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1 **COUNTY LAND USE AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Bill Wright**

5 Senate Sponsor: _____

6 **LONG TITLE**7 **General Description:**

8 This bill enacts language related to a county general plan.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ amends the definition of "general plan";
- 12 ▶ amends the requirements for a proposed general plan;
- 13 ▶ requires a county legislative body to adopt a zoning ordinance and zoning map;
- 14 ▶ amends provisions related to an exemption from a plat requirement; and
- 15 ▶ makes technical corrections.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**21 **AMENDS:**

- 22 17-27a-103, as last amended by Laws of Utah 2011, Chapters 47, 92, 107, and 407
- 23 17-27a-403, as last amended by Laws of Utah 2008, Chapter 168
- 24 17-27a-404, as last amended by Laws of Utah 2010, Chapter 90
- 25 17-27a-405, as enacted by Laws of Utah 2005, Chapter 254
- 26 17-27a-605, as last amended by Laws of Utah 2011, Chapter 377



28

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

30 Section 1. Section **17-27a-103** is amended to read:

31 **17-27a-103. Definitions.**

32 As used in this chapter:

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

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

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

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

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

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

51 (4) (a) "Charter school" means:

52 (i) an operating charter school;

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

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

57 (b) "Charter school" does not include a therapeutic school.

58 (5) "Chief executive officer" means the person or body that exercises the executive

59 powers of the county.

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

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

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

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

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

71 (9) "Development activity" means:

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

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

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

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

81 (b) "Disability" does not include current illegal use of, or addiction to, any federally
82 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
83 802.

84 (11) "Educational facility":

85 (a) means:

86 (i) a school district's building at which pupils assemble to receive instruction in a
87 program for any combination of grades from preschool through grade 12, including
88 kindergarten and a program for children with disabilities;

89 (ii) a structure or facility:

90 (A) located on the same property as a building described in Subsection (11)(a)(i); and
91 (B) used in support of the use of that building; and
92 (iii) a building to provide office and related space to a school district's administrative
93 personnel; and

94 (b) does not include:

95 (i) land or a structure, including land or a structure for inventory storage, equipment
96 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
97 (A) not located on the same property as a building described in Subsection (11)(a)(i);
98 and

99 (B) used in support of the purposes of a building described in Subsection (11)(a)(i); or
100 (ii) a therapeutic school.

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

104 (13) "Fire authority" means the department, agency, or public entity with responsibility
105 to review and approve the feasibility of fire protection and suppression services for the subject
106 property.

107 (14) "Flood plain" means land that:

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

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

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

115 (16) "General plan" means a document that a county adopts [that sets] to:

116 (a) reflect current subdivision and land use patterns; and

117 (b) set forth general guidelines for proposed future development of the unincorporated
118 land within the county.

119 (17) "Geologic hazard" means:

120 (a) a surface fault rupture;

- 121 (b) shallow groundwater;
122 (c) liquefaction;
123 (d) a landslide;
124 (e) a debris flow;
125 (f) unstable soil;
126 (g) a rock fall; or
127 (h) any other geologic condition that presents a risk:
128 (i) to life;
129 (ii) of substantial loss of real property; or
130 (iii) of substantial damage to real property.
- 131 (18) "Internal lot restriction" means a platted note, platted demarcation, or platted
132 designation that:
133 (a) runs with the land; and
134 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
135 the plat; or
136 (ii) designates a development condition that is enclosed within the perimeter of a lot
137 described on the plat.
- 138 (19) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
139 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
140 system.
- 141 (20) "Identical plans" means building plans submitted to a county that:
142 (a) are clearly marked as "identical plans";
143 (b) are substantially identical building plans that were previously submitted to and
144 reviewed and approved by the county; and
145 (c) describe a building that:
146 (i) is located on land zoned the same as the land on which the building described in the
147 previously approved plans is located;
148 (ii) is subject to the same geological and meteorological conditions and the same law
149 as the building described in the previously approved plans;
150 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
151 and approved by the county; and

152 (iv) does not require any additional engineering or analysis.

153 (21) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
154 Impact Fees Act.

155 (22) "Improvement assurance" means a surety bond, letter of credit, cash, or other
156 security:

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

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

159 (i) recording a subdivision plat; or

160 (ii) beginning development activity; and

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

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

164 (ii) issue a permit for development activity.

165 (23) "Improvement assurance warranty" means a promise that the materials and
166 workmanship of improvements:

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

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

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

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

175 (26) "Land use application" means an application required by a county's land use
176 ordinance.

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

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

181 (29) "Land use permit" means a permit issued by a land use authority.

