

LOCAL GOVERNMENT DEVELOPMENT AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends provisions related to municipal and county regulation of land use and development.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ amends a land use authority's authority to impose an exaction for another governmental entity;
- ▶ enacts language limiting a municipality's or county's regulation of a residential facility for persons with a disability;
- ▶ enacts provisions relating to a land use authority's acceptance of landscaping and infrastructure improvements;
- ▶ requires a local district to comply with municipal or county land use and development requirements in certain circumstances; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

- 29 **10-9a-103**, as last amended by Laws of Utah 2012, Chapter 231
- 30 **10-9a-104**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 31 **10-9a-508**, as last amended by Laws of Utah 2009, Chapter 163
- 32 **10-9a-520**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 33 **17-27a-103**, as last amended by Laws of Utah 2012, Chapter 231
- 34 **17-27a-104**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 35 **17-27a-507**, as last amended by Laws of Utah 2009, Chapter 163
- 36 **17-27a-519**, as renumbered and amended by Laws of Utah 2005, Chapter 254

37 REPEALS AND REENACTS:

- 38 **10-9a-516**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 39 **10-9a-604.5**, as enacted by Laws of Utah 2008, Chapter 112
- 40 **17-27a-515**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 41 **17-27a-604.5**, as enacted by Laws of Utah 2008, Chapter 112
- 42 **17B-1-119**, as enacted by Laws of Utah 2011, Chapter 205

43 REPEALS:

- 44 **10-9a-517**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 45 **10-9a-518**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 46 **10-9a-519**, as last amended by Laws of Utah 2010, Chapter 378
- 47 **17-27a-516**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 48 **17-27a-517**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 49 **17-27a-518**, as last amended by Laws of Utah 2011, Chapter 297



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

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

53 **10-9a-103. Definitions.**

54 As used in this chapter:

- 55 (1) "Affected entity" means a county, municipality, local district, special service
- 56 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
- 57 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
- 58 public utility, [a] property owner, [a] property owners association, or the Utah Department of

59 Transportation, if:

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

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

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

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

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

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

74 (i) an operating charter school;

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

77 (iii) an entity [~~who~~] that is working on behalf of a charter school or approved charter
78 applicant to develop or construct a charter school building.

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

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

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

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

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

88 (7) "Culinary water authority" means the department, agency, or public entity with
89 responsibility to review and approve the feasibility of the culinary water system and sources for

90 the subject property.

91 (8) "Development activity" means:

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

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

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

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

101 (b) "Disability" does not include current illegal use of, or addiction to, any federally
102 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
103 802.

104 (10) "Educational facility":

105 (a) means:

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

109 (ii) a structure or facility:

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

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

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

114 (b) does not include:

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

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

118 and

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

120 (ii) a therapeutic school.

121 [~~(11)~~] "~~Elderly person~~" means a person who is 60 years old or older, who desires or
122 needs to live with other elderly persons in a group setting, but who is capable of living
123 independently.]

124 [~~(12)~~] (11) "Fire authority" means the department, agency, or public entity with
125 responsibility to review and approve the feasibility of fire protection and suppression services
126 for the subject property.

127 [~~(13)~~] (12) "Flood plain" means land that:

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

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

134 [~~(14)~~] (13) "General plan" means a document that a municipality adopts that sets forth
135 general guidelines for proposed future development of the land within the municipality.

136 [~~(15)~~] (14) "Geologic hazard" means:

137 (a) a surface fault rupture;

138 (b) shallow groundwater;

139 (c) liquefaction;

140 (d) a landslide;

141 (e) a debris flow;

142 (f) unstable soil;

143 (g) a rock fall; or

144 (h) any other geologic condition that presents a risk:

145 (i) to life;

146 (ii) of substantial loss of real property; or

147 (iii) of substantial damage to real property.

148 [~~(16)~~] (15) "Hookup fee" means a fee for the installation and inspection of any pipe,
149 line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or
150 other utility system.

151 [~~(17)~~] (16) "Identical plans" means building plans submitted to a municipality that:

- 152 (a) are clearly marked as "identical plans";
- 153 (b) are substantially identical to building plans that were previously submitted to and
- 154 reviewed and approved by the municipality; and
- 155 (c) describe a building that:
 - 156 (i) is located on land zoned the same as the land on which the building described in the
 - 157 previously approved plans is located;
 - 158 (ii) is subject to the same geological and meteorological conditions and the same law
 - 159 as the building described in the previously approved plans;
 - 160 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
 - 161 and approved by the municipality; and
 - 162 (iv) does not require any additional engineering or analysis.

163 ~~[(18)]~~ (17) "Impact fee" means a payment of money imposed under Title 11, Chapter
 164 36a, Impact Fees Act.

