

LAND DEVELOPMENT REVISIONS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to a municipality's or county's regulation of land use and development.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a municipality or county from adopting a land use ordinance that, in certain circumstances, requires a property owner to revegetate, landscape, or manage erosion control on the owner's property;
- ▶ enacts provisions governing the application of a site plan; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-103, as last amended by Laws of Utah 2012, Chapter 231

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

17-27a-103, as last amended by Laws of Utah 2012, Chapter 231



28 17-27a-505, as last amended by Laws of Utah 2008, Chapter 326

29 ENACTS:

30 10-9a-523, Utah Code Annotated 1953

31 17-27a-522, Utah Code Annotated 1953



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

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

35 **10-9a-103. Definitions.**

36 As used in this chapter:

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

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

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

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

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

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

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

56 (i) an operating charter school;

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

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

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

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

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

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

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

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

73 (8) "Development activity" means:

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

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

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

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

83 (b) "Disability" does not include current illegal use of, or addiction to, any federally
84 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
85 802.

86 (10) "Educational facility":

87 (a) means:

88 (i) a school district's building at which pupils assemble to receive instruction in a
89 program for any combination of grades from preschool through grade 12, including

90 kindergarten and a program for children with disabilities;

91 (ii) a structure or facility:

92 (A) located on the same property as a building described in Subsection (10)(a)(i); and

93 (B) used in support of the use of that building; and

94 (iii) a building to provide office and related space to a school district's administrative
95 personnel; and

96 (b) does not include:

97 (i) land or a structure, including land or a structure for inventory storage, equipment
98 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

99 (A) not located on the same property as a building described in Subsection (10)(a)(i);

100 and

101 (B) used in support of the purposes of a building described in Subsection (10)(a)(i); or

102 (ii) a therapeutic school.

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

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

109 (13) "Flood plain" means land that:

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

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

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

118 (15) "Geologic hazard" means:

119 (a) a surface fault rupture;

120 (b) shallow groundwater;

- 121 (c) liquefaction;
- 122 (d) a landslide;
- 123 (e) a debris flow;
- 124 (f) unstable soil;
- 125 (g) a rock fall; or
- 126 (h) any other geologic condition that presents a risk:
- 127 (i) to life;
- 128 (ii) of substantial loss of real property; or
- 129 (iii) of substantial damage to real property.
- 130 (16) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 131 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
- 132 utility system.
- 133 (17) "Identical plans" means building plans submitted to a municipality that:
- 134 (a) are clearly marked as "identical plans";
- 135 (b) are substantially identical to building plans that were previously submitted to and
- 136 reviewed and approved by the municipality; and
- 137 (c) describe a building that:
- 138 (i) is located on land zoned the same as the land on which the building described in the
- 139 previously approved plans is located;
- 140 (ii) is subject to the same geological and meteorological conditions and the same law
- 141 as the building described in the previously approved plans;
- 142 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 143 and approved by the municipality; and
- 144 (iv) does not require any additional engineering or analysis.
- 145 (18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
- 146 Impact Fees Act.
- 147 (19) "Improvement assurance" means a surety bond, letter of credit, cash, or other
- 148 security:
- 149 (a) to guaranty the proper completion of an improvement;
- 150 (b) that is required as a condition precedent to:
- 151 (i) recording a subdivision plat; or

- 152 (ii) beginning development activity; and
- 153 (c) that is offered to a land use authority to induce the land use authority, before actual
- 154 construction of required improvements, to:
 - 155 (i) consent to the recording of a subdivision plat; or
 - 156 (ii) issue a permit for development activity.
- 157 (20) "Improvement assurance warranty" means a promise that the materials and
- 158 workmanship of improvements:
 - 159 (a) comport with standards that the municipality has officially adopted; and
 - 160 (b) will not fail in any material respect within a warranty period.
- 161 (21) "Internal lot restriction" means a platted note, platted demarcation, or platted
- 162 designation that:
 - 163 (a) runs with the land; and
 - 164 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
 - 165 the plat; or
 - 166 (ii) designates a development condition that is enclosed within the perimeter of a lot
 - 167 described on the plat.
- 168 (22) "Land use application" means an application required by a municipality's land use
- 169 ordinance.
- 170 (23) "Land use authority" means a person, board, commission, agency, or other body
- 171 designated by the local legislative body to act upon a land use application.
- 172 (24) "Land use ordinance" means a planning, zoning, development, or subdivision
- 173 ordinance of the municipality, but does not include the general plan.
- 174 (25) "Land use permit" means a permit issued by a land use authority.
- 175 (26) "Legislative body" means the municipal council.
- 176 (27) "Local district" means an entity under Title 17B, Limited Purpose Local
- 177 Government Entities - Local Districts, and any other governmental or quasi-governmental
- 178 entity that is not a county, municipality, school district, or the state.
- 179 (28) "Lot line adjustment" means the relocation of the property boundary line in a
- 180 subdivision between two adjoining lots with the consent of the owners of record.
- 181 (29) "Moderate income housing" means housing occupied or reserved for occupancy
- 182 by households with a gross household income equal to or less than 80% of the median gross

183 income for households of the same size in the county in which the city is located.