182 (30) "Legislative body" means the county legislative body, or for a county that has

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

184 (31) "Local district" means any entity under Title 17B, Limited Purpose Local
185 Government Entities - Local Districts, and any other governmental or quasi-governmental
186 entity that is not a county, municipality, school district, or the state.

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

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

192 (34) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
193 and expenses incurred in:

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

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

197 (35) "Noncomplying structure" means a structure that:

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

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

202 (36) "Nonconforming use" means a use of land that:

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

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

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

208 (37) "Official map" means a map drawn by county authorities and recorded in the
209 county recorder's office that:

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

212 (b) provides a basis for restricting development in designated rights-of-way or between
213 designated setbacks to allow the government authorities time to purchase or otherwise reserve

214 the land; and

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

216 (38) "Person" means an individual, corporation, partnership, organization, association,
217 trust, governmental agency, or any other legal entity.

218 (39) "Plan for moderate income housing" means a written document adopted by a
219 county legislative body that includes:

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

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

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

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

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

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

231 (41) "Potential geologic hazard area" means an area that:

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

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

238 (42) "Public agency" means:

239 (a) the federal government;

240 (b) the state;

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

243 (d) a charter school.

244 (43) "Public hearing" means a hearing at which members of the public are provided a

245 reasonable opportunity to comment on the subject of the hearing.

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

248 (45) "Receiving zone" means an unincorporated area of a county that the county's land
249 use authority designates as an area in which an owner of land may receive transferrable
250 development rights.

251 (46) "Record of survey map" means a map of a survey of land prepared in accordance
252 with Section 17-23-17.

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

256 (48) "Residential facility for persons with a disability" means a residence:

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

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

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

262 (49) "Rules of order and procedure" means a set of rules that govern and prescribe in a
263 public meeting:

264 (a) parliamentary order and procedure;

265 (b) ethical behavior; and

266 (c) civil discourse.

267 (50) "Sanitary sewer authority" means the department, agency, or public entity with
268 responsibility to review and approve the feasibility of sanitary sewer services or onsite
269 wastewater systems.

270 (51) "Sending zone" means an unincorporated area of a county that the county's land
271 use authority designates as an area from which an owner of land may transfer transferrable
272 development rights to an owner of land in a receiving zone.

273 (52) "Specified public agency" means:

274 (a) the state;

275 (b) a school district; or

276 (c) a charter school.

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

279 (54) "State" includes any department, division, or agency of the state.

280 (55) "Street" means a public right-of-way, including a highway, avenue, boulevard,
281 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
282 way.

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

287 (b) "Subdivision" includes:

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

290 (ii) except as provided in Subsection (56)(c), divisions of land for residential and
291 nonresidential uses, including land used or to be used for commercial, agricultural, and
292 industrial purposes.

293 (c) "Subdivision" does not include:

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

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

297 (A) no new lot is created; and

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

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

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

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

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

306 (A) an electrical transmission line or a substation;

- 307 (B) a natural gas pipeline or a regulation station; or
308 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
309 utility service regeneration, transformation, retransmission, or amplification facility;
310 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
311 their mutual boundary if:
312 (A) no new dwelling lot or housing unit will result from the adjustment; and
313 (B) the adjustment will not violate any applicable land use ordinance; or
314 (vi) a bona fide division or partition of land by deed or other instrument where the land
315 use authority expressly approves in writing the division in anticipation of further land use
316 approvals on the parcel or parcels.
317 (d) The joining of a subdivided parcel of property to another parcel of property that has
318 not been subdivided does not constitute a subdivision under this Subsection (56) as to the
319 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
320 ordinance.
- 321 (57) "Therapeutic school" means a residential group living facility:
322 (a) for four or more individuals who are not related to:
323 (i) the owner of the facility; or
324 (ii) the primary service provider of the facility;
325 (b) that serves students who have a history of failing to function:
326 (i) at home;
327 (ii) in a public school; or
328 (iii) in a nonresidential private school; and
329 (c) that offers:
330 (i) room and board; and
331 (ii) an academic education integrated with:
332 (A) specialized structure and supervision; or
333 (B) services or treatment related to a disability, an emotional development, a
334 behavioral development, a familial development, or a social development.
335 (58) "Township" means a contiguous, geographically defined portion of the
336 unincorporated area of a county, established under this part or reconstituted or reinstated under
337 Section 17-27a-306, with planning and zoning functions as exercised through the township

338 planning commission, as provided in this chapter, but with no legal or political identity
339 separate from the county and no taxing authority, except that "township" means a former
340 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

341 (59) "Transferrable development right" means the entitlement to develop land within a
342 sending zone that would vest according to the county's existing land use ordinances on the date
343 that a completed land use application is filed seeking the approval of development activity on
344 the land.