165 ~~[(19) "Improvement assurance" means a surety bond, letter of credit, cash, or other~~
 166 ~~security:]~~

167 ~~[(a) to guaranty the proper completion of an improvement;]~~

168 ~~[(b) that is required as a condition precedent to:]~~

169 ~~[(i) recording a subdivision plat; or]~~

170 ~~[(ii) beginning development activity; and]~~

171 ~~[(c) that is offered to a land use authority to induce the land use authority, before actual~~
 172 ~~construction of required improvements, to:]~~

173 ~~[(i) consent to the recording of a subdivision plat; or]~~

174 ~~[(ii) issue a permit for development activity.]~~

175 ~~[(20) "Improvement assurance warranty" means a promise that the materials and~~
 176 ~~workmanship of improvements:]~~

177 ~~[(a) comport with standards that the municipality has officially adopted; and]~~

178 ~~[(b) will not fail in any material respect within a warranty period.]~~

179 (18) "Improvement completion assurance" means a surety bond, letter of credit, cash,
 180 or other security required by a municipality to guaranty the proper completion of landscaping
 181 or infrastructure that the land use authority has required as a condition precedent to:

182 (a) recording a subdivision plat; or

183 (b) beginning development activity.

184 (19) "Improvement warranty" means an applicant's unconditional warranty that the
185 accepted landscaping or infrastructure:

186 (a) complies with the municipality's written standards for design, materials, and
187 workmanship; and

188 (b) will not fail in any material respect, as a result of poor workmanship or materials,
189 within the improvement warranty period.

190 (20) "Improvement warranty period" means a period:

191 (a) no later than one year after a municipality's acceptance of required landscaping; or

192 (b) no later than one year after a municipality's acceptance of required infrastructure,

193 unless the municipality:

194 (i) determines for good cause that a one-year period would be inadequate to protect the
195 public health, safety, and welfare; and

196 (ii) has substantial evidence, on record:

197 (A) of prior poor performance by the applicant; or

198 (B) that the area upon which the infrastructure will be constructed contains suspect soil
199 and the municipality has not otherwise required the applicant to mitigate the suspect soil.

200 (21) "Internal lot restriction" means a platted note, platted demarcation, or platted
201 designation that:

202 (a) runs with the land; and

203 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
204 the plat; or

205 (ii) designates a development condition that is enclosed within the perimeter of a lot
206 described on the plat.

207 (22) "Land use application" means an application required by a municipality's land use
208 ordinance.

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

211 (24) "Land use ordinance" means a planning, zoning, development, or subdivision
212 ordinance of the municipality, but does not include the general plan.

213 (25) "Land use permit" means a permit issued by a land use authority.

- 214 (26) "Legislative body" means the municipal council.
- 215 (27) "Local district" means an entity under Title 17B, Limited Purpose Local
216 Government Entities - Local Districts, and any other governmental or quasi-governmental
217 entity that is not a county, municipality, school district, or the state.
- 218 (28) "Lot line adjustment" means the relocation of the property boundary line in a
219 subdivision between two adjoining lots with the consent of the owners of record.
- 220 (29) "Moderate income housing" means housing occupied or reserved for occupancy
221 by households with a gross household income equal to or less than 80% of the median gross
222 income for households of the same size in the county in which the city is located.
- 223 (30) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
224 spent and expenses incurred in:
 - 225 (a) verifying that building plans are identical plans; and
 - 226 (b) reviewing and approving those minor aspects of identical plans that differ from the
227 previously reviewed and approved building plans.
- 228 (31) "Noncomplying structure" means a structure that:
 - 229 (a) legally existed before its current land use designation; and
 - 230 (b) because of one or more subsequent land use ordinance changes, does not conform
231 to the setback, height restrictions, or other regulations, excluding those regulations, which
232 govern the use of land.
- 233 (32) "Nonconforming use" means a use of land that:
 - 234 (a) legally existed before its current land use designation;
 - 235 (b) has been maintained continuously since the time the land use ordinance governing
236 the land changed; and
 - 237 (c) because of one or more subsequent land use ordinance changes, does not conform
238 to the regulations that now govern the use of the land.
- 239 (33) "Official map" means a map drawn by municipal authorities and recorded in a
240 county recorder's office that:
 - 241 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
242 highways and other transportation facilities;
 - 243 (b) provides a basis for restricting development in designated rights-of-way or between
244 designated setbacks to allow the government authorities time to purchase or otherwise reserve

245 the land; and

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

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

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

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

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

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

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

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

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

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

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

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

269 (38) "Public agency" means:

270 (a) the federal government;

271 (b) the state;

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

274 (d) a charter school.