184 (30) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
185 spent and expenses incurred in:

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

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

189 (31) "Noncomplying structure" means a structure that:

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

191 (b) because of one or more subsequent land use ordinance changes, does not conform
192 to the setback, height restrictions, or other regulations, excluding those regulations, which
193 govern the use of land.

194 (32) "Nonconforming use" means a use of land that:

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

196 (b) has been maintained continuously since the time the land use ordinance governing
197 the land changed; and

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

200 (33) "Official map" means a map drawn by municipal authorities and recorded in a
201 county recorder's office that:

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

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

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

208 (34) "Person" means an individual, corporation, partnership, organization, association,
209 trust, governmental agency, or any other legal entity.

210 (35) "Plan for moderate income housing" means a written document adopted by a city
211 legislative body that includes:

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

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

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

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

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

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

223 (37) "Potential geologic hazard area" means an area that:

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

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

230 (38) "Public agency" means:

231 (a) the federal government;

232 (b) the state;

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

235 (d) a charter school.

236 (39) "Public hearing" means a hearing at which members of the public are provided a
237 reasonable opportunity to comment on the subject of the hearing.

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

240 (41) "Receiving zone" means an area of a municipality that the municipality
241 designates, by ordinance, as an area in which an owner of land may receive a transferable
242 development right.

243 (42) "Record of survey map" means a map of a survey of land prepared in accordance
244 with Section 17-23-17.

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

248 (44) "Residential facility for persons with a disability" means a residence:

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

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

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

254 (45) "Rules of order and procedure" means a set of rules that govern and prescribe in a
255 public meeting:

256 (a) parliamentary order and procedure;

257 (b) ethical behavior; and

258 (c) civil discourse.

259 (46) "Sanitary sewer authority" means the department, agency, or public entity with
260 responsibility to review and approve the feasibility of sanitary sewer services or onsite
261 wastewater systems.

262 (47) "Sending zone" means an area of a municipality that the municipality designates,
263 by ordinance, as an area from which an owner of land may transfer a transferable development
264 right.

265 (48) "Site plan" means a document or map that may be required by a municipality
266 during a preliminary review preceding the issuance of a building permit to demonstrate that an
267 owner's or developer's proposed development activity meets a building permit requirement.

268 [~~48~~] (49) "Specified public agency" means:

269 (a) the state;

270 (b) a school district; or

271 (c) a charter school.

272 [~~49~~] (50) "Specified public utility" means an electrical corporation, gas corporation,
273 or telephone corporation, as those terms are defined in Section 54-2-1.

274 [~~50~~] (51) "State" includes any department, division, or agency of the state.

275 [~~51~~] (52) "Street" means a public right-of-way, including a highway, avenue,

276 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
277 or other way.

278 [~~(52)~~] (53) (a) "Subdivision" means any land that is divided, resubdivided or proposed
279 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
280 purpose, whether immediate or future, for offer, sale, lease, or development either on the
281 installment plan or upon any and all other plans, terms, and conditions.

282 (b) "Subdivision" includes:

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

285 (ii) except as provided in Subsection [~~(52)~~] (53)(c), divisions of land for residential and
286 nonresidential uses, including land used or to be used for commercial, agricultural, and
287 industrial purposes.

288 (c) "Subdivision" does not include:

289 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
290 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
291 neither the resulting combined parcel nor the parcel remaining from the division or partition
292 violates an applicable land use ordinance;

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

295 (A) no new lot is created; and

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

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

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

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

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

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

305 (B) the adjustment will not violate any applicable land use ordinance; or

306 (v) a bona fide division or partition of land by deed or other instrument where the land

307 use authority expressly approves in writing the division in anticipation of further land use
308 approvals on the parcel or parcels.

309 (d) The joining of a subdivided parcel of property to another parcel of property that has
310 not been subdivided does not constitute a subdivision under this Subsection (52) as to the
311 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
312 subdivision ordinance.

313 [~~(53)~~] (54) "Therapeutic school" means a residential group living facility:

314 (a) for four or more individuals who are not related to:

315 (i) the owner of the facility; or

316 (ii) the primary service provider of the facility;

317 (b) that serves students who have a history of failing to function:

318 (i) at home;

319 (ii) in a public school; or

320 (iii) in a nonresidential private school; and

321 (c) that offers:

322 (i) room and board; and

323 (ii) an academic education integrated with:

324 (A) specialized structure and supervision; or

325 (B) services or treatment related to a disability, an emotional development, a
326 behavioral development, a familial development, or a social development.

