

PLANNING DISTRICT AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: _____

LONG TITLE

General Description:

This bill authorizes the creation and governance of a mountainous planning district.

Highlighted Provisions:

This bill:

- ▶ prohibits the incorporation of an area within a mountainous planning district;
- ▶ excludes, with certain exceptions, any area located within a mountainous planning district from the land use jurisdiction of a municipality;
- ▶ defines terms;
- ▶ authorizes a county to establish a planning commission for a mountainous planning district;
- ▶ prohibits a county from establishing a township planning commission for a township that is located in whole or in part within a mountainous planning district;
- ▶ authorizes a county legislative body to modify the boundaries of an existing township to exclude an area within a mountainous planning district;
- ▶ amends other applicable provisions of Title 17, Chapter 27a, County Land Use, Development, and Management Act;
- ▶ authorizes a county to designate a mountainous planning district under certain circumstances; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

- 33 **10-9a-304**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 34 **17-27a-102**, as last amended by Laws of Utah 2007, Chapter 363
- 35 **17-27a-103**, as last amended by Laws of Utah 2014, Chapters 136 and 363
- 36 **17-27a-210**, as enacted by Laws of Utah 2005, Chapter 231
- 37 **17-27a-301**, as last amended by Laws of Utah 2014, Chapter 189
- 38 **17-27a-302**, as last amended by Laws of Utah 2012, Chapter 359
- 39 **17-27a-305**, as last amended by Laws of Utah 2013, Chapter 200
- 40 **17-27a-401**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 41 **17-27a-403**, as last amended by Laws of Utah 2014, Chapter 176
- 42 **17-27a-502**, as last amended by Laws of Utah 2013, Chapter 324
- 43 **17-27a-505.5**, as last amended by Laws of Utah 2012, Chapter 172
- 44 **17-27a-509.7**, as last amended by Laws of Utah 2012, Chapter 231
- 45 **17-27a-602**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 46 **17-27a-604**, as last amended by Laws of Utah 2011, Chapter 377
- 47 **17-27a-605**, as last amended by Laws of Utah 2012, Chapter 99

48 ENACTS:

- 49 **10-2-101.6**, Utah Code Annotated 1953
- 50 **17-27a-901**, Utah Code Annotated 1953



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

53 Section 1. Section **10-2-101.6** is enacted to read:

54 **10-2-101.6. Incorporation of an area within a mountainous planning district**
55 **prohibited.**

56 An area located within a mountainous planning district, as defined in Section
57 17-27a-103, may not incorporate in accordance with the provisions of this chapter.

58 Section 2. Section **10-9a-304** is amended to read:

59 **10-9a-304. State and federal property -- Mountainous planning district.**

60 (1) Unless otherwise provided by law, nothing contained in this chapter may be
61 construed as giving a municipality jurisdiction over property owned by the state or the United
62 States.

63 (2) (a) Except as provided in Subsection (2)(b), for purposes of this chapter, a
64 municipality, a municipal planning commission, or a municipal land use authority does not
65 have jurisdiction over property located within a mountainous planning district as defined in
66 Section 17-27a-103.

67 (b) Subsection (2)(a) does not apply to a municipality that:

68 (i) (A) is wholly located within the boundaries of a mountainous planning district; and

69 (B) was incorporated in or before 1970;

70 (ii) is exercising its extraterritorial jurisdiction as authorized by Section 10-8-15; or

71 (iii) has been granted joint authority to regulate, subject to Subsection (2)(c), its
72 watershed areas by a local health authority.

73 (c) The exception for a municipality under Subsection (2)(b)(iii) applies only for
74 matters related to regulation of the watershed within a watershed area.

75 Section 3. Section 17-27a-102 is amended to read:

76 **17-27a-102. Purposes -- General land use authority.**

77 (1) (a) The purposes of this chapter are to provide for the health, safety, and welfare,
78 and promote the prosperity, improve the morals, peace and good order, comfort, convenience,
79 and aesthetics of each county and its present and future inhabitants and businesses, to protect
80 the tax base, to secure economy in governmental expenditures, to foster the state's agricultural
81 and other industries, to protect both urban and nonurban development, to protect and ensure
82 access to sunlight for solar energy devices, to provide fundamental fairness in land use
83 regulation, and to protect property values.

84 (b) To accomplish the purposes of this chapter, counties may enact all ordinances,
85 resolutions, and rules and may enter into other forms of land use controls and development
86 agreements that they consider necessary or appropriate for the use and development of land
87 within the unincorporated area of the county or a designated mountainous planning district,
88 including ordinances, resolutions, rules, restrictive covenants, easements, and development
89 agreements governing uses, density, open spaces, structures, buildings, energy-efficiency, light

90 and air, air quality, transportation and public or alternative transportation, infrastructure, street
91 and building orientation and width requirements, public facilities, fundamental fairness in land
92 use regulation, considerations of surrounding land uses and the balance of the foregoing
93 purposes with a landowner's private property interests, height and location of vegetation, trees,
94 and landscaping, unless expressly prohibited by law.

95 (2) Each county shall comply with the mandatory provisions of this part before any
96 agreement or contract to provide goods, services, or municipal-type services to any storage
97 facility or transfer facility for high-level nuclear waste, or greater than class C radioactive
98 waste, may be executed or implemented.

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

100 **17-27a-103. Definitions.**

101 As used in this chapter:

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

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

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

110 or

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

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

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

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

- 121 (i) an operating charter school;
- 122 (ii) a charter school applicant that has its application approved by a charter school
123 authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or
- 124 (iii) an entity that is working on behalf of a charter school or approved charter
125 applicant to develop or construct a charter school building.
- 126 (b) "Charter school" does not include a therapeutic school.
- 127 (5) "Chief executive officer" means the person or body that exercises the executive
128 powers of the county.
- 129 (6) "Conditional use" means a land use that, because of its unique characteristics or
130 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
131 compatible in some areas or may be compatible only if certain conditions are required that
132 mitigate or eliminate the detrimental impacts.
- 133 (7) "Constitutional taking" means a governmental action that results in a taking of
134 private property so that compensation to the owner of the property is required by the:
 - 135 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
 - 136 (b) Utah Constitution Article I, Section 22.
- 137 (8) "Culinary water authority" means the department, agency, or public entity with
138 responsibility to review and approve the feasibility of the culinary water system and sources for
139 the subject property.
- 140 (9) "Development activity" means:
 - 141 (a) any construction or expansion of a building, structure, or use that creates additional
142 demand and need for public facilities;
 - 143 (b) any change in use of a building or structure that creates additional demand and need
144 for public facilities; or
 - 145 (c) any change in the use of land that creates additional demand and need for public
146 facilities.
- 147 (10) (a) "Disability" means a physical or mental impairment that substantially limits
148 one or more of a person's major life activities, including a person having a record of such an
149 impairment or being regarded as having such an impairment.
- 150 (b) "Disability" does not include current illegal use of, or addiction to, any federally
151 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.

