

**Representative Brad L. Dee** proposes the following substitute bill:

**PLANNING DISTRICT AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad L. Dee**

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

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

▶ excludes, with certain exceptions, any area located within a mountainous planning district from the land use jurisdiction, including the general plan, of a municipality;

▶ defines terms;

▶ authorizes a county to establish a planning commission for 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;

▶ provides a repeal date; and

▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



26 This bill provides revisor instructions.

27 **Utah Code Sections Affected:**

28 AMENDS:

- 29 **10-9a-304**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 30 **17-27a-102**, as last amended by Laws of Utah 2007, Chapter 363
- 31 **17-27a-103**, as last amended by Laws of Utah 2014, Chapters 136 and 363
- 32 **17-27a-210**, as enacted by Laws of Utah 2005, Chapter 231
- 33 **17-27a-301**, as last amended by Laws of Utah 2014, Chapter 189
- 34 **17-27a-302**, as last amended by Laws of Utah 2012, Chapter 359
- 35 **17-27a-305**, as last amended by Laws of Utah 2013, Chapter 200
- 36 **17-27a-401**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 37 **17-27a-403**, as last amended by Laws of Utah 2014, Chapter 176
- 38 **17-27a-502**, as last amended by Laws of Utah 2013, Chapter 324
- 39 **17-27a-505.5**, as last amended by Laws of Utah 2012, Chapter 172
- 40 **17-27a-602**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 41 **17-27a-604**, as last amended by Laws of Utah 2011, Chapter 377
- 42 **17-27a-605**, as last amended by Laws of Utah 2012, Chapter 99
- 43 **63I-2-210**, as last amended by Laws of Utah 2014, Chapter 405
- 44 **63I-2-217**, as last amended by Laws of Utah 2014, Chapters 189 and 405

45 ENACTS:

46 **17-27a-901**, Utah Code Annotated 1953



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

49 Section 1. Section **10-9a-304** is amended to read:

50 **10-9a-304. State and federal property -- Mountainous planning district.**

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

54 (2) (a) Except as provided in Subsection (2)(b), for purposes of this chapter, a  
55 municipality, a municipal planning commission, or a municipal land use authority does not  
56 have jurisdiction over property located within a mountainous planning district as defined in

57 Section 17-27a-103.

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

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

60 (B) was incorporated in or before 1970;

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

62 (iii) has been granted joint authority to regulate, subject to Subsection (2)(c), its

63 watershed areas by a local health authority.

64 (c) The exception for a municipality under Subsection (2)(b)(iii) applies only for

65 matters related to regulation of the watershed within a watershed area.

66 Section 2. Section 17-27a-102 is amended to read:

67 **17-27a-102. Purposes -- General land use authority.**

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

75 (b) To accomplish the purposes of this chapter, counties may enact all ordinances,  
76 resolutions, and rules and may enter into other forms of land use controls and development  
77 agreements that they consider necessary or appropriate for the use and development of land  
78 within the unincorporated area of the county or a designated mountainous planning district,  
79 including ordinances, resolutions, rules, restrictive covenants, easements, and development  
80 agreements governing uses, density, open spaces, structures, buildings, energy-efficiency, light  
81 and air, air quality, transportation and public or alternative transportation, infrastructure, street  
82 and building orientation and width requirements, public facilities, fundamental fairness in land  
83 use regulation, considerations of surrounding land uses and the balance of the foregoing  
84 purposes with a landowner's private property interests, height and location of vegetation, trees,  
85 and landscaping, unless expressly prohibited by law.

86 (2) Each county shall comply with the mandatory provisions of this part before any  
87 agreement or contract to provide goods, services, or municipal-type services to any storage

88 facility or transfer facility for high-level nuclear waste, or greater than class C radioactive  
89 waste, may be executed or implemented.