345 (60) "Unincorporated" means the area outside of the incorporated area of a
346 municipality.

347 (61) "Water interest" means any right to the beneficial use of water, including:
348 (a) each of the rights listed in Section 73-1-11; and
349 (b) an ownership interest in the right to the beneficial use of water represented by:
350 (i) a contract; or
351 (ii) a share in a water company, as defined in Section 73-3-3.5.

352 (62) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
353 land use zones, overlays, or districts.

354 Section 2. Section **17-27a-403** is amended to read:

355 **17-27a-403. Plan preparation.**

356 (1) (a) The planning commission shall provide notice, as provided in Section
357 17-27a-203, of its intent to make a recommendation to the county legislative body for a general
358 plan or a comprehensive general plan amendment when the planning commission initiates the
359 process of preparing its recommendation.

360 (b) The planning commission shall make and recommend to the legislative body a
361 proposed general plan for the unincorporated area within the county.

362 (c) (i) The plan may include planning for incorporated areas if, in the planning
363 commission's judgment, they are related to the planning of the unincorporated territory or of
364 the county as a whole.

365 (ii) Elements of the county plan that address incorporated areas are not an official plan
366 or part of a municipal plan for any municipality, unless it is recommended by the municipal
367 planning commission and adopted by the governing body of the municipality.

368 (2) [fa] At a minimum, the proposed general plan, with the accompanying maps,

369 charts, and descriptive and explanatory matter, shall:

370 (a) accurately reflect ~~[, describe, and map]~~ the existing land uses, densities,
370a and recorded

371 divisions of land; and

372 (b) include the planning commission's recommendations for the following plan
373 elements:

374 (i) a land use element that:

375 (A) designates the long-term goals and the proposed extent, general distribution, and
376 location of land for housing, business, industry, agriculture, recreation, education, public
377 buildings and grounds, open space, and other categories of public and private uses of land as
378 appropriate; and

379 (B) may include a statement of the projections for and standards of population density
380 and building intensity recommended for the various land use categories covered by the plan;

381 (ii) a transportation and traffic circulation element consisting of the general location
382 and extent of existing and proposed freeways, arterial and collector streets, mass transit, and
383 any other modes of transportation that the planning commission considers appropriate, all
384 correlated with the population projections and the proposed land use element of the general
385 plan; and

386 (iii) an estimate of the need for the development of additional moderate income
387 housing within the incorporated and unincorporated area of the county, and a plan to provide a
388 realistic opportunity to meet estimated needs for additional moderate income housing if
389 long-term projections for land use and development occur.

390 [~~(b)~~] (3) In drafting the moderate income housing element, the planning commission:

391 [~~(1)~~] (a) shall consider the Legislature's determination that counties and incorporated
392 areas within a county should facilitate a reasonable opportunity for a variety of housing,
393 including moderate income housing:

394 [~~(A)~~] (i) to meet the needs of people desiring to live there; and

395 [~~(B)~~] (ii) to allow persons with moderate incomes to benefit from and fully participate
396 in all aspects of neighborhood and community life; and

397 [~~(ii)~~] (b) may include an analysis of why the recommended means, techniques, or
398 combination of means and techniques provide a realistic opportunity for the development of
399 moderate income housing within the planning horizon, which means or techniques may include

400 a recommendation to:

- 401 [A] (i) support the annexation or incorporation of areas in order to rezone for
402 densities necessary to assure the production of moderate income housing;
- 403 [B] (ii) facilitate the rehabilitation or expansion of infrastructure that will encourage
404 the construction of moderate income housing;
- 405 [C] (iii) encourage the rehabilitation of existing uninhabitable housing stock into
406 moderate income housing;
- 407 [D] (iv) consider general fund subsidies to waive construction related fees that are
408 otherwise generally imposed by the county or a local district;
- 409 [E] (v) consider utilization of state or federal funds or tax incentives to promote the
410 construction of moderate income housing;
- 411 [F] (vi) consider utilization of programs offered by the Utah Housing Corporation
412 within that agency's funding capacity; and
- 413 [G] (vii) consider utilization of affordable housing programs administered by the
414 Department of Community and Culture.

415 [e] (4) In drafting the land use element, the planning commission shall:

- 416 [i] (a) identify and consider each agriculture protection area within the
417 unincorporated area of the county; and
- 418 [ii] (b) avoid proposing a use of land within an agriculture protection area that is
419 inconsistent with or detrimental to the use of the land for agriculture.

