

**HISTORICAL DISTRICT CREATION REQUIREMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne L. Niederhauser**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill establishes a process for a municipality or a county to designate an historical district.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
  - ▶ describes certain actions that a municipality or a county may take to preserve an historical district;
  - ▶ requires that two-thirds of the private property owners of property located within a proposed historical district sign a petition to designate the historical district before the municipality or county may create the historical district;
  - ▶ describes the petition and petition requirements;
  - ▶ requires a municipal clerk or recorder or a county clerk to certify or reject the petition;
  - ▶ requires a municipal or county legislative body to:
    - hold a public hearing no later than 45 days after receiving a certified petition;
- and
- vote at the public hearing whether or not to adopt an ordinance that designates the historical district; and
  - ▶ makes technical corrections.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **10-9a-503**, as last amended by Laws of Utah 2011, Chapter 224

35 ENACTS:

36 **10-9a-901**, Utah Code Annotated 1953

37 **10-9a-902**, Utah Code Annotated 1953

38 **10-9a-903**, Utah Code Annotated 1953

39 **10-9a-904**, Utah Code Annotated 1953

40 **10-9a-905**, Utah Code Annotated 1953

41 **10-9a-906**, Utah Code Annotated 1953

42 **17-27a-901**, Utah Code Annotated 1953

43 **17-27a-902**, Utah Code Annotated 1953

44 **17-27a-903**, Utah Code Annotated 1953

45 **17-27a-904**, Utah Code Annotated 1953

46 **17-27a-905**, Utah Code Annotated 1953

47 **17-27a-906**, Utah Code Annotated 1953

48 REPEALS:

49 **10-8-85.9**, as enacted by Laws of Utah 2008, Chapter 360

50 **17-50-326**, as enacted by Laws of Utah 2008, Chapter 360



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

52 Section 1. Section **10-9a-503** is amended to read:

53 **10-9a-503. Land use ordinance or zoning map amendments.**

54 (1) The legislative body may amend:

55 (a) the number, shape, boundaries, or area of any zoning district;

56 (b) any regulation of or within the zoning district; or

57 (c) any other provision of a land use ordinance.

59 (2) The legislative body may not make any amendment authorized by this section  
 60 unless the amendment was proposed by the planning commission or was first submitted to the  
 61 planning commission for its recommendation.

62 (3) The legislative body shall comply with the procedure specified in Section  
 63 10-9a-502 in preparing and adopting an amendment to a land use ordinance or a zoning map.

64 ~~[(4)(a) Notwithstanding Subsection (1), on or after May 10, 2011, and before May 8,~~  
 65 ~~2012, within an area designated on the National Register of Historic Places that has on or~~  
 66 ~~before March 1, 2011, a land use application pending to designate the area as a local historic~~  
 67 ~~district or area, the legislative body of a city of the first class in a county of the first class may~~  
 68 ~~not:]~~

69 ~~[(i) establish the local historic district or area;]~~

70 ~~[(ii) adopt or amend a land use ordinance affecting the area except as provided in~~  
 71 ~~Subsection (4)(c); and]~~

72 ~~[(iii) authorize a demolition permit for more than 75% of the above grade area of any~~  
 73 ~~structure on property located within the area.]~~

74 ~~[(b) A land use application in an area subject to Subsection (4)(a):]~~

75 ~~[(i) shall be stayed from any further proceedings conducted by the municipality before~~  
 76 ~~May 9, 2012; and]~~

77 ~~[(ii) is not subject to Section 10-9a-509 or 10-9a-509.5.]~~

78 ~~[(c) The provisions of this Subsection (4) do not apply to an adopted or amended land~~  
 79 ~~use ordinance applicable generally throughout a municipality unless the ordinance is enacted to~~  
 80 ~~contravene the purpose of this Subsection (4)(a).]~~

81 Section 2. Section **10-9a-901** is enacted to read:

82 **Part 9. Historical Districts**

83 **10-9a-901. Definitions.**

84 As used in this part:

85 (1) "Historical district" means an area or a group of areas:

86 (a) not necessarily having contiguous boundaries located in a municipality; and

87 (b) that contains an historic resource or a group of historic resources that are related by  
 88 history, architecture, archaeology, engineering, or culture.

89 (2) "Historic preservation" means the identification, evaluation, establishment, and

90 protection of an historic resource.

91 (3) "Historic resource" means a publicly or privately owned building, structure, site,  
92 object, feature, or open space that is significant in the history, architecture, archaeology,  
93 engineering, or culture of the United States, Utah, or a community within a municipality.