327 [~~(54)~~] (55) "Transferable development right" means a right to develop and use land that
328 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
329 land use rights from a designated sending zone to a designated receiving zone.

330 [~~(55)~~] (56) "Unincorporated" means the area outside of the incorporated area of a city
331 or town.

332 [~~(56)~~] (57) "Water interest" means any right to the beneficial use of water, including:

333 (a) each of the rights listed in Section 73-1-11; and

334 (b) an ownership interest in the right to the beneficial use of water represented by:

335 (i) a contract; or

336 (ii) a share in a water company, as defined in Section 73-3-3.5.

337 [~~(57)~~] (58) "Zoning map" means a map, adopted as part of a land use ordinance, that

338 depicts land use zones, overlays, or districts.

339 Section 2. Section **10-9a-505** is amended to read:

340 **10-9a-505. Zoning districts.**

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

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

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

349 (i) protect life; and

350 (ii) prevent:

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

352 (B) substantial damage to real property.

353 (d) A municipality may not adopt a land use ordinance requiring a property owner to
354 take an action to revegetate, landscape, or manage erosion control in any form if the property
355 slope is less than 12% unless the location of the slope on the property includes a geologic
356 hazard.

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

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

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

365 Section 3. Section **10-9a-523** is enacted to read:

366 **10-9a-523. Site plan.**

367 A site plan:

368 (1) is not a legally binding document;

- 369 (2) does not represent an agreement for a specific layout;
- 370 (3) does not bind an owner from future development activity on the property; and
- 371 (4) does not supercede a building permit requirement.

372 Section 4. Section **17-27a-103** is amended to read:

373 **17-27a-103. Definitions.**

374 As used in this chapter:

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

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

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

383 or

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

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

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

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

394 (i) an operating charter school;

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

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

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

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

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

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

- 408 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- 409 (b) Utah Constitution Article I, Section 22.

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

413 (9) "Development activity" means:

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

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

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

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

423 (b) "Disability" does not include current illegal use of, or addiction to, any federally
424 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
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426 (11) "Educational facility":

427 (a) means:

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

431 (ii) a structure or facility:
432 (A) located on the same property as a building described in Subsection (11)(a)(i); and
433 (B) used in support of the use of that building; and
434 (iii) a building to provide office and related space to a school district's administrative
435 personnel; and

436 (b) does not include:
437 (i) land or a structure, including land or a structure for inventory storage, equipment
438 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
439 (A) not located on the same property as a building described in Subsection (11)(a)(i);
440 and
441 (B) used in support of the purposes of a building described in Subsection (11)(a)(i); or
442 (ii) a therapeutic school.

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

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

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

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

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

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

457 (16) "General plan" means a document that a county adopts that sets forth general
458 guidelines for proposed future development of the unincorporated land within the county.

459 (17) "Geologic hazard" means:

460 (a) a surface fault rupture;

461 (b) shallow groundwater;

- 462 (c) liquefaction;
- 463 (d) a landslide;
- 464 (e) a debris flow;
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- 478 (19) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 479 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
- 480 system.
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 - 482 (a) are clearly marked as "identical plans";
 - 483 (b) are substantially identical building plans that were previously submitted to and
 - 484 reviewed and approved by the county; and
 - 485 (c) describe a building that:
 - 486 (i) is located on land zoned the same as the land on which the building described in the
 - 487 previously approved plans is located;
 - 488 (ii) is subject to the same geological and meteorological conditions and the same law
 - 489 as the building described in the previously approved plans;
 - 490 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
 - 491 and approved by the county; and
 - 492 (iv) does not require any additional engineering or analysis.

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

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

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

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

499 (i) recording a subdivision plat; or

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

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

504 (ii) issue a permit for development activity.

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

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

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

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

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

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

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

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

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

522 (30) "Legislative body" means the county legislative body, or for a county that has
523 adopted an alternative form of government, the body exercising legislative powers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

578 (42) "Public agency" means:

579 (a) the federal government;

580 (b) the state;

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

583 (d) a charter school.

584 (43) "Public hearing" means a hearing at which members of the public are provided a
585 reasonable opportunity to comment on the subject of the hearing.

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

588 (45) "Receiving zone" means an unincorporated area of a county that the county
589 designates, by ordinance, as an area in which an owner of land may receive a transferable
590 development right.

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

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

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

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

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

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

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

604 (a) parliamentary order and procedure;

605 (b) ethical behavior; and

606 (c) civil discourse.

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

610 (51) "Sending zone" means an unincorporated area of a county that the county
611 designates, by ordinance, as an area from which an owner of land may transfer a transferable
612 development right.

613 (52) "Site plan" means a document or map that may be required by a county during a
614 preliminary review preceding the issuance of a building permit to demonstrate that an owner's
615 or developer's proposed development activity meets a building permit requirement.