420 [3] (5) The proposed general plan may include:

- 421 (a) an environmental element that addresses:
- 422 (i) the protection, conservation, development, and use of natural resources, including
423 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
424 and other natural resources; and
- 425 (ii) the reclamation of land, flood control, prevention and control of the pollution of
426 streams and other waters, regulation of the use of land on hillsides, stream channels and other
427 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
428 protection of watersheds and wetlands, and the mapping of known geologic hazards;
- 429 (b) a public services and facilities element showing general plans for sewage, water,
430 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,

431 police and fire protection, and other public services;

432 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and
433 programs for:

434 (i) historic preservation;

435 (ii) the diminution or elimination of blight; and

436 (iii) redevelopment of land, including housing sites, business and industrial sites, and
437 public building sites;

438 (d) an economic element composed of appropriate studies and forecasts, as well as an
439 economic development plan, which may include review of existing and projected county
440 revenue and expenditures, revenue sources, identification of basic and secondary industry,
441 primary and secondary market areas, employment, and retail sales activity;

442 (e) recommendations for implementing all or any portion of the general plan, including
443 the use of land use ordinances, capital improvement plans, community development and
444 promotion, and any other appropriate action;

445 (f) provisions addressing any of the matters listed in Subsection 17-27a-401(2); and

446 (g) any other element the county considers appropriate.

447 Section 3. Section **17-27a-404** is amended to read:

448 **17-27a-404. Public hearing by planning commission on proposed general plan or
449 amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection
450 by legislative body.**

451 (1) (a) After completing its recommendation for a proposed general plan, or proposal to
452 amend the general plan, the planning commission shall schedule and hold a public hearing on
453 the proposed plan or amendment.

454 (b) The planning commission shall provide notice of the public hearing, as required by
455 Section 17-27a-204.

456 (c) After the public hearing, the planning commission may modify the proposed
457 general plan or amendment.

458 (2) The planning commission shall forward the proposed general plan or amendment to
459 the legislative body.

460 (3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body
461 shall provide notice of its intent to consider the general plan proposal.

462 (b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative
463 body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan
464 regarding Subsection 17-27a-401(3). The hearing procedure shall comply with this Subsection
465 (3)(b).

466 (ii) The hearing format shall allow adequate time for public comment at the actual
467 public hearing, and shall also allow for public comment in writing to be submitted to the
468 legislative body for not fewer than 90 days after the date of the public hearing.

469 (c) (i) The legislative body shall give notice of the hearing in accordance with this
470 Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(3) are
471 complete.

472 (ii) Direct notice of the hearing shall be given, in writing, to the governor, members of
473 the state Legislature, executive director of the Department of Environmental Quality, the state
474 planning coordinator, the Resource Development Coordinating Committee, and any other
475 citizens or entities who specifically request notice in writing.

476 (iii) Public notice shall be given by publication:

477 (A) in at least one major Utah newspaper having broad general circulation in the state;
478 (B) in at least one Utah newspaper having a general circulation focused mainly on the
479 county where the proposed high-level nuclear waste or greater than class C radioactive waste
480 site is to be located; and

481 (C) on the Utah Public Notice Website created in Section 63F-1-701.

482 (iv) The notice shall be published to allow reasonable time for interested parties and
483 the state to evaluate the information regarding the provisions of Subsection 17-27a-401(3),
484 including:

485 (A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before
486 the date of the hearing to be held under this Subsection (3); and

487 (B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the
488 date of the hearing to be held under this Subsection (3).

489 (4) (a) After the public hearing required under this section, the legislative body may
490 make any revisions to the proposed general plan that it considers appropriate.

491 (b) The legislative body shall respond in writing and in a substantive manner to all
492 those providing comments as a result of the hearing required by Subsection (3).

493 (5) (a) The county legislative body may adopt or reject the proposed general plan or
494 amendment either as proposed by the planning commission or after making any revision the
495 county legislative body considers appropriate.

496 (b) If the county legislative body rejects the proposed general plan or amendment, it
497 may provide suggestions to the planning commission for its consideration.

498 (6) The legislative body shall adopt:

499 (a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

500 (b) a transportation and traffic circulation element as provided in Subsection

501 17-27a-403(2)[(a)(ii)](b)(ii); and

502 (c) after considering the factors included in Subsection 17-27a-403[(2)(b)](3), a plan to
503 provide a realistic opportunity to meet estimated needs for additional moderate income housing
504 if long-term projections for land use and development occur.

