, as provided in Subsection (4)(f).

1399 (ii) The standards to which a county may subject a charter school under Subsection
1400 (3)(b)(i) shall be objective standards only and may not be subjective.

1401 (iii) Except as provided in Subsection (8)(d), the only basis upon which a county may

1402 deny or withhold approval of a charter school's land use application is the charter school's
1403 failure to comply with a standard imposed under Subsection (3)(b)(i).

1404 (iv) Nothing in Subsection (3)(b)(iii) may be construed to relieve a charter school of
1405 an obligation to comply with a requirement of an applicable building or safety code to which it
1406 is otherwise obligated to comply.

1407 (4) A county may not:

1408 (a) impose requirements for landscaping, fencing, aesthetic considerations,
1409 construction methods or materials, additional building inspections, county building codes,
1410 building use for educational purposes, or the placement or use of temporary classroom
1411 facilities on school property;

1412 (b) except as otherwise provided in this section, require a school district or charter
1413 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
1414 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
1415 children and not located on or contiguous to school property, unless the roadway or sidewalk
1416 is required to connect an otherwise isolated school site to an existing roadway;

1417 (c) require a district or charter school to pay fees not authorized by this section;

1418 (d) provide for inspection of school construction or assess a fee or other charges for
1419 inspection, unless the school district or charter school is unable to provide for inspection by an
1420 inspector, other than the project architect or contractor, who is qualified under criteria
1421 established by the state superintendent;

1422 (e) require a school district or charter school to pay any impact fee for an improvement
1423 project unless the impact fee is imposed as provided in Title 11, Chapter 36, Impact Fees Act;
1424 or

1425 (f) impose regulations upon the location of a project except as necessary to avoid
1426 unreasonable risks to health or safety.

1427 (5) Subject to Section 53A-20-108, a school district or charter school shall coordinate
1428 the siting of a new school with the county in which the school is to be located, to:

1429 (a) avoid or mitigate existing and potential traffic hazards, including consideration of

1430 the impacts between the new school and future highways; and
1431 (b) maximize school, student, and site safety.
1432 (6) Notwithstanding Subsection (4)(d), a county may, at its discretion:
1433 (a) provide a walk-through of school construction at no cost and at a time convenient
1434 to the district or charter school; and
1435 (b) provide recommendations based upon the walk-through.
1436 (7) (a) Notwithstanding Subsection (4)(d), a school district or charter school shall use:
1437 (i) a county building inspector;
1438 (ii) (A) for a school district, a school district building inspector from that school
1439 district; or
1440 (B) for a charter school, a school district building inspector from the school district in
1441 which the charter school is located; or
1442 (iii) an independent, certified building inspector who is:
1443 (A) not an employee of the contractor;
1444 (B) approved by:
1445 (I) a county building inspector; or
1446 (II) (Aa) for a school district, a school district building inspector from that school
1447 district; or
1448 (Bb) for a charter school, a school district building inspector from the school district
1449 in which the charter school is located; and
1450 (C) licensed to perform the inspection that the inspector is requested to perform.
1451 (b) The approval under Subsection (7)(a)(iii)(B) may not be unreasonably withheld.
1452 (c) If a school district or charter school uses a school district or independent building
1453 inspector under Subsection (7)(a)(ii) or (iii), the school district or charter school shall submit
1454 to the state superintendent of public instruction and county building official, on a monthly
1455 basis during construction of the school building, a copy of each inspection certificate
1456 regarding the school building.
1457 (8) (a) A charter school shall be considered a permitted use in all zoning districts

1458 within a county.

1459 (b) Each land use application for any approval required for a charter school, including
1460 an application for a building permit, shall be processed on a first priority basis.

1461 (c) Parking requirements for a charter school may not exceed the minimum parking
1462 requirements for schools or other institutional public uses throughout the county.

1463 (d) If a county has designated zones for a sexually oriented business, or a business
1464 which sells alcohol, a charter school may be prohibited from a location which would otherwise
1465 defeat the purpose for the zone unless the charter school provides a waiver.

1466 (e) (i) A school district or a charter school may seek a certificate authorizing
1467 permanent occupancy of a school building from:

1468 (A) the state superintendent of public instruction, as provided in Subsection
1469 53A-20-104(3), if the school district or charter school used an independent building inspector
1470 for inspection of the school building; or

1471 (B) a county official with authority to issue the certificate, if the school district or
1472 charter school used a county building inspector for inspection of the school building.

1473 (ii) A school district may issue its own certificate authorizing permanent occupancy of
1474 a school building if it used its own building inspector for inspection of the school building,
1475 subject to the notification requirement of Subsection 53A-20-104(3)(a)(ii).

1476 (iii) A charter school may seek a certificate authorizing permanent occupancy of a
1477 school building from a school district official with authority to issue the certificate, if the
1478 charter school used a school district building inspector for inspection of the school building.