275 (39) "Public hearing" means a hearing at which members of the public are provided a

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

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

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

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

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

287 ~~[(44)]~~ (43) "Residential facility for persons with a disability" means a residence:

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

289 (b) (i) which is licensed or certified by the Department of Human Services under Title
290 62A, Chapter 2, Licensure of Programs and Facilities; or

291 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
292 21, Health Care Facility Licensing and Inspection Act.

293 ~~[(45)]~~ (44) "Rules of order and procedure" means a set of rules that govern and
294 prescribe in a public meeting:

295 (a) parliamentary order and procedure;

296 (b) ethical behavior; and

297 (c) civil discourse.

298 ~~[(46)]~~ (45) "Sanitary sewer authority" means the department, agency, or public entity
299 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
300 wastewater systems.

301 ~~[(47)]~~ (46) "Sending zone" means an area of a municipality that the municipality
302 designates, by ordinance, as an area from which an owner of land may transfer a transferable
303 development right.

304 ~~[(48)]~~ (47) "Specified public agency" means:

305 (a) the state;

306 (b) a school district; or

307 (c) a charter school.

308 [~~(49)~~] (48) "Specified public utility" means an electrical corporation, gas corporation,
309 or telephone corporation, as those terms are defined in Section 54-2-1.

310 [~~(50)~~] (49) "State" includes any department, division, or agency of the state.

311 [~~(51)~~] (50) "Street" means a public right-of-way, including a highway, avenue,
312 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
313 or other way.

314 [~~(52)~~] (51) (a) "Subdivision" means any land that is divided, resubdivided or proposed
315 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
316 purpose, whether immediate or future, for offer, sale, lease, or development either on the
317 installment plan or upon any and all other plans, terms, and conditions.

318 (b) "Subdivision" includes:

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

321 (ii) except as provided in Subsection [~~(52)~~] (51)(c), divisions of land for residential and
322 nonresidential uses, including land used or to be used for commercial, agricultural, and
323 industrial purposes.

324 (c) "Subdivision" does not include:

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

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

331 (A) no new lot is created; and

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

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

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

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

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

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

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

342 (v) a bona fide division or partition of land by deed or other instrument where the land
343 use authority expressly approves in writing the division in anticipation of further land use
344 approvals on the parcel or parcels.

345 (d) The joining of a subdivided parcel of property to another parcel of property that has
346 not been subdivided does not constitute a subdivision under this Subsection [~~(52)~~] (51) as to
347 the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
348 subdivision ordinance.

349 (52) "Suspect soil" means soil that has:

350 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
351 3% swell potential;

352 (b) bedrock units with high shrink or swell susceptibility; or

353 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
354 commonly associated with dissolution and collapse features.

355 (53) "Therapeutic school" means a residential group living facility:

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

357 (i) the owner of the facility; or

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

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

360 (i) at home;

361 (ii) in a public school; or

362 (iii) in a nonresidential private school; and

363 (c) that offers:

364 (i) room and board; and

365 (ii) an academic education integrated with:

366 (A) specialized structure and supervision; or

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

369 (54) "Transferable development right" means a right to develop and use land that
370 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
371 land use rights from a designated sending zone to a designated receiving zone.

372 (55) "Unincorporated" means the area outside of the incorporated area of a city or
373 town.

374 (56) "Water interest" means any right to the beneficial use of water, including:

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

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

377 (i) a contract; or

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

379 (57) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
380 land use zones, overlays, or districts.

381 Section 2. Section **10-9a-104** is amended to read:

382 **10-9a-104. Stricter requirements.**

383 (1) Except as provided in Subsection (2), a municipality may enact an ordinance
384 imposing stricter requirements or higher standards than are required by this chapter.

385 (2) A municipality may not impose stricter requirements or higher standards than are
386 required by:

387 (a) Section 10-9a-305; and

388 (b) Section 10-9a-514[~~;~~].

389 [~~(c) Section 10-9a-516; and~~]

390 [~~(d) Section 10-9a-520.~~]

391 Section 3. Section **10-9a-508** is amended to read:

392 **10-9a-508. Exactions -- Exaction for water interest -- Requirement to offer to**
393 **original owner property acquired by exaction.**

394 (1) A municipality may impose an exaction or exactions on development proposed in a
395 land use application, including, subject to Subsection [~~(2)~~] (3), an exaction for a water interest,
396 if:

397 (a) an essential link exists between a legitimate governmental interest and each
398 exaction; and

399 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of

400 the proposed development.

401 (2) If a land use authority imposes an exaction for another governmental entity:

402 (a) the governmental entity shall request the exaction; and

403 (b) the land use authority shall transfer the exaction to the governmental entity for

404 which it was exacted.

405 [~~2~~] (3) (a) (i) A municipality shall base any exaction for a water interest on the
406 culinary water authority's established calculations of projected water interest requirements.

