

**LAND USE AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Melvin R. Brown**

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

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**LONG TITLE**

**General Description:**

This bill modifies provisions governing land use.

**Highlighted Provisions:**

This bill:

- ▶ provides a penalty if a municipality or county fails to comply with land use notice requirements;
- ▶ requires a planning commission to give notice to an owner of private real property if the property is located within an area located in a proposed zoning map or map amendment;
- ▶ permits an owner of private real property to refuse to consent to the inclusion of the property in the proposed zoning map or map amendment;
- ▶ requires a planning commission to extract certain private real property from a proposed zoning map or map amendment;
- ▶ prohibits a legislative body from adopting a zoning map or map amendment that includes certain private real property; and
- ▶ makes technical corrections.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **10-9a-201**, as enacted by Laws of Utah 2005, Chapter 254

31 **17-27a-201**, as enacted by Laws of Utah 2005, Chapter 254

32 ENACTS:

33 **10-9a-306**, Utah Code Annotated 1953

34 **17-27a-305.5**, Utah Code Annotated 1953

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

37 Section 1. Section **10-9a-201** is amended to read:

38 **10-9a-201. Required notice -- Penalty.**

39 (1) At a minimum, each municipality shall provide actual notice or the notice required  
40 by this part.

41 (2) A municipality may by ordinance require greater notice than required under this  
42 part.

43 (3) If a municipality takes an action, including holding a hearing or adopting a land use  
44 ordinance, that requires prior notice in accordance with this chapter, the municipality is liable  
45 for the loss of property value, if any, resulting from that action.

46 Section 2. Section **10-9a-306** is enacted to read:

47 **10-9a-306. Notice of proposed zoning change -- Property owner's refusal of**  
48 **consent -- Recommendation or adoption of zoning change prohibited.**

49 (1) A planning commission may not include private real property in a proposed zoning  
50 map or map amendment if the owner of the private real property does not consent to the  
51 inclusion of the owner's property in accordance with this section.

52 (2) (a) The planning commission, when preparing a zoning map or map amendment  
53 and before recommending the zoning map or map amendment to the legislative body in  
54 accordance with Sections 10-9a-302 and 10-9a-502, shall send written notice to each owner of  
55 private real property whose property is located entirely or partially within the proposed map or  
56 amendment.

57 (b) The written notice shall:

58 (i) identify, with specificity, the owner's real property that will be affected by the

59 proposed zoning map or map amendment;

60 (ii) state the current zone in which the real property is located;

61 (iii) state the proposed new zone for the real property, including new regulations,  
62 prohibitions, and permitted uses, that the property will be governed by if the zoning map or  
63 map amendment is adopted;

64 (iv) state that:

65 (A) the owner of real property may refuse to consent to the inclusion of some or all of  
66 the real property in the proposed zoning map or map amendment;

67 (B) if the owner refuses consent in accordance with this section, the planning  
68 commission and legislative body are prohibited from including the property in the proposed or  
69 adopted zoning map or amendment;

70 (C) the owner has 30 business days after receipt of the notice to submit written notice  
71 to the planning commission refusing consent; and

72 (D) if the owner does not submit a written notice to the planning commission refusing  
73 consent, the planning commission and legislative body may include the owner's real property in  
74 the proposed zoning map or map amendment;

75 (v) provide the planning commission's address, phone number, and the name of a  
76 planning commissioner or staff member whom the real property owner may contact; and

77 (vi) be mailed first class, postage prepaid, to each owner of record according to the  
78 records of the county recorder of private real property located in the proposed zoning map or  
79 map amendment.

80 (3) (a) An owner of real property may, no later than 30 days after the day on which the  
81 owner receives the notice described in Subsection (2), submit written notice to the planning  
82 commission refusing consent to the inclusion of some or all of the owner's real property.

83 (b) An owner described in Subsection (3)(a) shall include in the written notice:

84 (i) the owner's name and contact information;

85 (ii) a description of the real property for which the owner is refusing consent;

86 (iii) a statement affirming the owner's refusal of consent; and

87 (iv) the owner's signature or the signature of the owner's legal representative.

88 (4) If the planning commission receives written notice from an owner of real property  
89 in accordance with Subsection (3), the planning commission shall:

90 (a) extract the real property identified in the notice from the proposed zoning map or  
91 map amendment; and

92 (b) revise the proposed zoning map or map amendment to reflect exclusion of the  
93 identified real property.

94 (5) A zoning map or map amendment recommended to the legislative body by the  
95 planning commission in accordance with Section 10-9a-502 may not include private real  
96 property identified in a notice submitted in accordance with Subsection (3).