616 [~~52~~] (53) "Specified public agency" means:

617 (a) the state;

618 (b) a school district; or

619 (c) a charter school.

620 [~~(53)~~] (54) "Specified public utility" means an electrical corporation, gas corporation,
621 or telephone corporation, as those terms are defined in Section 54-2-1.

622 [~~(54)~~] (55) "State" includes any department, division, or agency of the state.

623 [~~(55)~~] (56) "Street" means a public right-of-way, including a highway, avenue,
624 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
625 or other way.

626 [~~(56)~~] (57) (a) "Subdivision" means any land that is divided, resubdivided or proposed
627 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
628 purpose, whether immediate or future, for offer, sale, lease, or development either on the
629 installment plan or upon any and all other plans, terms, and conditions.

630 (b) "Subdivision" includes:

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

633 (ii) except as provided in Subsection [~~(56)~~] (57)(c), divisions of land for residential and
634 nonresidential uses, including land used or to be used for commercial, agricultural, and
635 industrial purposes.

636 (c) "Subdivision" does not include:

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

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

640 (A) no new lot is created; and

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

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

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

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

647 (iv) a bona fide division or partition of land in a county other than a first class county

648 for the purpose of siting, on one or more of the resulting separate parcels:

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

650 (B) a natural gas pipeline or a regulation station; or

651 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other

652 utility service regeneration, transformation, retransmission, or amplification facility;

653 (v) a recorded agreement between owners of adjoining subdivided properties adjusting

654 their mutual boundary if:

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

656 (B) the adjustment will not violate any applicable land use ordinance; or

657 (vi) a bona fide division or partition of land by deed or other instrument where the land

658 use authority expressly approves in writing the division in anticipation of further land use

659 approvals on the parcel or parcels.

660 (d) The joining of a subdivided parcel of property to another parcel of property that has

661 not been subdivided does not constitute a subdivision under this Subsection [~~56~~] 57 as to

662 the unsubdivided parcel of property or subject the unsubdivided parcel to the county's

663 subdivision ordinance.

664 [~~57~~] 58 "Therapeutic school" means a residential group living facility:

665 (a) for four or more individuals who are not related to:

666 (i) the owner of the facility; or

667 (ii) the primary service provider of the facility;

668 (b) that serves students who have a history of failing to function:

669 (i) at home;

670 (ii) in a public school; or

671 (iii) in a nonresidential private school; and

672 (c) that offers:

673 (i) room and board; and

674 (ii) an academic education integrated with:

675 (A) specialized structure and supervision; or

676 (B) services or treatment related to a disability, an emotional development, a

677 behavioral development, a familial development, or a social development.

678 [~~58~~] 59 "Township" means a contiguous, geographically defined portion of the

679 unincorporated area of a county, established under this part or reconstituted or reinstated under
 680 Section 17-27a-306, with planning and zoning functions as exercised through the township
 681 planning commission, as provided in this chapter, but with no legal or political identity
 682 separate from the county and no taxing authority, except that "township" means a former
 683 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

684 ~~[(59)]~~ (60) "Transferable development right" means a right to develop and use land that
 685 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
 686 land use rights from a designated sending zone to a designated receiving zone.

687 ~~[(60)]~~ (61) "Unincorporated" means the area outside of the incorporated area of a
 688 municipality.

689 ~~[(61)]~~ (62) "Water interest" means any right to the beneficial use of water, including:

- 690 (a) each of the rights listed in Section 73-1-11; and
- 691 (b) an ownership interest in the right to the beneficial use of water represented by:
 - 692 (i) a contract; or
 - 693 (ii) a share in a water company, as defined in Section 73-3-3.5.

694 ~~[(62)]~~ (63) "Zoning map" means a map, adopted as part of a land use ordinance, that
 695 depicts land use zones, overlays, or districts.

696 Section 5. Section **17-27a-505** is amended to read:

697 **17-27a-505. Zoning districts.**

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

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

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

- 706 (i) protect life; and
- 707 (ii) prevent:
 - 708 (A) the substantial loss of real property; or
 - 709 (B) substantial damage to real property.

710 (d) A county may not adopt a land use ordinance requiring a property owner to take an
711 action to revegetate, landscape, or manage erosion control in any form if the property slope is
712 less than 12% unless the location of the slope on the property includes a geologic hazard.

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

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

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

721 Section 6. Section **17-27a-522** is enacted to read:

722 **17-27a-522. Site plan.**

723 A site plan:

724 (1) is not a legally binding document;

725 (2) does not represent an agreement for a specific layout;

726 (3) does not bind an owner from future development activity on the property; and

727 (4) does not supercede a building permit requirement.

Legislative Review Note
as of **2-11-13 10:46 AM**

Office of Legislative Research and General Counsel