407 (ii) Upon an applicant's request, the culinary water authority shall provide the applicant
408 with the basis for the culinary water authority's calculations under Subsection [~~2~~] (3)(a)(i) on
409 which an exaction for a water interest is based.

410 (b) A municipality may not impose an exaction for a water interest if the culinary water
411 authority's existing available water interests exceed the water interests needed to meet the
412 reasonable future water requirement of the public, as determined under Subsection
413 73-1-4(2)(f).

414 [~~3~~] (4) (a) If a municipality plans to dispose of surplus real property that was acquired
415 under this section and has been owned by the municipality for less than 15 years, the
416 municipality shall first offer to reconvey the property, without receiving additional
417 consideration, to the person who granted the property to the municipality.

418 (b) A person to whom a municipality offers to reconvey property under Subsection
419 [~~3~~] (4)(a) has 90 days to accept or reject the municipality's offer.

420 (c) If a person to whom a municipality offers to reconvey property declines the offer,
421 the municipality may offer the property for sale.

422 (d) Subsection [~~3~~] (4)(a) does not apply to the disposal of property acquired by
423 exaction by a community development and renewal agency.

424 Section 4. Section **10-9a-516** is repealed and reenacted to read:

425 **10-9a-516. Regulation of residential facilities for persons with disabilities.**

426 A municipality may only regulate a residential facility for persons with a disability to
427 the extent allowed by:

428 (1) Title 57, Chapter 21, Utah Fair Housing Act, and applicable jurisprudence;

429 (2) the Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., and

430 applicable jurisprudence; and

431 (3) Section 504, Rehabilitation Act of 1973, and applicable jurisprudence.

432 Section 5. Section **10-9a-520** is amended to read:

433 **10-9a-520. Licensing of residences for persons with a disability.**

434 [~~(1) Each municipality shall adopt an ordinance for residential facilities for persons~~
435 ~~with a disability;]~~

436 [~~(2) Each ordinance under Subsection (1) shall:]~~

437 [~~(a) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair~~
438 ~~Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and]~~

439 [~~(b) to the extent required by federal law, provide that a residential facility for persons~~
440 ~~with a disability is a permitted use in any zone where similar residential dwellings that are not~~
441 ~~residential facilities for persons with a disability are allowed.]~~

442 [~~(3) Subject to Subsection (2), an ordinance under Subsection (1) may:]~~

443 [~~(a) require residential facilities for persons with a disability:]~~

444 [~~(i) to be reasonably dispersed throughout the municipality;]~~

445 [~~(ii) to be limited by number of occupants;]~~

446 [~~(iii) for residential facilities for persons with a disability that are substance abuse~~
447 ~~facilities and are located within 500 feet of a school, to provide, in accordance with rules~~
448 ~~established by the Department of Human Services under Title 62A, Chapter 2, Licensure of~~
449 ~~Programs and Facilities;]~~

450 [~~(A) a security plan satisfactory to local law enforcement authorities;]~~

451 [~~(B) 24-hour supervision for residents; and]~~

452 [~~(C) other 24-hour security measures; and]~~

453 [~~(iv) to obtain permits that verify compliance with the same building, safety, and health~~
454 ~~regulations as are applicable in the same zone to similar uses that are not residential facilities~~
455 ~~for persons with a disability; and]~~

456 [~~(b) provide that a residential facility for persons with a disability that would likely~~
457 ~~create a fundamental change in the character of a residential neighborhood may be excluded~~
458 ~~from a zone.]~~

459 [(4)] The responsibility to license programs or entities that operate facilities for persons
460 with a disability, as well as to require and monitor the provision of adequate services to persons
461 residing in those facilities, shall rest with:

462 ~~[(a)]~~ (1) for programs or entities licensed or certified by the Department of Human
463 Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services ~~[to]~~
464 for People with Disabilities; and

465 ~~[(b)]~~ (2) for programs or entities licensed or certified by the Department of Health, the
466 Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and
467 Inspection Act.

468 Section 6. Section **10-9a-604.5** is repealed and reenacted to read:

469 **10-9a-604.5. Subdivision plat recording or development activity before required**
470 **infrastructure is completed -- Infrastructure completion assurance -- Infrastructure**
471 **warranty.**

472 (1) A land use authority shall establish objective inspection standards for acceptance of
473 a landscaping or infrastructure improvement required by the land use authority as a condition
474 of:

475 (a) subdivision; or

476 (b) development activity.

477 (2) (a) A land use authority shall require an applicant to complete a required
478 landscaping or infrastructure improvement prior to any plat recordation or development
479 activity.

480 (b) Subsection (2)(a) does not apply if:

481 (i) upon the applicant's request, the land use authority has authorized the applicant to
482 post an improvement completion assurance in a manner that is consistent with local ordinance;
483 and

484 (ii) the land use authority has established a system for the partial release of the
485 improvement completion assurance as portions of required improvements are completed and
486 accepted.