152 802.

153 (11) "Educational facility":

154 (a) means:

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

158 (ii) a structure or facility:

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

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

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

163 (b) does not include:

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

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

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

169 (ii) a therapeutic school.

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

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

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

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

180 (14) "Gas corporation" has the same meaning as defined in Section [54-2-1](#).

181 (15) "General plan" means a document that a county adopts that sets forth general
182 guidelines for proposed future development of:

- 183 (a) the unincorporated land within the county[-]; or
- 184 (b) for a mountainous planning district, the land within the mountainous planning
- 185 district.

186 (16) "Geologic hazard" means:

- 187 (a) a surface fault rupture;
- 188 (b) shallow groundwater;
- 189 (c) liquefaction;
- 190 (d) a landslide;
- 191 (e) a debris flow;
- 192 (f) unstable soil;
- 193 (g) a rock fall; or
- 194 (h) any other geologic condition that presents a risk:
 - 195 (i) to life;
 - 196 (ii) of substantial loss of real property; or
 - 197 (iii) of substantial damage to real property.

198 (17) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
199 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
200 system.

201 (18) "Identical plans" means building plans submitted to a county that:

- 202 (a) are clearly marked as "identical plans";
- 203 (b) are substantially identical building plans that were previously submitted to and
- 204 reviewed and approved by the county; and
- 205 (c) describe a building that:
 - 206 (i) is located on land zoned the same as the land on which the building described in the
 - 207 previously approved plans is located;
 - 208 (ii) is subject to the same geological and meteorological conditions and the same law
 - 209 as the building described in the previously approved plans;
 - 210 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
 - 211 and approved by the county; and
 - 212 (iv) does not require any additional engineering or analysis.

213 (19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,

214 Impact Fees Act.

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

218 (a) recording a subdivision plat; or

219 (b) beginning development activity.

220 (21) "Improvement warranty" means an applicant's unconditional warranty that the
221 accepted landscaping or infrastructure:

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

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

226 (22) "Improvement warranty period" means a period:

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

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

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

232 (ii) has substantial evidence, on record:

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

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

236 (23) "Internal lot restriction" means a platted note, platted demarcation, or platted
237 designation that:

238 (a) runs with the land; and

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

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

243 (24) "Interstate pipeline company" means a person or entity engaged in natural gas
244 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under

245 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

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

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

251 (27) "Land use authority" means:

252 (a) a person, board, commission, agency, or body, including the local legislative body,
253 designated by the local legislative body to act upon a land use application; or

254 (b) if the local legislative body has not designated a person, board, commission,
255 agency, or body, the local legislative body.

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

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

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

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

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

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

269 (34) "Mountainous planning district" means an area designated by a county legislative
270 body in accordance with Section [17-27a-901](#).

271 [~~34~~] (35) "Nominal fee" means a fee that reasonably reimburses a county only for
272 time spent and expenses incurred in:

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

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

276 [~~(35)~~] (36) "Noncomplying structure" means a structure that:
277 (a) legally existed before its current land use designation; and
278 (b) because of one or more subsequent land use ordinance changes, does not conform
279 to the setback, height restrictions, or other regulations, excluding those regulations that govern
280 the use of land.

281 [~~(36)~~] (37) "Nonconforming use" means a use of land that:
282 (a) legally existed before its current land use designation;
283 (b) has been maintained continuously since the time the land use ordinance regulation
284 governing the land changed; and
285 (c) because of one or more subsequent land use ordinance changes, does not conform
286 to the regulations that now govern the use of the land.

287 [~~(37)~~] (38) "Official map" means a map drawn by county authorities and recorded in
288 the county recorder's office that:

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

295 [~~(38)~~] (39) "Parcel boundary adjustment" means a recorded agreement between owners
296 of adjoining properties adjusting their mutual boundary if:

297 (a) no additional parcel is created; and
298 (b) each property identified in the agreement is unsubdivided land, including a
299 remainder of subdivided land.

300 [~~(39)~~] (40) "Person" means an individual, corporation, partnership, organization,
301 association, trust, governmental agency, or any other legal entity.

302 [~~(40)~~] (41) "Plan for moderate income housing" means a written document adopted by
303 a county legislative body that includes:

304 (a) an estimate of the existing supply of moderate income housing located within the
305 county;
306 (b) an estimate of the need for moderate income housing in the county for the next five

307 years as revised biennially;

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

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

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

313 [~~41~~] (42) "Plat" means a map or other graphical representation of lands being laid out
314 and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

315 [~~42~~] (43) "Potential geologic hazard area" means an area that:

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

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

322 [~~43~~] (44) "Public agency" means:

323 (a) the federal government;

324 (b) the state;

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

327 (d) a charter school.

328 [~~44~~] (45) "Public hearing" means a hearing at which members of the public are
329 provided a reasonable opportunity to comment on the subject of the hearing.

330 [~~45~~] (46) "Public meeting" means a meeting that is required to be open to the public
331 under Title 52, Chapter 4, Open and Public Meetings Act.

332 [~~46~~] (47) "Receiving zone" means an unincorporated area of a county that the county
333 designates, by ordinance, as an area in which an owner of land may receive a transferable
334 development right.

335 [~~47~~] (48) "Record of survey map" means a map of a survey of land prepared in
336 accordance with Section 17-23-17.