90 Section 3. Section 17-27a-103 is amended to read:

91 **17-27a-103. Definitions.**

92 As used in this chapter:

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

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

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

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

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

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

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

112 (i) an operating charter school;

113 (ii) a charter school applicant that has its application approved by a charter school  
114 authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or  
115 (iii) an entity that is working on behalf of a charter school or approved charter  
116 applicant to develop or construct a charter school building.

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

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

119 powers of the county.

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

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

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

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

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

131 (9) "Development activity" means:

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

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

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

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

141 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
142 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
143 802.

144 (11) "Educational facility":

145 (a) means:

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

149 (ii) a structure or facility:

150 (A) located on the same property as a building described in Subsection (11)(a)(i); and  
151 (B) used in support of the use of that building; and  
152 (iii) a building to provide office and related space to a school district's administrative  
153 personnel; and

154 (b) does not include:  
155 (i) land or a structure, including land or a structure for inventory storage, equipment  
156 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

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

159 (B) used in support of the purposes of a building described in Subsection (11)(a)(i); or  
160 (ii) a therapeutic school.

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

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

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

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

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

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

174 (a) the unincorporated land within the county[-]; or

175 (b) for a mountainous planning district, the land within the mountainous planning  
176 district.

177 (16) "Geologic hazard" means:

178 (a) a surface fault rupture;

179 (b) shallow groundwater;

180 (c) liquefaction;

- 181 (d) a landslide;
- 182 (e) a debris flow;
- 183 (f) unstable soil;
- 184 (g) a rock fall; or
- 185 (h) any other geologic condition that presents a risk:
- 186 (i) to life;
- 187 (ii) of substantial loss of real property; or
- 188 (iii) of substantial damage to real property.
- 189 (17) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 190 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
- 191 system.
- 192 (18) "Identical plans" means building plans submitted to a county that:
- 193 (a) are clearly marked as "identical plans";
- 194 (b) are substantially identical building plans that were previously submitted to and
- 195 reviewed and approved by the county; and
- 196 (c) describe a building that:
- 197 (i) is located on land zoned the same as the land on which the building described in the
- 198 previously approved plans is located;
- 199 (ii) is subject to the same geological and meteorological conditions and the same law
- 200 as the building described in the previously approved plans;
- 201 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 202 and approved by the county; and
- 203 (iv) does not require any additional engineering or analysis.
- 204 (19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
- 205 Impact Fees Act.
- 206 (20) "Improvement completion assurance" means a surety bond, letter of credit, cash,
- 207 or other security required by a county to guaranty the proper completion of landscaping or
- 208 infrastructure that the land use authority has required as a condition precedent to:
- 209 (a) recording a subdivision plat; or
- 210 (b) beginning development activity.
- 211 (21) "Improvement warranty" means an applicant's unconditional warranty that the

212 accepted landscaping or infrastructure:

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

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

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

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

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

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

223 (ii) has substantial evidence, on record:

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

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

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

229 (a) runs with the land; and

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

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

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

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

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

242 (27) "Land use authority" means:



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

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

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

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

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

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

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

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

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

262 [~~34~~] (35) "Nominal fee" means a fee that reasonably reimburses a county only for  
263 time spent and expenses incurred in:

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

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

267 [~~35~~] (36) "Noncomplying structure" means a structure that:

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

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

272 [~~36~~] (37) "Nonconforming use" means a use of land that:

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

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

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

278 [~~(37)~~] (38) "Official map" means a map drawn by county authorities and recorded in  
279 the county recorder's office that:

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

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

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

286 [~~(38)~~] (39) "Parcel boundary adjustment" means a recorded agreement between owners  
287 of adjoining properties adjusting their mutual boundary if:

288 (a) no additional parcel is created; and

289 (b) each property identified in the agreement is unsubdivided land, including a  
290 remainder of subdivided land.

291 [~~(39)~~] (40) "Person" means an individual, corporation, partnership, organization,  
292 association, trust, governmental agency, or any other legal entity.