487 (3) At any time up to the land use authority's acceptance of a landscaping or
488 infrastructure improvement, and for the duration of each improvement warranty period, the
489 land use authority may require the developer to:

490 (a) execute an improvement warranty for the improvement warranty period; and

491 (b) post a cash deposit, surety bond, letter of credit, or other similar security, as
492 required by the municipality, in the amount of up to 10% of the lesser of the:

493 (i) engineer's original estimated cost of completion; or

494 (ii) applicant's reasonable proven cost of completion.

495 Section 7. Section **17-27a-103** is amended to read:

496 **17-27a-103. Definitions.**

497 As used in this chapter:

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

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

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

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

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

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

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

517 (i) an operating charter school;

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

520 (iii) an entity [~~who~~] that is working on behalf of a charter school or approved charter
521 applicant to develop or construct a charter school building.

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

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

524 powers of the county.

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

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

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

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

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

536 (9) "Development activity" means:

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

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

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

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

546 (b) "Disability" does not include current illegal use of, or addiction to, any federally
547 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
548 802.

549 (11) "Educational facility":

550 (a) means:

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

554 (ii) a structure or facility:

555 (A) located on the same property as a building described in Subsection (11)(a)(i); and

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

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

559 (b) does not include:

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

562 (A) not located on the same property as a building described in Subsection (11)(a)(i);

563 and

564 (B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

565 (ii) a therapeutic school.

566 [~~(12) "Elderly person" means a person who is 60 years old or older, who desires or~~
567 ~~needs to live with other elderly persons in a group setting, but who is capable of living~~
568 ~~independently.~~]

569 [~~(13)~~ (12) "Fire authority" means the department, agency, or public entity with
570 responsibility to review and approve the feasibility of fire protection and suppression services
571 for the subject property.

572 [~~(14)~~ (13) "Flood plain" means land that:

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

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

579 [~~(15)~~ (14) "Gas corporation" has the same meaning as defined in Section 54-2-1.

580 [~~(16)~~ (15) "General plan" means a document that a county adopts that sets forth
581 general guidelines for proposed future development of the unincorporated land within the
582 county.

583 [~~(17)~~ (16) "Geologic hazard" means:

584 (a) a surface fault rupture;

585 (b) shallow groundwater;

- 586 (c) liquefaction;
- 587 (d) a landslide;
- 588 (e) a debris flow;
- 589 (f) unstable soil;
- 590 (g) a rock fall; or
- 591 (h) any other geologic condition that presents a risk:
- 592 (i) to life;
- 593 (ii) of substantial loss of real property; or
- 594 (iii) of substantial damage to real property.

595 [~~(18)~~] (17) "Internal lot restriction" means a platted note, platted demarcation, or
596 platted designation that:

- 597 (a) runs with the land; and
- 598 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
599 the plat; or
- 600 (ii) designates a development condition that is enclosed within the perimeter of a lot
601 described on the plat.

602 [~~(19)~~] (18) "Hookup fee" means a fee for the installation and inspection of any pipe,
603 line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other
604 utility system.

605 [~~(20)~~] (19) "Identical plans" means building plans submitted to a county that:

- 606 (a) are clearly marked as "identical plans";
- 607 (b) are substantially identical building plans that were previously submitted to and
608 reviewed and approved by the county; and
- 609 (c) describe a building that:
 - 610 (i) is located on land zoned the same as the land on which the building described in the
611 previously approved plans is located;
 - 612 (ii) is subject to the same geological and meteorological conditions and the same law
613 as the building described in the previously approved plans;
 - 614 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
615 and approved by the county; and
 - 616 (iv) does not require any additional engineering or analysis.

617 ~~[(21)]~~ (20) "Impact fee" means a payment of money imposed under Title 11, Chapter
618 36a, Impact Fees Act.

619 ~~[(22) "Improvement assurance" means a surety bond, letter of credit, cash, or other
620 security:]~~

621 ~~[(a) to guaranty the proper completion of an improvement;]~~

622 ~~[(b) that is required as a condition precedent to:]~~

623 ~~[(i) recording a subdivision plat; or]~~

624 ~~[(ii) beginning development activity; and]~~

625 ~~[(c) that is offered to a land use authority to induce the land use authority, before actual
626 construction of required improvements, to:]~~

627 ~~[(i) consent to the recording of a subdivision plat; or]~~

628 ~~[(ii) issue a permit for development activity:]~~

629 ~~[(23) "Improvement assurance warranty" means a promise that the materials and
630 workmanship of improvements:]~~

631 ~~[(a) comport with standards that the county has officially adopted; and]~~

632 ~~[(b) will not fail in any material respect within a warranty period:]~~

633 (21) "Improvement completion assurance" means a surety bond, letter of credit, cash,
634 or other security required by a county to guaranty the proper completion of landscaping or
635 infrastructure that the land use authority has required as a condition precedent to:

636 (a) recording a subdivision plat; or

637 (b) beginning development activity.