94 Section 3. Section **10-9a-902** is enacted to read:

95 **10-9a-902. Historical district may be created.**

96 (1) A municipality may not designate an historical district unless, in accordance with  
97 this part, a petition is filed and certified and the municipality adopts an ordinance designating  
98 the historical district.

99 (2) A municipality may:

100 (a) expend public funds for historic preservation;

101 (b) obtain an easement or right-of-way across public or private property to ensure  
102 access or proper development of an historical district;

103 (c) adopt a land use ordinance to:

104 (i) ensure proper development and utilization of land or an area within or adjacent to an  
105 historical district; or

106 (ii) protect or preserve an historic resource located in an historical district; and

107 (d) enter into an agreement with a person for the right to purchase an historic resource  
108 or other property located within an historical district if the person elects to sell or dispose of the  
109 historic resource or other property.

110 Section 4. Section **10-9a-903** is enacted to read:

111 **10-9a-903. Property owner provisions.**

112 For purposes of this part, the owner of real property is the fee title owner according to  
113 the records of the county recorder on the date of the filing of a petition.

114 Section 5. Section **10-9a-904** is enacted to read:

115 **10-9a-904. Process to initiate the designation of an historical district -- Petition**  
116 **requirements -- Withdrawal of signature.**

117 (1) The process to designate an historical district shall be initiated by a petition signed  
118 by the owners of private property that:

119 (a) is located within the proposed historical district; and

120 (b) covers at least two-thirds of the total private land area within the proposed

121 historical district.

122 (2) A petition shall:

123 (a) indicate the typed or printed name and current residence address of each property  
124 owner signing the petition;

125 (b) indicate the address of the property as to which the owner is signing the petition;

126 (c) designate five signers of the petition as petition sponsors, one of whom shall be  
127 designated as the contact sponsor, with the mailing address and telephone number of each;

128 (d) describe the entire area of the proposed historical district;

129 (e) be accompanied by a map, prepared by a licensed surveyor, showing the boundaries  
130 of the entire proposed historical district;

131 (f) describe in simple terms that the designation of an historical district may:

132 (i) require a property owner whose property is located within the historical district to  
133 request special permission from or apply for specific permits with the municipality before the  
134 owner may:

135 (A) build on or alter the property or an existing structure on the property; or

136 (B) build a new structure on the property;

137 (ii) prohibit the property owner from certain activities on the owner's property in order  
138 to preserve certain historical characteristics, aspects, or appearances of the property; and

139 (iii) require the property owner to comply with a land use ordinance that applies only to  
140 the historical district; and

141 (g) substantially comply with and be circulated in the following form:

142 "PETITION FOR DESIGNATION OF AN HISTORICAL DISTRICT

143 To the Honorable Municipal Legislative Body of (insert the name of the municipality in  
144 which the proposed historical district is located):

145 We, the undersigned owners of real property within the area described in this petition,  
146 respectfully petition the municipal legislative body to designate the area described in this  
147 petition as an historical district. Each of the undersigned affirms that each has personally  
148 signed this petition and is an owner of real property within the described area, and that the  
149 current residence address of each is correctly written after the signer's name. The area  
150 proposed to be designated as an historical district is described as follows: (insert an accurate  
151 description of the area proposed to be designated as an historical district)."

152 (3) A petition may not include:  
153 (a) an area within the unincorporated part of a county or another municipality; or  
154 (b) some or all of an area described in a previously filed petition that:  
155 (i) proposes the designation of an historical district; and  
156 (ii) is certified by the municipal clerk or recorder within the past five years.  
157 (4) A petition signer may withdraw or, once withdrawn, reinstate the signer's signature  
158 at any time before the petition is filed by submitting a written withdrawal or reinstatement with  
159 the municipal clerk or recorder.

160 (5) A person described in Subsection (2)(c) shall file the petition with the municipal  
161 clerk or recorder of the municipality in which the proposed historical district is located.

162 Section 6. Section **10-9a-905** is enacted to read:

163 **10-9a-905. Request certification -- Amended request.**

164 (1) (a) Within 30 days after the day on which a petition is filed in accordance with  
165 Section 10-9a-904, the municipal clerk or recorder shall determine whether the petition  
166 complies with the requirements of Section 10-9a-904.

167 (b) If the municipal clerk or recorder determines that the petition complies with the  
168 applicable requirements, the municipal clerk or recorder shall:

169 (i) certify the petition and deliver the certified petition to the municipal legislative  
170 body; and

171 (ii) mail or deliver written notification of the certification to the contact sponsor.