505 Section 4. Section **17-27a-405** is amended to read:

506 **17-27a-405. Effect of general plan.**

507 (1) Except for the mandatory provisions in [Subsection] Subsections 17-27a-401(3)(b)
508 and 17-27a-403(2)(a) and Section 17-27a-406, the general plan is an advisory guide for land
509 use decisions, the impact of which shall be determined by ordinance.

510 (2) The legislative body:

511 (a) may adopt an ordinance mandating compliance with a land use element of the
512 general plan[;]; and

513 (b) shall adopt:

514 (i) an ordinance requiring compliance with all provisions of Subsection
515 17-27a-401(3)(b)[-]; and

516 (ii) a zoning ordinance and zoning map that are consistent with Subsection
517 17-27a-403(2)(a).

518 Section 5. Section **17-27a-605** is amended to read:

519 **17-27a-605. Exemptions from plat requirement.**

520 (1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority may
521 approve the subdivision of unincorporated land into 10 lots or less without a plat, by certifying
522 in writing that:

523 (a) the county has provided notice as required by ordinance; and

524 (b) the proposed subdivision:
525 (i) is not traversed by the mapped lines of a proposed street as shown in the general
526 plan and does not require the dedication of any land for street or other public purposes;
527 (ii) has been approved by the culinary water authority and the sanitary sewer authority;
528 (iii) is located in a zoned area; and
529 (iv) conforms to all applicable land use ordinances or has properly received a variance
530 from the requirements of an otherwise conflicting and applicable land use ordinance.

531 (2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural
532 land is exempt from the plat requirements of Section 17-27a-603 if the lot or parcel:
533 (i) qualifies as land in agricultural use under Section 59-2-502; and
534 [~~(iii) meets the minimum size requirement of applicable land use ordinances; and~~]
535 [~~(iii)~~ (ii) is not used and will not be used for any nonagricultural purpose.

536 (b) The boundaries of each lot or parcel exempted under Subsection (2)(a) shall be
537 graphically illustrated on a record of survey map that~~[, after receiving the same approvals as are~~
538 ~~required for a plat under Section 17-27a-604,~~] shall be recorded with the county recorder.
539 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural
540 purpose, the county shall require the lot or parcel to comply with the requirements of Section
541 17-27a-603.

542 (3) (a) Except as provided in Subsection (4), a document recorded in the county
543 recorder's office that divides property by a metes and bounds description does not create an
544 approved subdivision allowed by this part unless the land use authority's certificate of written
545 approval required by Subsection (1) is attached to the document.

546 (b) The absence of the certificate or written approval required by Subsection (1) does
547 not:
548 (i) prohibit the county recorder from recording a document; or
549 (ii) affect the validity of a recorded document.

550 (c) A document which does not meet the requirements of Subsection (1) may be
551 corrected by the recording of an affidavit to which the required certificate or written approval is
552 attached in accordance with Section 57-3-106.

553 (4) (a) As used in this Subsection (4):
554 (i) "Divided land" means land that:

555 (A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and
556 (B) has been divided by a minor subdivision.

557 (ii) "Land to be divided" means land that is proposed to be divided by a minor
558 subdivision.

559 (iii) "Minor subdivision" means a division of at least 100 contiguous acres of
560 agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that,
561 after the division, is separate from the remainder of the original 100 or more contiguous acres
562 of agricultural land.

563 (iv) "Minor subdivision lot" means a lot created by a minor subdivision.

564 (b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least 100
565 contiguous acres of agricultural land may make a minor subdivision by submitting for
566 recording in the office of the recorder of the county in which the land to be divided is located:

567 (i) a recordable deed containing the legal description of the minor subdivision lot; and
568 (ii) a notice:

569 (A) indicating that the owner of the land to be divided is making a minor subdivision;
570 (B) referring specifically to this section as the authority for making the minor
571 subdivision; and

572 (C) containing the legal description of:
573 (I) the land to be divided; and
574 (II) the minor subdivision lot.

575 (c) A minor subdivision lot:

576 (i) may not be less than one acre in size;
577 (ii) may not be within 1,000 feet of another minor subdivision lot; and
578 (iii) is not subject to the subdivision ordinance of the county in which the minor
579 subdivision lot is located.

580 (d) Land to be divided by a minor subdivision may not include divided land.

581 (e) A county:

582 (i) may not deny a building permit to an owner of a minor subdivision lot based on:
583 (A) the lot's status as a minor subdivision lot; or
584 (B) the absence of standards described in Subsection (4)(e)(ii); and
585 (ii) may, in connection with the issuance of a building permit, subject a minor

586 subdivision lot to reasonable health, safety, and access standards that the county has established
587 and made public.

Legislative Review Note
as of 2-15-12 5:36 PM

Office of Legislative Research and General Counsel