638 (22) "Improvement warranty" means an applicant's unconditional warranty that the
639 accepted landscaping or infrastructure:

640 (a) complies with the county's written standards for design, materials, and
641 workmanship; and

642 (b) will not fail in any material respect, as a result of poor workmanship or materials,
643 within the improvement warranty period.

644 (23) "Improvement warranty period" means a period:

645 (a) no later than one year after a county's acceptance of required landscaping; or

646 (b) no later than one year after a county's acceptance of required infrastructure, unless
647 the county:

648 (i) determines for good cause that a one-year period would be inadequate to protect the
649 public health, safety, and welfare; and

650 (ii) has substantial evidence, on record:

651 (A) of prior poor performance by the applicant; or

652 (B) that the area upon which the infrastructure will be constructed contains suspect soil
653 and the county has not otherwise required the applicant to mitigate the suspect soil.

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

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

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

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

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

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

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

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

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

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

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

679 (a) verifying that building plans are identical plans; and
680 (b) reviewing and approving those minor aspects of identical plans that differ from the
681 previously reviewed and approved building plans.

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

683 (a) legally existed before its current land use designation; and
684 (b) because of one or more subsequent land use ordinance changes, does not conform
685 to the setback, height restrictions, or other regulations, excluding those regulations that govern
686 the use of land.

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

688 (a) legally existed before its current land use designation;
689 (b) has been maintained continuously since the time the land use ordinance regulation
690 governing the land changed; and
691 (c) because of one or more subsequent land use ordinance changes, does not conform
692 to the regulations that now govern the use of the land.

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

695 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
696 highways and other transportation facilities;
697 (b) provides a basis for restricting development in designated rights-of-way or between
698 designated setbacks to allow the government authorities time to purchase or otherwise reserve
699 the land; and
700 (c) has been adopted as an element of the county's general plan.

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

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

705 (a) an estimate of the existing supply of moderate income housing located within the
706 county;
707 (b) an estimate of the need for moderate income housing in the county for the next five
708 years as revised biennially;
709 (c) a survey of total residential land use;

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

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

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

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

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

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

723 (42) "Public agency" means:

724 (a) the federal government;

725 (b) the state;

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

728 (d) a charter school.

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

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

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

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

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

741 [~~(48)~~] (47) "Residential facility for persons with a disability" means a residence:

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

743 (b) (i) which is licensed or certified by the Department of Human Services under Title
744 62A, Chapter 2, Licensure of Programs and Facilities; or

745 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
746 21, Health Care Facility Licensing and Inspection Act.

747 [~~(49)~~] (48) "Rules of order and procedure" means a set of rules that govern and
748 prescribe in a public meeting:

749 (a) parliamentary order and procedure;

750 (b) ethical behavior; and

751 (c) civil discourse.

752 [~~(50)~~] (49) "Sanitary sewer authority" means the department, agency, or public entity
753 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
754 wastewater systems.

755 [~~(51)~~] (50) "Sending zone" means an unincorporated area of a county that the county
756 designates, by ordinance, as an area from which an owner of land may transfer a transferable
757 development right.

758 [~~(52)~~] (51) "Specified public agency" means:

759 (a) the state;

760 (b) a school district; or

761 (c) a charter school.

762 [~~(53)~~] (52) "Specified public utility" means an electrical corporation, gas corporation,
763 or telephone corporation, as those terms are defined in Section 54-2-1.

764 [~~(54)~~] (53) "State" includes any department, division, or agency of the state.

765 [~~(55)~~] (54) "Street" means a public right-of-way, including a highway, avenue,
766 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
767 or other way.

768 [~~(56)~~] (55) (a) "Subdivision" means any land that is divided, resubdivided or proposed
769 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
770 purpose, whether immediate or future, for offer, sale, lease, or development either on the
771 installment plan or upon any and all other plans, terms, and conditions.

772 (b) "Subdivision" includes:

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

775 (ii) except as provided in Subsection [~~(56)~~] (55)(c), divisions of land for residential and
776 nonresidential uses, including land used or to be used for commercial, agricultural, and
777 industrial purposes.

778 (c) "Subdivision" does not include:

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

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

782 (A) no new lot is created; and

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

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

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

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

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

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

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

793 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
794 utility service regeneration, transformation, retransmission, or amplification facility;

795 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
796 their mutual boundary if:

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

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

799 (vi) a bona fide division or partition of land by deed or other instrument where the land
800 use authority expressly approves in writing the division in anticipation of further land use
801 approvals on the parcel or parcels.