172 (c) (i) If the municipal clerk or recorder determines that the petition fails to comply  
173 with any of the applicable requirements, the municipal clerk or recorder shall reject the petition  
174 and notify the contact sponsor in writing of the rejection and the reasons for rejection.

175 (ii) If the municipal clerk or recorder rejects a petition under Subsection (1)(c)(i), the  
176 petition may be amended to correct deficiencies for which it was rejected and then refiled.

177 (iii) A valid signature on a petition that was rejected may be used toward fulfilling the  
178 applicable signature requirement of the petition as amended.

179 (iv) If a petition is amended and refiled under Subsection (1)(c)(ii), the amended  
180 petition is considered as newly filed, and its processing priority is determined by the date on  
181 which it is refiled.

182 (2) If the municipal clerk or recorder fails to certify or reject a petition within 30 days

183 after its filing, the petition is considered certified.

184 (3) The municipal clerk or recorder shall act in good faith in making the determinations  
185 under this section.

186 Section 7. Section **10-9a-906** is enacted to read:

187 **10-9a-906. Public hearing -- Designation of historical district.**

188 (1) No later than 45 days after receiving a certified petition from the municipal clerk or  
189 recorder, the municipal legislative body shall hold a public hearing to determine whether to  
190 designate an historical district in the area identified in the petition.

191 (2) Before holding the public hearing described in Subsection (1), the municipal  
192 legislative body shall, in addition to the notice requirements of Section 52-4-202, mail a notice  
193 of the hearing to each resident residing within and each owner of real property located within  
194 the proposed historical district.

195 (3) At the public hearing described in Subsection (1), the municipal legislative body  
196 shall:

197 (a) allow the public reasonable opportunity to provide input on whether or not the  
198 municipality should designate an historical district; and

199 (b) vote whether or not to adopt an ordinance that designates the historical district.

200 Section 8. Section **17-27a-901** is enacted to read:

201 **Part 9. Historical Districts**

202 **17-27a-901. Definitions.**

203 As used in this part:

204 (1) "Historical district" means an area or a group of areas:

205 (a) not necessarily having contiguous boundaries located in the unincorporated part of  
206 a county; and

207 (b) that contains an historic resource or a group of historic resources that are related by  
208 history, architecture, archaeology, engineering, or culture.

209 (2) "Historic preservation" means the identification, evaluation, establishment, and  
210 protection of an historic resource.

211 (3) "Historic resource" means a publicly or privately owned building, structure, site,  
212 object, feature, or open space that is significant in the history, architecture, archaeology,  
213 engineering, or culture of the United States, Utah, or a community within a county.

214 Section 9. Section **17-27a-902** is enacted to read:

215 **17-27a-902. Historical district may be created.**

216 (1) A county may not designate an historical district unless, in accordance with this  
217 part, a petition is filed and certified and the county adopts an ordinance designating the  
218 historical district.

219 (2) A county may:

220 (a) expend public funds for historic preservation;

221 (b) obtain an easement or right-of-way across public or private property to ensure  
222 access or proper development of an historical district;

223 (c) adopt a land use ordinance to:

224 (i) ensure proper development and utilization of land or an area within or adjacent to an  
225 historical district; or

226 (ii) protect or preserve an historic resource located in an historical district; and

227 (d) enter into an agreement with a person for the right to purchase an historic resource  
228 or other property located within an historical district if the person elects to sell or dispose of the  
229 historic resource or other property.

230 Section 10. Section **17-27a-903** is enacted to read:

231 **17-27a-903. Property owner provisions.**

232 For purposes of this part, the owner of real property is the fee title owner according to  
233 the records of the county recorder on the date of the filing of a petition.

234 Section 11. Section **17-27a-904** is enacted to read:

235 **17-27a-904. Process to initiate the designation of an historical district -- Petition**  
236 **requirements -- Withdrawal of signature.**

237 (1) The process to designate an historical district shall be initiated by a petition signed  
238 by the owners of private property that:

239 (a) is located within the proposed historical district; and

240 (b) covers at least two-thirds of the total private land area within the proposed  
241 historical district.