97 (6) Notwithstanding Section 10-9a-502, if a zoning map or map amendment includes  
98 private real property identified in a notice submitted in accordance with Subsection (3), a  
99 legislative body may not:

100 (a) adopt the zoning map or map amendment recommended by a planning commission;  
101 or

102 (b) revise for adoption a zoning map or map amendment recommended by a planning  
103 commission to include the private real property.

104 Section 3. Section **17-27a-201** is amended to read:

105 **17-27a-201. Required notice -- Penalty.**

106 (1) At a minimum, each county shall provide actual notice or the notice required by  
107 this part.

108 (2) A county may by ordinance require greater notice than required under this part.

109 (3) If a county takes an action, including holding a hearing or adopting a land use  
110 ordinance, that requires prior notice in accordance with this chapter, the municipality is liable  
111 for the loss of property value, if any, resulting from that action.

112 Section 4. Section **17-27a-305.5** is enacted to read:

113 **17-27a-305.5. Notice of proposed zoning change -- Property owner's refusal of**  
114 **consent -- Recommendation or adoption of zoning change prohibited.**

115 (1) A planning commission may not include private real property in a proposed zoning  
116 map or map amendment if the owner of the private real property does not consent to the  
117 inclusion of the owner's property in accordance with this section.

118 (2) (a) The planning commission, when preparing a zoning map or map amendment  
119 and before recommending the zoning map or map amendment to the legislative body in  
120 accordance with Sections 17-27a-302 and 17-27a-502, shall send written notice to each owner

121 of private real property whose property is located entirely or partially within the proposed map  
122 or amendment.

123 (b) The written notice shall:

124 (i) identify, with specificity, the owner's real property that will be affected by the  
125 proposed zoning map or map amendment;

126 (ii) state the current zone in which the real property is located;

127 (iii) state the proposed new zone for the real property, including new regulations,  
128 prohibitions, and permitted uses, that the property will be governed by if the zoning map or  
129 map amendment is adopted;

130 (iv) state that:

131 (A) the owner of real property may refuse to consent to the inclusion of some or all of  
132 the real property in the proposed zoning map or map amendment;

133 (B) if the owner refuses consent in accordance with this section, the planning  
134 commission and legislative body are prohibited from including the property in the proposed or  
135 adopted zoning map or amendment;

136 (C) the owner has 30 business days after receipt of the notice to submit written notice  
137 to the planning commission refusing consent; and

138 (D) if the owner does not submit a written notice to the planning commission refusing  
139 consent, the planning commission and legislative body may include the owner's real property in  
140 the proposed zoning map or map amendment;

141 (v) provide the planning commission's address, phone number, and the name of a  
142 planning commissioner or staff member whom the real property owner may contact; and

143 (vi) be mailed first class, postage prepaid, to each owner of record according to the  
144 records of the county recorder of private real property located in the proposed zoning map or  
145 map amendment.

146 (3) (a) An owner of real property may, no later than 30 days after the day on which the  
147 owner receives the notice described in Subsection (2), submit written notice to the planning  
148 commission refusing consent to the inclusion of some or all of the owner's real property.

149 (b) An owner described in Subsection (3)(a) shall include in the written notice:

150 (i) the owner's name and contact information;

151 (ii) a description of the real property for which the owner is refusing consent;

- 152           (iii) a statement affirming the owner's refusal of consent; and  
153           (iv) the owner's signature or the signature of the owner's legal representative.  
154           (4) If the planning commission receives written notice from an owner of real property  
155 in accordance with Subsection (3), the planning commission shall:  
156           (a) extract the real property identified in the protest from a proposed zoning map or  
157 map amendment; and  
158           (b) revise the proposed zoning map or map amendment to reflect exclusion of the  
159 private real property identified in the protest.  
160           (5) A zoning map or map amendment recommended to the legislative body by the  
161 planning commission in accordance with Section 17-27a-502 may not include private real  
162 property identified in a protest filed in accordance with this section.  
163           (6) Notwithstanding Section 17-27a-502, if a zoning map or map amendment includes  
164 private real property identified in a protest filed in accordance with this section, a legislative  
165 body may not:  
166           (a) adopt the zoning map or map amendment recommended by a planning commission;  
167 or  
168           (b) revise for adoption a zoning map or map amendment recommended by a planning  
169 commission to include the private real property.

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**Legislative Review Note**  
**as of 12-4-12 3:01 PM**

**Office of Legislative Research and General Counsel**