337 [~~48~~] (49) "Residential facility for persons with a disability" means a residence:

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

339 (b) (i) which is licensed or certified by the Department of Human Services under Title
340 62A, Chapter 2, Licensure of Programs and Facilities; or

341 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
342 21, Health Care Facility Licensing and Inspection Act.

343 [~~49~~] (50) "Rules of order and procedure" means a set of rules that govern and
344 prescribe in a public meeting:

345 (a) parliamentary order and procedure;

346 (b) ethical behavior; and

347 (c) civil discourse.

348 [~~50~~] (51) "Sanitary sewer authority" means the department, agency, or public entity
349 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
350 wastewater systems.

351 [~~51~~] (52) "Sending zone" means an unincorporated area of a county that the county
352 designates, by ordinance, as an area from which an owner of land may transfer a transferable
353 development right.

354 [~~52~~] (53) "Site plan" means a document or map that may be required by a county
355 during a preliminary review preceding the issuance of a building permit to demonstrate that an
356 owner's or developer's proposed development activity meets a land use requirement.

357 [~~53~~] (54) "Specified public agency" means:

358 (a) the state;

359 (b) a school district; or

360 (c) a charter school.

361 [~~54~~] (55) "Specified public utility" means an electrical corporation, gas corporation,
362 or telephone corporation, as those terms are defined in Section [54-2-1](#).

363 [~~55~~] (56) "State" includes any department, division, or agency of the state.

364 [~~56~~] (57) "Street" means a public right-of-way, including a highway, avenue,
365 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
366 or other way.

367 [~~57~~] (58) (a) "Subdivision" means any land that is divided, resubdivided or proposed
368 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the

369 purpose, whether immediate or future, for offer, sale, lease, or development either on the
370 installment plan or upon any and all other plans, terms, and conditions.

371 (b) "Subdivision" includes:

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

374 (ii) except as provided in Subsection [~~(57)~~] (58)(c), divisions of land for residential and
375 nonresidential uses, including land used or to be used for commercial, agricultural, and
376 industrial purposes.

377 (c) "Subdivision" does not include:

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

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

381 (A) no new lot is created; and

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

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

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

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

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

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

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

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

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

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

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

398 (vi) a bona fide division or partition of land by deed or other instrument where the land
399 use authority expressly approves in writing the division in anticipation of further land use

400 approvals on the parcel or parcels; or

401 (vii) a parcel boundary adjustment.

402 (d) The joining of a subdivided parcel of property to another parcel of property that has
403 not been subdivided does not constitute a subdivision under this Subsection [~~(57)~~] (58) as to
404 the unsubdivided parcel of property or subject the unsubdivided parcel to the county's
405 subdivision ordinance.

406 [~~(58)~~] (59) "Suspect soil" means soil that has:

407 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
408 3% swell potential;

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

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

412 [~~(59)~~] (60) "Therapeutic school" means a residential group living facility:

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

414 (i) the owner of the facility; or

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

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

417 (i) at home;

418 (ii) in a public school; or

419 (iii) in a nonresidential private school; and

420 (c) that offers:

421 (i) room and board; and

422 (ii) an academic education integrated with:

423 (A) specialized structure and supervision; or

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

426 [~~(60)~~] (61) "Township" means a contiguous, geographically defined portion of the
427 unincorporated area of a county, established under this part or reconstituted or reinstated under
428 Section 17-27a-306, with planning and zoning functions as exercised through the township
429 planning commission, as provided in this chapter, but with no legal or political identity
430 separate from the county and no taxing authority, except that "township" means a former

431 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

432 ~~[(61)]~~ (62) "Transferable development right" means a right to develop and use land that
433 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
434 land use rights from a designated sending zone to a designated receiving zone.

435 ~~[(62)]~~ (63) "Unincorporated" means the area outside of the incorporated area of a
436 municipality.

437 ~~[(63)]~~ (64) "Water interest" means any right to the beneficial use of water, including:

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

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

440 (i) a contract; or

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

442 ~~[(64)]~~ (65) "Zoning map" means a map, adopted as part of a land use ordinance, that
443 depicts land use zones, overlays, or districts.

444 Section 5. Section 17-27a-210 is amended to read:

445 **17-27a-210. Notice to county when a private institution of higher education is**
446 **constructing student housing.**

447 (1) Each private institution of higher education that intends to construct student
448 housing on property owned by the institution shall provide written notice of the intended
449 construction, as provided in Subsection (2), before any funds are committed to the
450 construction, if any of the proposed student housing buildings is within 300 feet of privately
451 owned residential property.

452 (2) Each notice under Subsection (1) shall be provided to the legislative body and, if
453 applicable, the mayor of:

454 (a) the county in whose unincorporated area or the mountainous planning district area
455 the privately owned residential property is located; or

456 (b) the municipality in whose boundaries the privately owned residential property is
457 located.

458 (3) At the request of a county or municipality that is entitled to notice under this
459 section, the institution and the legislative body of the affected county or municipality shall
460 jointly hold a public hearing to provide information to the public and receive input from the
461 public about the proposed construction.

462 Section 6. Section 17-27a-301 is amended to read:

463 **17-27a-301. Ordinance establishing planning commission required -- Exception --**
464 **Ordinance requirements -- Township planning commission -- Compensation.**

465 (1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
466 establishing a countywide planning commission for the unincorporated areas of the county not
467 within a township.

468 (b) Subsection (1)(a) does not apply if all of the county is included within any
469 combination of:

470 (i) municipalities; [~~and~~]

471 (ii) townships with their own planning commissions[-]; and

472 (iii) mountainous planning districts.

473 (c) (i) Notwithstanding Subsection (1)(a), and except as provided in Subsection
474 (1)(c)(ii), a county that designates a mountainous planning district shall enact an ordinance,
475 subject to Subsection (1)(c)(ii), establishing a planning commission that has jurisdiction over
476 the entire mountainous planning district, including areas of the mountainous planning district
477 that are also located within a municipality or township or are unincorporated.

478 (ii) A planning commission described in Subsection (1)(c)(i):

479 (A) does not have jurisdiction over a municipality described in Subsection

480 10-9a-304(2)(b); and

481 (B) has jurisdiction subject to a local health department exercising its authority in
482 accordance with Title 26A, Chapter 1, Local Health Departments.