293 [~~(40)~~] (41) "Plan for moderate income housing" means a written document adopted by  
294 a county legislative body that includes:

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

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

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

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

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

304 [~~(41)~~] (42) "Plat" means a map or other graphical representation of lands being laid out

305 and prepared in accordance with Section [17-27a-603](#), [17-23-17](#), or [57-8-13](#).

306 ~~[(42)]~~ (43) "Potential geologic hazard area" means an area that:

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

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

313 ~~[(43)]~~ (44) "Public agency" means:

314 (a) the federal government;

315 (b) the state;

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

318 (d) a charter school.

319 ~~[(44)]~~ (45) "Public hearing" means a hearing at which members of the public are  
320 provided a reasonable opportunity to comment on the subject of the hearing.

321 ~~[(45)]~~ (46) "Public meeting" means a meeting that is required to be open to the public  
322 under Title 52, Chapter 4, Open and Public Meetings Act.

323 ~~[(46)]~~ (47) "Receiving zone" means an unincorporated area of a county that the county  
324 designates, by ordinance, as an area in which an owner of land may receive a transferable  
325 development right.

326 ~~[(47)]~~ (48) "Record of survey map" means a map of a survey of land prepared in  
327 accordance with Section [17-23-17](#).

328 ~~[(48)]~~ (49) "Residential facility for persons with a disability" means a residence:

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

330 (b) (i) which is licensed or certified by the Department of Human Services under Title  
331 62A, Chapter 2, Licensure of Programs and Facilities; or

332 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter  
333 21, Health Care Facility Licensing and Inspection Act.

334 ~~[(49)]~~ (50) "Rules of order and procedure" means a set of rules that govern and  
335 prescribe in a public meeting:

- 336 (a) parliamentary order and procedure;
- 337 (b) ethical behavior; and
- 338 (c) civil discourse.

339 [~~(50)~~] (51) "Sanitary sewer authority" means the department, agency, or public entity  
340 with responsibility to review and approve the feasibility of sanitary sewer services or onsite  
341 wastewater systems.

342 [~~(51)~~] (52) "Sending zone" means an unincorporated area of a county that the county  
343 designates, by ordinance, as an area from which an owner of land may transfer a transferable  
344 development right.

345 [~~(52)~~] (53) "Site plan" means a document or map that may be required by a county  
346 during a preliminary review preceding the issuance of a building permit to demonstrate that an  
347 owner's or developer's proposed development activity meets a land use requirement.

348 [~~(53)~~] (54) "Specified public agency" means:

- 349 (a) the state;
- 350 (b) a school district; or
- 351 (c) a charter school.

352 [~~(54)~~] (55) "Specified public utility" means an electrical corporation, gas corporation,  
353 or telephone corporation, as those terms are defined in Section [54-2-1](#).

354 [~~(55)~~] (56) "State" includes any department, division, or agency of the state.

355 [~~(56)~~] (57) "Street" means a public right-of-way, including a highway, avenue,  
356 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,  
357 or other way.

358 [~~(57)~~] (58) (a) "Subdivision" means any land that is divided, resubdivided or proposed  
359 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the  
360 purpose, whether immediate or future, for offer, sale, lease, or development either on the  
361 installment plan or upon any and all other plans, terms, and conditions.

362 (b) "Subdivision" includes:

- 363 (i) the division or development of land whether by deed, metes and bounds description,  
364 devise and testacy, map, plat, or other recorded instrument; and
- 365 (ii) except as provided in Subsection [~~(57)~~] (58)(c), divisions of land for residential and  
366 nonresidential uses, including land used or to be used for commercial, agricultural, and

367 industrial purposes.

368 (c) "Subdivision" does not include:

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

370 (ii) a recorded agreement between owners of adjoining properties adjusting their

371 mutual boundary if:

372 (A) no new lot is created; and

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

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

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

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

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

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

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

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

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

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

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

389 (vi) a bona fide division or partition of land by deed or other instrument where the land  
390 use authority expressly approves in writing the division in anticipation of further land use  
391 approvals on the parcel or parcels; or

392 (vii) a parcel boundary adjustment.