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

803 not been subdivided does not constitute a subdivision under this Subsection [~~(56)~~ (55) as to
804 the unsubdivided parcel of property or subject the unsubdivided parcel to the county's
805 subdivision ordinance.

806 (56) "Suspect soil" means soil that has:

807 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
808 3% swell potential;

809 (b) bedrock units with high shrink or swell susceptibility; or

810 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
811 commonly associated with dissolution and collapse features.

812 (57) "Therapeutic school" means a residential group living facility:

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

814 (i) the owner of the facility; or

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

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

817 (i) at home;

818 (ii) in a public school; or

819 (iii) in a nonresidential private school; and

820 (c) that offers:

821 (i) room and board; and

822 (ii) an academic education integrated with:

823 (A) specialized structure and supervision; or

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

826 (58) "Township" means a contiguous, geographically defined portion of the
827 unincorporated area of a county, established under this part or reconstituted or reinstated under
828 Section 17-27a-306, with planning and zoning functions as exercised through the township
829 planning commission, as provided in this chapter, but with no legal or political identity
830 separate from the county and no taxing authority, except that "township" means a former
831 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

832 (59) "Transferable development right" means a right to develop and use land that
833 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer

834 land use rights from a designated sending zone to a designated receiving zone.

835 (60) "Unincorporated" means the area outside of the incorporated area of a
836 municipality.

837 (61) "Water interest" means any right to the beneficial use of water, including:

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

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

840 (i) a contract; or

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

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

844 Section 8. Section **17-27a-104** is amended to read:

845 **17-27a-104. Stricter requirements.**

846 (1) Except as provided in Subsection (2), a county may enact an ordinance imposing
847 stricter requirements or higher standards than are required by this chapter.

848 (2) A county may not impose stricter requirements or higher standards than are
849 required by:

850 (a) Section 17-27a-305; and

851 (b) Section 17-27a-513[;].

852 [~~(c) Section 17-27a-515; and~~]

853 [~~(d) Section 17-27a-519.~~]

854 Section 9. Section **17-27a-507** is amended to read:

855 **17-27a-507. Exactions -- Exaction for water interest -- Requirement to offer to**
856 **original owner property acquired by exaction.**

857 (1) A county may impose an exaction or exactions on development proposed in a land
858 use application, including, subject to Subsection [(2)] (3), an exaction for a water interest, if:

859 (a) an essential link exists between a legitimate governmental interest and each
860 exaction; and

861 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of
862 the proposed development.

863 (2) If a land use authority imposes an exaction for another governmental entity:

864 (a) the governmental entity shall request the exaction; and

865 (b) the land use authority shall transfer the exaction to the governmental entity for
866 which it was exacted.

867 [~~2~~] (3) (a) (i) A county or, if applicable, the county's culinary water authority shall
868 base any exaction for a water interest on the culinary water authority's established calculations
869 of projected water interest requirements.

870 (ii) Upon an applicant's request, the culinary water authority shall provide the applicant
871 with the basis for the culinary water authority's calculations under Subsection [~~2~~] (3)(a)(i) on
872 which an exaction for a water interest is based.

873 (b) A county or its culinary water authority may not impose an exaction for a water
874 interest if the culinary water authority's existing available water interests exceed the water
875 interests needed to meet the reasonable future water requirement of the public, as determined
876 under Subsection 73-1-4(2)(f).

877 [~~3~~] (4) (a) If a county plans to dispose of surplus real property under Section
878 17-50-312 that was acquired under this section and has been owned by the county for less than
879 15 years, the county shall first offer to reconvey the property, without receiving additional
880 consideration, to the person who granted the property to the county.

881 (b) A person to whom a county offers to reconvey property under Subsection [~~3~~]
882 (4)(a) has 90 days to accept or reject the county's offer.

883 (c) If a person to whom a county offers to reconvey property declines the offer, the
884 county may offer the property for sale.

885 (d) Subsection [~~3~~] (4)(a) does not apply to the disposal of property acquired by
886 exaction by a community development or urban renewal agency.

887 Section 10. Section **17-27a-515** is repealed and reenacted to read:

888 **17-27a-515. Regulation of residential facilities for persons with disabilities.**

889 A county may only regulate a residential facility for persons with a disability to the
890 extent allowed by:

891 (1) Title 57, Chapter 21, Utah Fair Housing Act, and applicable jurisprudence;

892 (2) the Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., and
893 applicable jurisprudence; and

894 (3) Section 504, Rehabilitation Act of 1973, and applicable jurisprudence.