483 (iii) The ordinance shall require that members of the planning commission represent
484 areas located in the unincorporated and incorporated county.

485 (2) (a) The ordinance described in Subsection (1)(a) or (c) shall define:

486 (i) the number and terms of the members and, if the county chooses, alternate
487 members;

488 (ii) the mode of appointment;

489 (iii) the procedures for filling vacancies and removal from office;

490 (iv) the authority of the planning commission;

491 (v) subject to Subsection (2)(b), the rules of order and procedure for use by the
492 planning commission in a public meeting; and

493 (vi) other details relating to the organization and procedures of the planning
494 commission.

495 (b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with
496 Title 52, Chapter 4, Open and Public Meetings Act.

497 (3) (a) (i) If the county establishes a township planning commission, the county
498 legislative body shall enact an ordinance that defines:

499 (A) appointment procedures;

500 (B) procedures for filling vacancies and removing members from office;

501 (C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the
502 township planning commission in a public meeting; and

503 (D) details relating to the organization and procedures of each township planning
504 commission.

505 (ii) Subsection (3)(a)(i)(C) does not affect the township planning commission's duty to
506 comply with Title 52, Chapter 4, Open and Public Meetings Act.

507 (iii) A county may not establish a township planning commission for a township that is
508 located in whole or in part within a mountainous planning district.

509 (iv) Notwithstanding Section 17-27a-306, a county legislative body may adopt a
510 resolution that modifies the boundaries of an existing township to exclude from that township
511 any area included or to be included within the boundaries of a mountainous planning district.

512 (b) The planning commission for each township shall consist of seven members who,
513 except as provided in Subsection (4), shall be appointed by:

514 (i) in a county operating under a form of government in which the executive and
515 legislative functions of the governing body are separated, the county executive with the advice
516 and consent of the county legislative body; or

517 (ii) in a county operating under a form of government in which the executive and
518 legislative functions of the governing body are not separated, the county legislative body.

519 (c) (i) Members shall serve four-year terms and until their successors are appointed or,
520 as provided in Subsection (4), elected and qualified.

521 (ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in
522 Subsection (4), members of the first planning commissions shall be appointed so that, for each
523 commission, the terms of at least one member and no more than two members expire each

524 year.

525 (d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township
526 planning commission shall be a registered voter residing within the township.

527 (ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission
528 of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established
529 under Subsection 17-27a-306(1)(k)(i) may be an appointed member who is a registered voter
530 residing outside the township if that member:

531 (I) is an owner of real property located within the township; and

532 (II) resides within the county in which the township is located.

533 (B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township
534 planning commission from a list of three persons submitted by the county legislative body.

535 (II) If the township planning commission has not notified the county legislative body of
536 its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning
537 commission's receipt of the list, the county legislative body may appoint one of the three
538 persons on the list or a registered voter residing within the township as a member of the
539 township planning commission.

540 (4) (a) The legislative body of each county in which a township reconstituted under
541 Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection
542 17-27a-306(1)(k)(i) is located shall on or before January 1, 2012, enact an ordinance that
543 provides for the election of at least three members of the planning commission of that
544 township.

545 (b) (i) Beginning with the 2012 general election, the election of planning commission
546 members under Subsection (4)(a) shall coincide with the election of other county officers
547 during even-numbered years.

548 (ii) Approximately half the elected planning commission members shall be elected
549 every four years during elections held on even-numbered years, and the remaining elected
550 members shall be elected every four years on alternating even-numbered years.

551 (c) If no person files a declaration of candidacy in accordance with Section 20A-9-202
552 for an open township planning commission member position:

553 (i) the position may be appointed in accordance with Subsection (3)(b); and

554 (ii) a person appointed under Subsection (4)(c)(i) may not serve for a period of time

555 that exceeds the elected term for which there was no candidate.

556 (5) (a) A legislative body described in Subsection (4)(a) shall on or before January 1,
557 2012, enact an ordinance that:

558 (i) designates the seats to be elected; and

559 (ii) subject to Subsection (6)(b), appoints a member of the planning and zoning board
560 of the former township, established under Laws of Utah 1996, Chapter 308, as a member of the
561 planning commission of the reconstituted or reinstated township.

562 (b) A member appointed under Subsection (5)(a) is considered an elected member.

563 (6) (a) Except as provided in Subsection (6)(b), the term of each member appointed
564 under Subsection (5)(a) shall continue until the time that the member's term as an elected
565 member of the former township planning and zoning board would have expired.

566 (b) (i) Notwithstanding Subsection (6)(a), the county legislative body may adjust the
567 terms of the members appointed under Subsection (5)(a) so that the terms of those members
568 coincide with the schedule under Subsection (4)(b) for elected members.

569 (ii) Subject to Subsection (6)(b)(iii), the legislative body of a county in which a
570 township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established
571 under Subsection 17-27a-306(1)(k)(i) is located may enact an ordinance allowing each
572 appointed member of the planning and zoning board of the former township, established under
573 Laws of Utah 1996, Chapter 308, to continue to hold office as a member of the planning
574 commission of the reconstituted or reinstated township until the time that the member's term as
575 a member of the former township's planning and zoning board would have expired.

576 (iii) If a planning commission of a township reconstituted under Laws of Utah 1997,
577 Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) has more than
578 one appointed member who resides outside the township, the legislative body of the county in
579 which that township is located shall, within 15 days of the effective date of this Subsection
580 (6)(b)(iii), dismiss all but one of the appointed members who reside outside the township, and a
581 new member shall be appointed under Subsection (3)(b) to fill the position of each dismissed
582 member.

583 (7) (a) Except as provided in Subsection (7)(b), upon the appointment or election of all
584 members of a township planning commission, each township planning commission under this
585 section shall begin to exercise the powers and perform the duties provided in Section

586 17-27a-302 with respect to all matters then pending that previously had been under the
587 jurisdiction of the countywide planning commission or township planning and zoning board.

588 (b) Notwithstanding Subsection (7)(a), if the members of a former township planning
589 and zoning board continue to hold office as members of the planning commission of the
590 township planning district under an ordinance enacted under Subsection (5)(a), the township
591 planning commission shall immediately begin to exercise the powers and perform the duties
592 provided in Section 17-27a-302 with respect to all matters then pending that had previously
593 been under the jurisdiction of the township planning and zoning board.