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

397 [~~(58)~~] (59) "Suspect soil" means soil that has:

398 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
399 3% swell potential;

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

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

403 [~~(59)~~] (60) "Therapeutic school" means a residential group living facility:

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

405 (i) the owner of the facility; or

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

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

408 (i) at home;

409 (ii) in a public school; or

410 (iii) in a nonresidential private school; and

411 (c) that offers:

412 (i) room and board; and

413 (ii) an academic education integrated with:

414 (A) specialized structure and supervision; or

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

417 [~~(60)~~] (61) "Township" means a contiguous, geographically defined portion of the  
418 unincorporated area of a county, established under this part or reconstituted or reinstated under  
419 Section 17-27a-306, with planning and zoning functions as exercised through the township  
420 planning commission, as provided in this chapter, but with no legal or political identity  
421 separate from the county and no taxing authority, except that "township" means a former  
422 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

423 [~~(61)~~] (62) "Transferable development right" means a right to develop and use land that  
424 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer  
425 land use rights from a designated sending zone to a designated receiving zone.

426 [~~(62)~~] (63) "Unincorporated" means the area outside of the incorporated area of a  
427 municipality.

428 [~~(63)~~] (64) "Water interest" means any right to the beneficial use of water, including:

- 429 (a) each of the rights listed in Section 73-1-11; and
- 430 (b) an ownership interest in the right to the beneficial use of water represented by:
- 431 (i) a contract; or
- 432 (ii) a share in a water company, as defined in Section 73-3-3.5.
- 433 [(64)] (65) "Zoning map" means a map, adopted as part of a land use ordinance, that
- 434 depicts land use zones, overlays, or districts.

435 Section 4. Section 17-27a-210 is amended to read:

436 **17-27a-210. Notice to county when a private institution of higher education is**  
437 **constructing student housing.**

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

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

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

447 (b) the municipality in whose boundaries the privately owned residential property is  
448 located.

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

453 Section 5. Section 17-27a-301 is amended to read:

454 **17-27a-301. Ordinance establishing planning commission required -- Exception --**  
455 **Ordinance requirements -- Township planning commission -- Compensation.**

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

459 (b) Subsection (1)(a) does not apply if all of the county is included within any

460 combination of:

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

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

463 (iii) mountainous planning districts.

464 (c) (i) Notwithstanding Subsection (1)(a), and except as provided in Subsection

465 (1)(c)(ii), a county that designates a mountainous planning district shall enact an ordinance,

466 subject to Subsection (1)(c)(ii), establishing a planning commission that has jurisdiction over

467 the entire mountainous planning district, including areas of the mountainous planning district

468 that are also located within a municipality or are unincorporated.

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

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

471 10-9a-304(2)(b); and

472 (B) has jurisdiction subject to a local health department exercising its authority in

473 accordance with Title 26A, Chapter 1, Local Health Departments.

474 (iii) The ordinance shall require that members of the planning commission:

475 (A) represent areas located in the unincorporated and incorporated county; and

476 (B) be registered voters who reside either in the unincorporated or incorporated county.

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

478 (i) the number and terms of the members and, if the county chooses, alternate  
479 members;

480 (ii) the mode of appointment;

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

482 (iv) the authority of the planning commission;

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

485 (vi) other details relating to the organization and procedures of the planning  
486 commission.

