

**REAL PROPERTY AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies zoning and property tax assessment provisions relating to a property's designation as open space.

**Highlighted Provisions:**

This bill:

► requires counties and municipalities to establish a zoning district for real property that is in a substantially open or undeveloped state and to provide for uses within that zoning district that are consistent with the preservation of the property in a substantially open or undeveloped state; and

► requires county assessors to use the valuation methodology for open space land that is most reasonably calculated to determine the fair market value of the open space, considering certain factors.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-9a-505**, as last amended by Laws of Utah 2008, Chapter 326

**17-27a-505**, as last amended by Laws of Utah 2008, Chapter 326



28 REPEALS AND REENACTS:

29 **59-2-301.1**, as enacted by Laws of Utah 2002, Chapter 27



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

32 Section 1. Section **10-9a-505** is amended to read:

33 **10-9a-505. Zoning districts.**

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

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

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

- 42 (i) protect life; and
- 43 (ii) prevent:
  - 44 (A) the substantial loss of real property; or
  - 45 (B) substantial damage to real property.

46 (d) (i) As used in this Subsection (1)(d), "open land" means land that is in a  
47 substantially open and undeveloped state, including:

- 48 (A) agricultural land;
- 49 (B) a golf course;
- 50 (C) a hunting club; and
- 51 (D) land subject to a conservation easement.

52 (ii) A municipality shall provide by ordinance for an open space zoning district that:

- 53 (A) allows open land to be included within the zoning district;
- 54 (B) prohibits land within an open space zoning district from being developed in a way  
55 that is inconsistent with the preservation of the land in a substantially open and undeveloped  
56 state;

57 (C) provides for permitted uses within an open space zoning district that are consistent  
58 with the preservation of the land in a substantially open and undeveloped state; and

59            (D) does not place a size restriction on land that may be included in an open space  
60 zoning district.

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

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

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

69            Section 2. Section **17-27a-505** is amended to read:

70            **17-27a-505. Zoning districts.**

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

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

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

79            (i) protect life; and

80            (ii) prevent:

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

82            (B) substantial damage to real property.

83            (d) (i) As used in this Subsection (1)(d), "open land" means land that is in a  
84 substantially open and undeveloped state, including:

85            (A) agricultural land;

86            (B) a golf course;

87            (C) a hunting club; and

88            (D) land subject to a conservation easement.

89            (ii) A county shall provide by ordinance for an open space zoning district that:

90 (A) allows open land to be included within the zoning district;

91 (B) prohibits land within an open space zoning district from being developed in a way  
92 that is inconsistent with the preservation of the land in a substantially open and undeveloped  
93 state;

94 (C) provides for permitted uses within an open space zoning district that are consistent  
95 with the preservation of the land in a substantially open and undeveloped state; and

96 (D) does not place a size restriction on land that may be included in an open space  
97 zoning district.

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

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

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

106 Section 3. Section **59-2-301.1** is repealed and reenacted to read:

107 **59-2-301.1. Assessment of open space property.**

108 (1) As used in this section, "open space property" means property that is:

109 (a) subject to a conservation easement under Title 57, Chapter 18, Land Conservation  
110 Easement Act; or

111 (b) located within an open space zoning district established under Section 10-9a-505 or  
112 17-27a-505.

113 (2) In assessing the value of open space property, a county assessor shall use the  
114 valuation method most reasonably calculated to determine the fair market value of the open  
115 space property, considering:

116 (a) that a ready market may not exist for the open space property because of its status  
117 as open space property; and

118 (b) that the open space property may not have the same value that neighboring property  
119 has because of:

120 (i) limitations on the use to which the open space property may be put as compared to

- 121 the use to which neighboring property may be put; and  
122 (ii) the use to which the open space property is actually put.  
123 (3) The valuation method a county assessor may use under Subsection (2) includes:  
124 (a) the cost approach;  
125 (b) the income approach; and  
126 (c) the market approach.
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**Legislative Review Note**  
as of 12-7-09 10:23 AM

**Office of Legislative Research and General Counsel**

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**H.B. 265 - Real Property Amendments**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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