594 (8) The legislative body may fix per diem compensation for the members of the
595 planning commission, based on necessary and reasonable expenses and on meetings actually
596 attended.

597 Section 7. Section 17-27a-302 is amended to read:

598 **17-27a-302. Planning commission powers and duties.**

599 (1) Each countywide [~~or~~], township, or mountainous planning district planning
600 commission shall, with respect to the unincorporated area of the county, [~~or~~] the township, or
601 the mountainous planning district, make a recommendation to the county legislative body for:

- 602 (a) a general plan and amendments to the general plan;
- 603 (b) land use ordinances, zoning maps, official maps, and amendments;
- 604 (c) an appropriate delegation of power to at least one designated land use authority to
605 hear and act on a land use application;
- 606 (d) an appropriate delegation of power to at least one appeal authority to hear and act
607 on an appeal from a decision of the land use authority; and
- 608 (e) application processes that:
 - 609 (i) may include a designation of routine land use matters that, upon application and
610 proper notice, will receive informal streamlined review and action if the application is
611 uncontested; and
 - 612 (ii) shall protect the right of each:
 - 613 (A) applicant and third party to require formal consideration of any application by a
614 land use authority;
 - 615 (B) applicant, adversely affected party, or county officer or employee to appeal a land
616 use authority's decision to a separate appeal authority; and

617 (C) participant to be heard in each public hearing on a contested application.

618 (2) The planning commission of a township under this part may recommend to the
619 legislative body of the county in which the township is located that the legislative body file a
620 protest to a proposed annexation of an area located within the township, as provided in
621 Subsection 10-2-407(1)(b).

622 Section 8. Section 17-27a-305 is amended to read:

623 **17-27a-305. Other entities required to conform to county's land use ordinances --**
624 **Exceptions -- School districts and charter schools -- Submission of development plan and**
625 **schedule.**

626 (1) (a) Each county, municipality, school district, charter school, local district, special
627 service district, and political subdivision of the state shall conform to any applicable land use
628 ordinance of any county when installing, constructing, operating, or otherwise using any area,
629 land, or building situated within a mountainous planning district or the unincorporated portion
630 of the county, as applicable.

631 (b) In addition to any other remedies provided by law, when a county's land use
632 ordinance is violated or about to be violated by another political subdivision, that county may
633 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
634 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

635 (2) (a) Except as provided in Subsection (3), a school district or charter school is
636 subject to a county's land use ordinances.

637 (b) (i) Notwithstanding Subsection (3), a county may:

638 (A) subject a charter school to standards within each zone pertaining to setback, height,
639 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
640 staging; and

641 (B) impose regulations upon the location of a project that are necessary to avoid
642 unreasonable risks to health or safety, as provided in Subsection (3)(f).

643 (ii) The standards to which a county may subject a charter school under Subsection
644 (2)(b)(i) shall be objective standards only and may not be subjective.

645 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may
646 deny or withhold approval of a charter school's land use application is the charter school's
647 failure to comply with a standard imposed under Subsection (2)(b)(i).

648 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an
649 obligation to comply with a requirement of an applicable building or safety code to which it is
650 otherwise obligated to comply.

651 (3) A county may not:

652 (a) impose requirements for landscaping, fencing, aesthetic considerations,
653 construction methods or materials, additional building inspections, county building codes,
654 building use for educational purposes, or the placement or use of temporary classroom facilities
655 on school property;

656 (b) except as otherwise provided in this section, require a school district or charter
657 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
658 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
659 children and not located on or contiguous to school property, unless the roadway or sidewalk is
660 required to connect an otherwise isolated school site to an existing roadway;

661 (c) require a district or charter school to pay fees not authorized by this section;

662 (d) provide for inspection of school construction or assess a fee or other charges for
663 inspection, unless the school district or charter school is unable to provide for inspection by an
664 inspector, other than the project architect or contractor, who is qualified under criteria
665 established by the state superintendent;

666 (e) require a school district or charter school to pay any impact fee for an improvement
667 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

668 (f) impose regulations upon the location of an educational facility except as necessary
669 to avoid unreasonable risks to health or safety; or

670 (g) for a land use or a structure owned or operated by a school district or charter school
671 that is not an educational facility but is used in support of providing instruction to pupils,
672 impose a regulation that:

673 (i) is not imposed on a similar land use or structure in the zone in which the land use or
674 structure is approved; or

675 (ii) uses the tax exempt status of the school district or charter school as criteria for
676 prohibiting or regulating the land use or location of the structure.

677 (4) Subject to Section [53A-20-108](#), a school district or charter school shall coordinate
678 the siting of a new school with the county in which the school is to be located, to:

- 679 (a) avoid or mitigate existing and potential traffic hazards, including consideration of
680 the impacts between the new school and future highways; and
681 (b) maximize school, student, and site safety.
- 682 (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:
683 (a) provide a walk-through of school construction at no cost and at a time convenient to
684 the district or charter school; and
685 (b) provide recommendations based upon the walk-through.
- 686 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
687 (i) a county building inspector;
688 (ii) (A) for a school district, a school district building inspector from that school
689 district; or
690 (B) for a charter school, a school district building inspector from the school district in
691 which the charter school is located; or
692 (iii) an independent, certified building inspector who is:
693 (A) not an employee of the contractor;
694 (B) approved by:
695 (I) a county building inspector; or
696 (II) (Aa) for a school district, a school district building inspector from that school
697 district; or
698 (Bb) for a charter school, a school district building inspector from the school district in
699 which the charter school is located; and
700 (C) licensed to perform the inspection that the inspector is requested to perform.
- 701 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.
702 (c) If a school district or charter school uses a school district or independent building
703 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to
704 the state superintendent of public instruction and county building official, on a monthly basis
705 during construction of the school building, a copy of each inspection certificate regarding the
706 school building.
- 707 (7) (a) A charter school shall be considered a permitted use in all zoning districts
708 within a county.
709 (b) Each land use application for any approval required for a charter school, including

710 an application for a building permit, shall be processed on a first priority basis.