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

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



- 491 (A) appointment procedures;
- 492 (B) procedures for filling vacancies and removing members from office;
- 493 (C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the
- 494 township planning commission in a public meeting; and
- 495 (D) details relating to the organization and procedures of each township planning
- 496 commission.
- 497 (ii) Subsection (3)(a)(i)(C) does not affect the township planning commission's duty to
- 498 comply with Title 52, Chapter 4, Open and Public Meetings Act.
- 499 (b) The planning commission for each township shall consist of seven members who,
- 500 except as provided in Subsection (4), shall be appointed by:
- 501 (i) in a county operating under a form of government in which the executive and
- 502 legislative functions of the governing body are separated, the county executive with the advice
- 503 and consent of the county legislative body; or
- 504 (ii) in a county operating under a form of government in which the executive and
- 505 legislative functions of the governing body are not separated, the county legislative body.
- 506 (c) (i) Members shall serve four-year terms and until their successors are appointed or,
- 507 as provided in Subsection (4), elected and qualified.
- 508 (ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in
- 509 Subsection (4), members of the first planning commissions shall be appointed so that, for each
- 510 commission, the terms of at least one member and no more than two members expire each
- 511 year.
- 512 (d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township
- 513 planning commission shall be a registered voter residing within the township.
- 514 (ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission
- 515 of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established
- 516 under Subsection [17-27a-306\(1\)\(k\)\(i\)](#) may be an appointed member who is a registered voter
- 517 residing outside the township if that member:
- 518 (I) is an owner of real property located within the township; and
- 519 (II) resides within the county in which the township is located.
- 520 (B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township
- 521 planning commission from a list of three persons submitted by the county legislative body.

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

527 (4) (a) The legislative body of each county in which a township reconstituted under  
528 Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection  
529 [17-27a-306\(1\)\(k\)\(i\)](#) is located shall on or before January 1, 2012, enact an ordinance that  
530 provides for the election of at least three members of the planning commission of that  
531 township.

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

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

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

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

541 (ii) a person appointed under Subsection (4)(c)(i) may not serve for a period of time  
542 that exceeds the elected term for which there was no candidate.

543 (5) (a) A legislative body described in Subsection (4)(a) shall on or before January 1,  
544 2012, enact an ordinance that:

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

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

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

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

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

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

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

570 (7) (a) Except as provided in Subsection (7)(b), upon the appointment or election of all  
571 members of a township planning commission, each township planning commission under this  
572 section shall begin to exercise the powers and perform the duties provided in Section  
573 17-27a-302 with respect to all matters then pending that previously had been under the  
574 jurisdiction of the countywide planning commission or township planning and zoning board.

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

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

584 Section 6. Section 17-27a-302 is amended to read:

585 **17-27a-302. Planning commission powers and duties.**

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

- 589 (a) a general plan and amendments to the general plan;
- 590 (b) land use ordinances, zoning maps, official maps, and amendments;
- 591 (c) an appropriate delegation of power to at least one designated land use authority to  
592 hear and act on a land use application;
- 593 (d) an appropriate delegation of power to at least one appeal authority to hear and act  
594 on an appeal from a decision of the land use authority; and
- 595 (e) application processes that:
  - 596 (i) may include a designation of routine land use matters that, upon application and  
597 proper notice, will receive informal streamlined review and action if the application is  
598 uncontested; and

- 599 (ii) shall protect the right of each:
  - 600 (A) applicant and third party to require formal consideration of any application by a  
601 land use authority;
  - 602 (B) applicant, adversely affected party, or county officer or employee to appeal a land  
603 use authority's decision to a separate appeal authority; and
  - 604 (C) participant to be heard in each public hearing on a contested application.

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

609 Section 7. Section 17-27a-305 is amended to read:

610 **17-27a-305. Other entities required to conform to county's land use ordinances --**  
611 **Exceptions -- School districts and charter schools -- Submission of development plan and**  
612 **schedule.**

613 (1) (a) Each county, municipality, school district, charter school, local district, special  
614 service district, and political subdivision of the state shall conform to any applicable land use

615 ordinance of any county when installing, constructing, operating, or otherwise using any area,  
616 land, or building situated within a mountainous planning district or the unincorporated portion  
617 of the county, as applicable.