1479 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
1480 of public instruction under Subsection 53A-20-104(3) or a school district official with
1481 authority to issue the certificate shall be considered to satisfy any county requirement for an
1482 inspection or a certificate of occupancy.

1483 (9) (a) A specified public agency intending to develop its land shall submit to the land
1484 use authority a development plan and schedule:

1485 (i) as early as practicable in the development process, but no later than the

1486 commencement of construction; and

1487 (ii) with sufficient detail to enable the land use authority to assess:

1488 (A) the specified public agency's compliance with applicable land use ordinances;

1489 (B) the demand for public facilities listed in Subsections 11-36-102(12)(a), (b), (c),

1490 (d), (e), and (g) caused by the development;

1491 (C) the amount of any applicable fee listed in Subsection 17-27a-509(5);

1492 (D) any credit against an impact fee; and

1493 (E) the potential for waiving an impact fee.

1494 (b) The land use authority shall respond to a specified public agency's submission

1495 under Subsection (9)(a) with reasonable promptness in order to allow the specified public

1496 agency to consider information the municipality provides under Subsection (9)(a)(ii) in the

1497 process of preparing the budget for the development.

1498 (10) Nothing in this section may be construed to modify or supersede Section

1499 17-27a-304.

1500 Section 13. Section **17-27a-508** is amended to read:

1501 **17-27a-508. Entitlement to approval of land use application -- High priority**

1502 **transportation corridor -- Limitations on county -- Vesting upon submission of**

1503 **development plan and schedule.**

1504 (1) (a) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
1505 land use application if the application conforms to the requirements of the county's land use
1506 maps, zoning map, and applicable land use ordinance in effect when a complete application is
1507 submitted and all application fees have been paid, unless:

1508 (i) the land use authority, on the record, finds that a compelling, countervailing public
1509 interest would be jeopardized by approving the application; or

1510 (ii) in the manner provided by local ordinance and before the application is submitted,
1511 the county has formally initiated proceedings to amend its ordinances in a manner that would
1512 prohibit approval of the application as submitted.

1513 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval

1514 of a land use application until the requirements of this Subsection (1)(b) have been met if the
1515 land use application relates to land located within the boundaries of a high priority
1516 transportation corridor designated in accordance with Section 72-5-403.

1517 (ii) (A) A county shall notify the executive director of the Department of
1518 Transportation of any land use applications that relate to land located within the boundaries of
1519 a high priority transportation corridor.

1520 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
1521 certified or registered mail to the executive director of the Department of Transportation.

1522 (iii) Except as provided in Subsection (1)(c), a county may not approve a land use
1523 application that relates to land located within the boundaries of a high priority transportation
1524 corridor until:

1525 (A) 30 days after the notification under Subsection (1)(b)(ii) is received by the
1526 Department of Transportation if the land use application is for a building permit; or

1527 (B) 45 days after the notification under Subsection (1)(b)(ii) is received by the
1528 Department of Transportation if the land use application is for any land use other than a
1529 building permit.

1530 (c) (i) A land use application is exempt from the requirements of Subsection (1)(b) if:

1531 (A) the land use application relates to land that was the subject of a previous land use
1532 application; and

1533 (B) the previous land use application described under Subsection (1)(c)(i)(A)
1534 complied with the requirements of Subsection (1)(b).

1535 (ii) A county may approve a land use application without making the required
1536 notifications under Subsection (1)(b) if:

1537 (A) the land use application relates to land that was the subject of a previous land use
1538 application; and

1539 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
1540 complied with the requirements of Subsection (1)(b).

1541 (d) After a county has complied with the requirements of Subsection (1)(b) for a land

1542 use application, the county may not withhold approval of the land use application for which
1543 the applicant is otherwise entitled under Subsection (1)(a).

1544 (e) The county shall process an application without regard to proceedings initiated to
1545 amend the county's ordinances as provided in Subsection (1)(a)(ii) if:

1546 (i) 180 days have passed since the proceedings were initiated; and

1547 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
1548 application as submitted.

1549 (f) An application for a land use approval is considered submitted and complete when
1550 the application is provided in a form that complies with the requirements of applicable
1551 ordinances and all applicable fees have been paid.

1552 (g) The continuing validity of an approval of a land use application is conditioned
1553 upon the applicant proceeding after approval to implement the approval with reasonable
1554 diligence.

1555 (h) A county may not impose on a holder of an issued land use permit or approved
1556 subdivision plat a requirement that is not expressed:

1557 (i) in the land use permit or subdivision plat documents on which the land use permit
1558 or subdivision plat is based, or the written record evidencing approval of the land use permit
1559 or subdivision plat; or

1560 (ii) in this chapter or the county's ordinances.