711 (c) Parking requirements for a charter school may not exceed the minimum parking
712 requirements for schools or other institutional public uses throughout the county.

713 (d) If a county has designated zones for a sexually oriented business, or a business
714 which sells alcohol, a charter school may be prohibited from a location which would otherwise
715 defeat the purpose for the zone unless the charter school provides a waiver.

716 (e) (i) A school district or a charter school may seek a certificate authorizing permanent
717 occupancy of a school building from:

718 (A) the state superintendent of public instruction, as provided in Subsection
719 [53A-20-104\(3\)](#), if the school district or charter school used an independent building inspector
720 for inspection of the school building; or

721 (B) a county official with authority to issue the certificate, if the school district or
722 charter school used a county building inspector for inspection of the school building.

723 (ii) A school district may issue its own certificate authorizing permanent occupancy of
724 a school building if it used its own building inspector for inspection of the school building,
725 subject to the notification requirement of Subsection [53A-20-104\(3\)\(a\)\(ii\)](#).

726 (iii) A charter school may seek a certificate authorizing permanent occupancy of a
727 school building from a school district official with authority to issue the certificate, if the
728 charter school used a school district building inspector for inspection of the school building.

729 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
730 of public instruction under Subsection [53A-20-104\(3\)](#) or a school district official with authority
731 to issue the certificate shall be considered to satisfy any county requirement for an inspection or
732 a certificate of occupancy.

733 (8) (a) A specified public agency intending to develop its land shall submit to the land
734 use authority a development plan and schedule:

735 (i) as early as practicable in the development process, but no later than the
736 commencement of construction; and

737 (ii) with sufficient detail to enable the land use authority to assess:

738 (A) the specified public agency's compliance with applicable land use ordinances;

739 (B) the demand for public facilities listed in Subsections [11-36a-102\(16\)\(a\)](#), (b), (c),

740 (d), (e), and (g) caused by the development;

741 (C) the amount of any applicable fee described in Section 17-27a-509;

742 (D) any credit against an impact fee; and

743 (E) the potential for waiving an impact fee.

744 (b) The land use authority shall respond to a specified public agency's submission
745 under Subsection (8)(a) with reasonable promptness in order to allow the specified public
746 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the
747 process of preparing the budget for the development.

748 (9) Nothing in this section may be construed to:

749 (a) modify or supersede Section 17-27a-304; or

750 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that
751 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
752 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
753 1990, 42 U.S.C. 12102, or any other provision of federal law.

754 Section 9. Section 17-27a-401 is amended to read:

755 **17-27a-401. General plan required -- Content -- Provisions related to radioactive**
756 **waste facility.**

757 (1) In order to accomplish the purposes of this chapter, each county shall prepare and
758 adopt a comprehensive, long-range general plan for:

759 (a) present and future needs of the county; and

760 (b) (i) growth and development of all or any part of the land within the unincorporated
761 portions of the county[-]; or

762 (ii) if a county has designated a mountainous planning district, growth and
763 development of all or any part of the land within the mountainous planning district.

764 (2) The plan may provide for:

765 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
766 activities, aesthetics, and recreational, educational, and cultural opportunities;

767 (b) the reduction of the waste of physical, financial, or human resources that result
768 from either excessive congestion or excessive scattering of population;

769 (c) the efficient and economical use, conservation, and production of the supply of:

770 (i) food and water; and

771 (ii) drainage, sanitary, and other facilities and resources;

- 772 (d) the use of energy conservation and solar and renewable energy resources;
- 773 (e) the protection of urban development;
- 774 (f) the protection or promotion of moderate income housing;
- 775 (g) the protection and promotion of air quality;
- 776 (h) historic preservation;
- 777 (i) identifying future uses of land that are likely to require an expansion or significant
- 778 modification of services or facilities provided by each affected entity; and
- 779 (j) an official map.

780 (3) (a) The plan shall include specific provisions related to any areas within, or

781 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a

782 county, which are proposed for the siting of a storage facility or transfer facility for the

783 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as

784 these wastes are defined in Section 19-3-303. The provisions shall address the effects of the

785 proposed site upon the health and general welfare of citizens of the state, and shall provide:

- 786 (i) the information identified in Section 19-3-305;
- 787 (ii) information supported by credible studies that demonstrates that the provisions of
- 788 Subsection 19-3-307(2) have been satisfied; and
- 789 (iii) specific measures to mitigate the effects of high-level nuclear waste and greater
- 790 than class C radioactive waste and guarantee the health and safety of the citizens of the state.

791 (b) A county may, in lieu of complying with Subsection (3)(a), adopt an ordinance

792 indicating that all proposals for the siting of a storage facility or transfer facility for the

793 placement of high-level nuclear waste or greater than class C radioactive waste wholly or

794 partially within the county are rejected.

795 (c) A county may adopt the ordinance listed in Subsection (3)(b) at any time.

796 (d) The county shall send a certified copy of the ordinance under Subsection (3)(b) to

797 the executive director of the Department of Environmental Quality by certified mail within 30

798 days of enactment.

799 (e) If a county repeals an ordinance adopted pursuant to Subsection (3)(b) the county

800 shall:

- 801 (i) comply with Subsection (3)(a) as soon as reasonably possible; and
- 802 (ii) send a certified copy of the repeal to the executive director of the Department of

803 Environmental Quality by certified mail within 30 days after the repeal.

804 (4) The plan may define the county's local customs, local culture, and the components
805 necessary for the county's economic stability.

806 (5) Subject to Subsection 17-27a-403(2), the county may determine the
807 comprehensiveness, extent, and format of the general plan.

808 Section 10. Section 17-27a-403 is amended to read:

809 **17-27a-403. Plan preparation.**

810 (1) (a) The planning commission shall provide notice, as provided in Section
811 17-27a-203, of its intent to make a recommendation to the county legislative body for a general
812 plan or a comprehensive general plan amendment when the planning commission initiates the
813 process of preparing its recommendation.

814 (b) The planning commission shall make and recommend to the legislative body a
815 proposed general plan for:

816 (i) the unincorporated area within the county[-]; or

817 (ii) if the planning commission is a planning commission for a mountainous planning
818 district, the mountainous planning district.