895 Section 11. Section **17-27a-519** is amended to read:

896 **17-27a-519. Licensing of residences for persons with a disability.**

897 ~~[(1) Each county shall adopt an ordinance for residential facilities for persons with a~~
898 ~~disability.]~~

899 ~~[(2) Each ordinance under Subsection (1) shall:]~~

900 ~~[(a) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair~~
901 ~~Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and]~~

902 ~~[(b) to the extent required by federal law, provide that a residential facility for persons~~
903 ~~with a disability is a permitted use in any zone where similar residential dwellings that are not~~
904 ~~residential facilities for persons with a disability are allowed.]~~

905 ~~[(3) Subject to Subsection (2), an ordinance under Subsection (1) may:]~~

906 ~~[(a) require residential facilities for persons with a disability:]~~

907 ~~[(i) to be reasonably dispersed throughout the county;]~~

908 ~~[(ii) to be limited by number of occupants;]~~

909 ~~[(iii) for residential facilities for persons with a disability that are substance abuse~~
910 ~~facilities and are located within 500 feet of a school, to provide, in accordance with rules~~
911 ~~established by the Department of Human Services under Title 62A, Chapter 2, Licensure of~~
912 ~~Programs and Facilities;]~~

913 ~~[(A) a security plan satisfactory to local law enforcement authorities;]~~

914 ~~[(B) 24-hour supervision for residents; and]~~

915 ~~[(C) other 24-hour security measures; and]~~

916 ~~[(iv) to obtain permits that verify compliance with the same building, safety, and health~~
917 ~~regulations as are applicable in the same zone to similar uses that are not residential facilities~~
918 ~~for persons with a disability; and]~~

919 ~~[(b) provide that a residential facility for persons with a disability that would likely~~
920 ~~create a fundamental change in the character of a residential neighborhood may be excluded~~
921 ~~from a zone.]~~

922 ~~[(4)]~~ The responsibility to license programs or entities that operate facilities for persons
923 with a disability, as well as to require and monitor the provision of adequate services to persons
924 residing in those facilities, shall rest with:

925 ~~[(a)]~~ (1) for programs or entities licensed or certified by the Department of Human
926 Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services ~~[to]~~

927 for People with Disabilities; and

928 ~~[(b)]~~ (2) for programs or entities licensed or certified by the Department of Health, the
929 Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and
930 Inspection Act.

931 Section 12. Section ~~17-27a-604.5~~ is repealed and reenacted to read:

932 **17-27a-604.5. Subdivision plat recording or development activity before required**
933 **infrastructure is completed -- Infrastructure completion assurance -- Infrastructure**
934 **warranty.**

935 (1) A land use authority shall establish objective inspection standards for acceptance of
936 a landscaping or infrastructure improvement required by the land use authority as a condition
937 of:

938 (a) subdivision; or

939 (b) development activity.

940 (2) (a) A land use authority shall require an applicant to complete a required
941 landscaping or infrastructure improvement prior to any plat recordation or development
942 activity.

943 (b) Subsection (2)(a) does not apply if:

944 (i) upon the applicant's request, the land use authority has authorized the applicant to
945 post an improvement completion assurance in a manner that is consistent with local ordinance;
946 and

947 (ii) the land use authority has established a system for the partial release of the
948 improvement completion assurance as portions of required improvements are completed and
949 accepted.

950 (3) At any time up to the land use authority's acceptance of a landscaping or
951 infrastructure improvement, and for the duration of each improvement warranty period, the
952 land use authority may require the developer to:

953 (a) execute an improvement warranty for the improvement warranty period; and

954 (b) post a cash deposit, surety bond, letter of credit, or other similar security, as
955 required by the county, in the amount of up to 10% of the lesser of the:

956 (i) engineer's original estimated cost of completion; or

957 (ii) applicant's reasonable proven cost of completion.

958 Section 13. Section **17B-1-119** is repealed and reenacted to read:
959 **17B-1-119. Duty to comply with local land use provisions.**
960 A local district shall comply with Title 10, Chapter 9a, Municipal Land Use,
961 Development, and Management Act, and Title 17, Chapter 27a, County Land Use,
962 Development, and Management Act, as applicable, if a land use authority consults with or
963 allows the local district to participate in any way in a land use authority's land use development
964 review or approval process.

965 Section 14. **Repealer.**

966 This bill repeals:

967 Section **10-9a-517, Municipal ordinances governing elderly residential facilities.**

968 Section **10-9a-518, Municipal approval of elderly residential facilities.**

969 Section **10-9a-519, Elderly residential facilities in areas zoned exclusively for**
970 **single-family dwellings.**

971 Section **17-27a-516, County ordinances governing elderly residential facilities.**

972 Section **17-27a-517, County approval of elderly residential facilities.**

973 Section **17-27a-518, Elderly residential facilities in areas zoned exclusively for**
974 **single-family dwellings.**

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Office of Legislative Research and General Counsel