1561 (i) A county may not withhold issuance of a certificate of occupancy or acceptance of
1562 subdivision improvements because of an applicant's failure to comply with a requirement that
1563 is not expressed:

1564 (i) in the building permit or subdivision plat, documents on which the building permit
1565 or subdivision plat is based, or the written record evidencing approval of the building permit
1566 or subdivision plat; or

1567 (ii) in this chapter or the county's ordinances.

1568 (2) A county is bound by the terms and standards of applicable land use ordinances
1569 and shall comply with mandatory provisions of those ordinances.

1570 (3) Upon a specified public agency's submission of a development plan and schedule
1571 as required in Subsection 17-27a-305(9) that complies with the requirements of that
1572 subsection, the specified public agency vests in the county's applicable land use maps, zoning
1573 map, hookup fees, impact fees, other applicable development fees, and land use ordinances in
1574 effect on the date of submission.

1575 Section 14. Section **17-27a-509** is amended to read:

1576 **17-27a-509. Limit on fees.**

1577 (1) A county may not impose or collect a fee for reviewing or approving the plans for a
1578 commercial or residential building that exceeds the lesser of:

1579 (a) the actual cost of performing the plan review; and

1580 (b) 65% of the amount the county charges for a building permit fee for that building.

1581 (2) Subject to Subsection (1), a county may impose and collect only a nominal fee for
1582 reviewing and approving identical plans.

1583 (3) A county may not impose or collect a hookup fee that exceeds the reasonable cost
1584 of installing and inspecting the pipe, line, meter, or appurtenance to connect to the county
1585 water, sewer, storm water, power, or other utility system.

1586 (4) A county may not impose or collect:

1587 (a) a land use application fee that exceeds the reasonable cost of processing the
1588 application; or

1589 (b) an inspection or review fee that exceeds the reasonable cost of performing the
1590 inspection or review.

1591 (5) A county may not impose on or collect from a public agency any fee associated
1592 with the public agency's development of its land other than:

1593 (a) subject to Subsection (4), a fee for a development service that the public agency
1594 does not itself provide;

1595 (b) subject to Subsection (3), a hookup fee; and

1596 (c) an impact fee for a public facility listed in Subsection 11-36-102(12)(a), (b), (c),
1597 (d), (e), or (g), subject to any applicable credit under Subsection 11-36-202(2)(b).

1598 Section 15. Section **17B-1-118** is enacted to read:

1599 **17B-1-118. Local district hookup fee -- Preliminary design or site plan from a**
1600 **specified public agency.**

1601 (1) As used in this section:

1602 (a) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
1603 meter, or appurtenance to connect to a local district water, sewer, storm water, power, or other
1604 utility system.

1605 (b) "Impact fee" has the same meaning as defined in Section 11-36-102.

1606 (c) "Specified public agency" means:

1607 (i) the state;

1608 (ii) a school district; or

1609 (iii) a charter school.

1610 (d) "State" includes any department, division, or agency of the state.

1611 (2) A local district may not impose or collect a hookup fee that exceeds the reasonable
1612 cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the local
1613 district water, sewer, storm water, power, or other utility system.

1614 (3) (a) A specified public agency intending to develop its land shall submit a
1615 development plan and schedule to each local district from which the specified public agency
1616 anticipates the development will receive service:

1617 (i) as early as practicable in the development process, but no later than the
1618 commencement of construction; and

1619 (ii) with sufficient detail to enable the local district to assess:

1620 (A) the demand for public facilities listed in Subsections 11-36-102(12)(a), (b), (c),
1621 (d), (e), and (g) caused by the development;

1622 (B) the amount of any hookup fees, or impact fees or substantive equivalent;

1623 (C) any credit against an impact fee; and

1624 (D) the potential for waiving an impact fee.

1625 (b) The local district shall respond to a specified public agency's submission under

1626 Subsection (3)(a) with reasonable promptness in order to allow the specified public agency to
1627 consider information the local district provides under Subsection (3)(a)(ii) in the process of
1628 preparing the budget for the development.

1629 (4) Upon a specified public agency's submission of a development plan and schedule
1630 as required in Subsection (3) that complies with the requirements of that subsection, the
1631 specified public agency vests in the local district's hookup fees and impact fees in effect on the
1632 date of submission.

1633 Section 16. Section **17D-1-106** is amended to read:

1634 **17D-1-106. Special service districts subject to other provisions.**

1635 (1) A special service district is, to the same extent as if it were a local district, subject
1636 to and governed by:

1637 (a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-109, 17B-1-110, 17B-1-111,
1638 17B-1-112, 17B-1-113, [~~and~~] 17B-1-116, and 17B-1-118;

1639 (b) Sections 17B-1-304, 17B-1-305, 17B-1-306, 17B-1-307, 17B-1-310, 17B-1-312,
1640 and 17B-1-313;

1641 (c) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

1642 (d) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

1643 (e) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

1644 (f) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

1645 (2) For purposes of applying the provisions listed in Subsection (1) to a special service
1646 district, each reference in those provisions to the local district board of trustees means the
1647 governing authority.