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

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

825 (iii) Subsection (1)(c)(ii) does not apply to a plan for a mountainous planning district.

826 (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts,
827 and descriptive and explanatory matter, shall include the planning commission's
828 recommendations for the following plan elements:

829 (i) a land use element that:

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

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

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

841 (iii) an estimate of the need for the development of additional moderate income
842 housing within the unincorporated area of the county or the mountainous planning district, and
843 a plan to provide a realistic opportunity to meet estimated needs for additional moderate
844 income housing if long-term projections for land use and development occur.

845 (b) In drafting the moderate income housing element, the planning commission:

846 (i) shall consider the Legislature's determination that counties should facilitate a
847 reasonable opportunity for a variety of housing, including moderate income housing:

848 (A) to meet the needs of people desiring to live there; and

849 (B) to allow persons with moderate incomes to benefit from and fully participate in all
850 aspects of neighborhood and community life; and

851 (ii) may include an analysis of why the recommended means, techniques, or
852 combination of means and techniques provide a realistic opportunity for the development of
853 moderate income housing within the planning horizon, which means or techniques may include
854 a recommendation to:

855 (A) rezone for densities necessary to assure the production of moderate income
856 housing;

857 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the
858 construction of moderate income housing;

859 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
860 income housing;

861 (D) consider county general fund subsidies to waive construction related fees that are
862 otherwise generally imposed by the county;

863 (E) consider utilization of state or federal funds or tax incentives to promote the
864 construction of moderate income housing;

865 (F) consider utilization of programs offered by the Utah Housing Corporation within
866 that agency's funding capacity; and

867 (G) consider utilization of affordable housing programs administered by the
868 Department of Workforce Services.

869 (c) In drafting the land use element, the planning commission shall:

870 (i) identify and consider each agriculture protection area within the unincorporated area
871 of the county or mountainous planning district; and

872 (ii) avoid proposing a use of land within an agriculture protection area that is
873 inconsistent with or detrimental to the use of the land for agriculture.

874 (3) The proposed general plan may include:

875 (a) an environmental element that addresses:

876 (i) the protection, conservation, development, and use of natural resources, including
877 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
878 and other natural resources; and

879 (ii) the reclamation of land, flood control, prevention and control of the pollution of
880 streams and other waters, regulation of the use of land on hillsides, stream channels and other
881 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
882 protection of watersheds and wetlands, and the mapping of known geologic hazards;

883 (b) a public services and facilities element showing general plans for sewage, water,
884 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,
885 police and fire protection, and other public services;

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

888 (i) historic preservation;

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

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

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

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

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

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

901 Section 11. Section 17-27a-502 is amended to read:

902 **17-27a-502. Preparation and adoption of land use ordinance or zoning map.**

903 (1) The planning commission shall:

904 (a) provide notice as required by Subsection 17-27a-205(1)(a) and, if applicable,
905 Subsection 17-27a-205(4);

906 (b) hold a public hearing on a proposed land use ordinance or zoning map;

907 (c) if applicable, consider each written objection filed in accordance with Subsection
908 17-27a-205(4) prior to the public hearing; and

909 (d) (i) prepare and recommend to the legislative body a proposed land use ordinance or
910 ordinances and zoning map that represent the planning commission's recommendation for
911 regulating the use and development of land within;

912 (A) all or any part of the unincorporated area of the county; [and] or

913 (B) for a mountainous planning district, all or any part of the area in the mountainous
914 planning district; and

915 (ii) forward to the legislative body all objections filed in accordance with Subsection
916 17-27a-205(4).

917 (2) The county legislative body shall consider each proposed land use ordinance and
918 zoning map recommended to it by the planning commission, and, after providing notice as
919 required by Subsection 17-27a-205(1)(b) and holding a public meeting, the legislative body
920 may adopt or reject the proposed ordinance or map either as proposed by the planning
921 commission or after making any revision the county legislative body considers appropriate.

922 Section 12. Section 17-27a-505.5 is amended to read:

923 **17-27a-505.5. Limit on single family designation.**

924 (1) As used in this section, "single-family limit" means the number of unrelated
925 individuals allowed to occupy each residential unit that is recognized by a land use authority in
926 a zone permitting occupancy by a single family.

927 (2) A county may not adopt a single-family limit that is less than:

928 (a) three, if the county has within its unincorporated area:

929 (i) a state university; [~~or~~]

930 (ii) a private university with a student population of at least 20,000; or

931 (iii) a mountainous planning district; or

932 (b) four, for each other county.

933 Section 13. Section **17-27a-509.7** is amended to read:

934 **17-27a-509.7. Transferable development rights.**

935 (1) A county may adopt an ordinance:

936 (a) designating sending zones and receiving zones within the unincorporated area of
937 the county; and

938 (b) allowing the transfer of a transferable development right from a sending zone to a
939 receiving zone.

940 (2) A county may not allow the use of a transferable development right:

941 (a) unless the county adopts an ordinance described in Subsection (1)[-]; or

942 (b) in a mountainous planning district, if one is established.

943 Section 14. Section **17-27a-602** is amended to read:

944 **17-27a-602. Planning commission preparation and recommendation of**
945 **subdivision ordinance -- Adoption or rejection by legislative body.**

946 (1) The planning commission shall:

947 (a) prepare and recommend a proposed ordinance to the legislative body that regulates
948 the subdivision of land;

949 (b) prepare and recommend or consider and recommend a proposed ordinance that
950 amends the regulation of the subdivision of the unincorporated land in the county or, in the

951 case of a mountainous planning district, the mountainous planning district;

952 (c) provide notice consistent with Section **17-27a-205**; and

953 (d) hold a public hearing on the proposed ordinance before making its final
954 recommendation to the legislative body.

955 (2) The county legislative body may adopt or reject the ordinance either as proposed by
956 the planning commission or after making any revision the county legislative body considers
957 appropriate.