242 (2) A petition shall:

243 (a) indicate the typed or printed name and current residence address of each property  
244 owner signing the petition;



245 (b) indicate the address of the property described in Subsection (1) for which the owner  
246 is signing the petition;

247 (c) designate five signers of the petition as petition sponsors, one of whom shall be  
248 designated as the contact sponsor, with the mailing address and telephone number of each;

249 (d) describe the entire area of the proposed historical district;

250 (e) be accompanied by a map, prepared by a licensed surveyor, showing the boundaries  
251 of the entire proposed historical district;

252 (f) describe in simple terms that the designation of an historical district may:

253 (i) require a property owner whose property is located within the historical district to  
254 request special permission from or apply for specific permits with the county before the owner  
255 may:

256 (A) build on or alter the property or an existing structure on the property; or

257 (B) build a new structure on the property;

258 (ii) prohibit the property owner from certain activities on the owner's property in order  
259 to preserve certain historical characteristics, aspects, or appearances of the property; and

260 (iii) require the property owner to comply with a land use ordinance that applies only to  
261 the historical district; and

262 (g) substantially comply with and be circulated in the following form:

263 "PETITION FOR DESIGNATION OF AN HISTORICAL DISTRICT

264 To the Honorable County Legislative Body of (insert the name of the county in which  
265 the proposed historical district is located):

266 We, the undersigned owners of real property within the area described in this petition,  
267 respectfully petition the county legislative body to designate the area described in this petition  
268 as an historical district. Each of the undersigned affirms that each has personally signed this  
269 petition and is an owner of real property within the described area, and that the current  
270 residence address of each is correctly written after the signer's name. The area proposed to be  
271 designated as an historical district is described as follows: (insert an accurate description of the  
272 area proposed to be designated as an historical district)."

273 (3) A petition may not include:

274 (a) an area within a municipality or another county; or

275 (b) some or all of an area described in a previously filed petition that:

276 (i) proposes the designation of an historical district; and

277 (ii) is certified by the county clerk within the past five years.

278 (4) A petition signer may withdraw or, once withdrawn, reinstate the signer's signature  
279 at any time before the petition is filed by submitting a written withdrawal or reinstatement with  
280 the county clerk.

281 (5) A person described in Subsection (2)(c) shall file the petition with the county clerk  
282 of the county in which the proposed historical district is located.

283 Section 12. Section **17-27a-905** is enacted to read:

284 **17-27a-905. Request certification -- Amended request.**

285 (1) (a) Within 30 days after the day on which a petition is filed in accordance with  
286 Section 17-27a-904, the county clerk shall determine whether the petition complies with the  
287 requirements of Section 17-27a-904.

288 (b) If the county clerk determines that the petition complies with the applicable  
289 requirements, the county clerk shall:

290 (i) certify the petition and deliver the certified petition to the county legislative body;  
291 and

292 (ii) mail or deliver written notification of the certification to the contact sponsor.

293 (c) (i) If the county clerk determines that the petition fails to comply with any of the  
294 applicable requirements, the county clerk shall reject the petition and notify the contact sponsor  
295 in writing of the rejection and the reasons for rejection.

296 (ii) If the county clerk rejects a petition under Subsection (1)(c)(i), the petition may be  
297 amended to correct deficiencies for which it was rejected and then refiled.

298 (iii) A valid signature on a petition that was rejected may be used toward fulfilling the  
299 applicable signature requirement of the petition as amended.

300 (iv) If a petition is amended and refiled under Subsection (1)(c)(ii), the amended  
301 petition is considered as newly filed, and its processing priority is determined by the date on  
302 which it is refiled.

303 (2) If the county clerk fails to certify or reject a petition within 30 days after its filing,  
304 the petition is considered certified.

305 (3) The county clerk shall act in good faith in making the determinations under this  
306 section.

307 Section 13. Section **17-27a-906** is enacted to read:

308 **17-27a-906. Public hearing -- Designation of historical district.**

309 (1) No later than 45 days after receiving a certified petition from the county clerk, the  
310 county legislative body shall hold a public hearing to determine whether to designate an  
311 historical district in the area identified in the petition.

312 (2) Before holding the public hearing described in Subsection (1), the county  
313 legislative body shall, in addition to the notice requirements of Section 52-4-202, mail a notice  
314 of the hearing to each resident residing within and each owner of real property located within  
315 the proposed historical district.

316 (3) At the public hearing described in Subsection (1), the county legislative body shall:

317 (a) allow the public reasonable opportunity to provide input on whether or not the  
318 county should designate an historical district; and

319 (b) vote whether or not to adopt an ordinance that designates the historical district.

320 Section 14. **Repealer.**

321 This bill repeals:

322 Section **10-8-85.9, Preservation of historical areas and sites.**

323 Section **17-50-326, Preservation of historical areas and sites.**

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**Legislative Review Note**  
as of 11-17-11 12:58 PM

**Office of Legislative Research and General Counsel**