958 Section 15. Section 17-27a-604 is amended to read:

959 **17-27a-604. Subdivision plat approval procedure -- Effect of not complying.**

960 (1) A person may not submit a subdivision plat to the county recorder's office for
961 recording unless:

962 (a) the person has complied with the requirements of Subsection 17-27a-603(4)(a);

963 (b) the plat has been approved by:

964 (i) the land use authority of the;

965 (A) county in whose unincorporated area the land described in the plat is located; ~~and~~

966 or

967 (B) mountainous planning district in whose area the land described in the plat is

968 located; and

969 (ii) other officers that the county designates in its ordinance; and

970 (c) all approvals described in Subsection (1)(b) are entered in writing on the plat by
971 designated officers.

972 (2) An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if
973 the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a,
974 Community Association Act.

975 (3) A plat recorded without the signatures required under this section is void.

976 (4) A transfer of land pursuant to a void plat is voidable.

977 Section 16. Section 17-27a-605 is amended to read:

978 **17-27a-605. Exemptions from plat requirement.**

979 (1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority may
980 approve the subdivision of unincorporated land or mountainous planning district land into 10
981 lots or less without a plat, by certifying in writing that:

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

983 (b) the proposed subdivision:

984 (i) is not traversed by the mapped lines of a proposed street as shown in the general
985 plan and does not require the dedication of any land for street or other public purposes;

986 (ii) has been approved by the culinary water authority and the sanitary sewer authority;

987 (iii) is located in a zoned area; and

988 (iv) conforms to all applicable land use ordinances or has properly received a variance

989 from the requirements of an otherwise conflicting and applicable land use ordinance.

990 (2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural
991 land is exempt from the plat requirements of Section 17-27a-603 if:

992 (i) the lot or parcel:

993 (A) qualifies as land in agricultural use under Section 59-2-502; and

994 (B) is not used and will not be used for any nonagricultural purpose; and

995 (ii) the new owner of record completes, signs, and records with the county recorder a
996 notice:

997 (A) describing the parcel by legal description; and

998 (B) stating that the lot or parcel is created for agricultural purposes as defined in
999 Section 59-2-502 and will remain so until a future zoning change permits other uses.

1000 (b) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural
1001 purpose, the county shall require the lot or parcel to comply with the requirements of Section
1002 17-27a-603 and all applicable land use ordinance requirements.

1003 (3) (a) Except as provided in Subsection (4), a document recorded in the county
1004 recorder's office that divides property by a metes and bounds description does not create an
1005 approved subdivision allowed by this part unless the land use authority's certificate of written
1006 approval required by Subsection (1) is attached to the document.

1007 (b) The absence of the certificate or written approval required by Subsection (1) does
1008 not:

1009 (i) prohibit the county recorder from recording a document; or

1010 (ii) affect the validity of a recorded document.

1011 (c) A document which does not meet the requirements of Subsection (1) may be
1012 corrected by the recording of an affidavit to which the required certificate or written approval is
1013 attached in accordance with Section 57-3-106.

1014 (4) (a) As used in this Subsection (4):

1015 (i) "Divided land" means land that:

1016 (A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and

1017 (B) has been divided by a minor subdivision.

1018 (ii) "Land to be divided" means land that is proposed to be divided by a minor
1019 subdivision.

1020 (iii) "Minor subdivision" means a division of at least 100 contiguous acres of
1021 agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that,
1022 after the division, is separate from the remainder of the original 100 or more contiguous acres
1023 of agricultural land.

1024 (iv) "Minor subdivision lot" means a lot created by a minor subdivision.

1025 (b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least 100
1026 contiguous acres of agricultural land may make a minor subdivision by submitting for
1027 recording in the office of the recorder of the county in which the land to be divided is located:

1028 (i) a recordable deed containing the legal description of the minor subdivision lot; and

1029 (ii) a notice:

1030 (A) indicating that the owner of the land to be divided is making a minor subdivision;

1031 (B) referring specifically to this section as the authority for making the minor

1032 subdivision; and

1033 (C) containing the legal description of:

1034 (I) the land to be divided; and

1035 (II) the minor subdivision lot.

1036 (c) A minor subdivision lot:

1037 (i) may not be less than one acre in size;

1038 (ii) may not be within 1,000 feet of another minor subdivision lot; and

1039 (iii) is not subject to the subdivision ordinance of the county in which the minor

1040 subdivision lot is located.

1041 (d) Land to be divided by a minor subdivision may not include divided land.

1042 (e) A county:

1043 (i) may not deny a building permit to an owner of a minor subdivision lot based on:

1044 (A) the lot's status as a minor subdivision lot; or

1045 (B) the absence of standards described in Subsection (4)(e)(ii); and

1046 (ii) may, in connection with the issuance of a building permit, subject a minor

1047 subdivision lot to reasonable health, safety, and access standards that the county has established

1048 and made public.

1049 Section 17. Section 17-27a-901 is enacted to read:

1050 **Part 9. Mountainous Planning District**

1051 17-27a-901. Mountainous planning district.
1052 (1) (a) The legislative body of a county of the first class may adopt a resolution
1053 designating an area located within the county as a mountainous planning district if the
1054 legislative body determines that:
1055 (i) the area is primarily used for recreational purposes, including canyons, foothills, ski
1056 resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas;
1057 (ii) the area is used by residents of the county who live inside and outside the limits of
1058 cities and towns; and
1059 (iii) the total resident population in the proposed mountainous planning district is equal
1060 to or less than 5% of the population of the county.
1061 (b) A mountainous planning district may include within its boundaries a town or a city,
1062 whether in whole or in part.
1063 (c) The population figure under Subsection (1)(a)(iii) shall be derived from a
1064 population estimate by the Utah Population Estimates Committee.
1065 (2) If the legislative body of a county adopts a resolution described in Subsection
1066 (1)(a), the county shall also adopt a resolution dissolving or changing the boundaries of a
1067 township planning commission, if one exists, of a township located, in whole or in part, within
1068 the mountainous planning district.
1069 (3) If an unincorporated area of the county is located within a mountainous planning
1070 district, the area:
1071 (a) may be annexed by a municipality; and
1072 (b) may not incorporate as a municipality under Title 10, Chapter 2, Incorporation,
1073 Classification, Boundaries, Consolidation, and Dissolution of Municipalities.

Legislative Review Note
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Office of Legislative Research and General Counsel