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

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

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

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

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

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

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

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

638 (3) A county may not:

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

643 (b) except as otherwise provided in this section, require a school district or charter  
644 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a  
645 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school

646 children and not located on or contiguous to school property, unless the roadway or sidewalk is  
647 required to connect an otherwise isolated school site to an existing roadway;

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

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

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

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

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

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

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

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

666 (a) avoid or mitigate existing and potential traffic hazards, including consideration of  
667 the impacts between the new school and future highways; and

668 (b) maximize school, student, and site safety.

669 (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

670 (a) provide a walk-through of school construction at no cost and at a time convenient to  
671 the district or charter school; and

672 (b) provide recommendations based upon the walk-through.

673 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

674 (i) a county building inspector;

675 (ii) (A) for a school district, a school district building inspector from that school  
676 district; or

677 (B) for a charter school, a school district building inspector from the school district in  
678 which the charter school is located; or

679 (iii) an independent, certified building inspector who is:

680 (A) not an employee of the contractor;

681 (B) approved by:

682 (I) a county building inspector; or

683 (II) (Aa) for a school district, a school district building inspector from that school  
684 district; or

685 (Bb) for a charter school, a school district building inspector from the school district in  
686 which the charter school is located; and

687 (C) licensed to perform the inspection that the inspector is requested to perform.

688 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

689 (c) If a school district or charter school uses a school district or independent building  
690 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to  
691 the state superintendent of public instruction and county building official, on a monthly basis  
692 during construction of the school building, a copy of each inspection certificate regarding the  
693 school building.

694 (7) (a) A charter school shall be considered a permitted use in all zoning districts  
695 within a county.

696 (b) Each land use application for any approval required for a charter school, including  
697 an application for a building permit, shall be processed on a first priority basis.

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

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

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

705 (A) the state superintendent of public instruction, as provided in Subsection  
706 [53A-20-104\(3\)](#), if the school district or charter school used an independent building inspector  
707 for inspection of the school building; or

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

710 (ii) A school district may issue its own certificate authorizing permanent occupancy of  
711 a school building if it used its own building inspector for inspection of the school building,  
712 subject to the notification requirement of Subsection 53A-20-104(3)(a)(ii).

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

716 (iv) A certificate authorizing permanent occupancy issued by the state superintendent  
717 of public instruction under Subsection 53A-20-104(3) or a school district official with authority  
718 to issue the certificate shall be considered to satisfy any county requirement for an inspection or  
719 a certificate of occupancy.

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

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

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

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

726 (B) the demand for public facilities listed in Subsections 11-36a-102(16)(a), (b), (c),  
727 (d), (e), and (g) caused by the development;

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

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

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

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

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

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

737 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that  
738 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing



739 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of  
740 1990, 42 U.S.C. 12102, or any other provision of federal law.

741 Section 8. Section **17-27a-401** is amended to read:

742 **17-27a-401. General plan required -- Content -- Provisions related to radioactive**  
743 **waste facility.**

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

746 (a) for present and future needs of the county; and

747 (b) (i) for growth and development of all or any part of the land within the  
748 unincorporated portions of the county[~~;~~]; or

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

751 (2) The plan may provide for:

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

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

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

757 (i) food and water; and

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

759 (d) the use of energy conservation and solar and renewable energy resources;

760 (e) the protection of urban development;

761 (f) the protection or promotion of moderate income housing;

762 (g) the protection and promotion of air quality;

763 (h) historic preservation;

764 (i) identifying future uses of land that are likely to require an expansion or significant  
765 modification of services or facilities provided by each affected entity; and

766 (j) an official map.

767 (3) (a) The plan shall include specific provisions related to any areas within, or  
768 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a  
769 county, which are proposed for the siting of a storage facility or transfer facility for the

770 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as  
771 these wastes are defined in Section 19-3-303. The provisions shall address the effects of the  
772 proposed site upon the health and general welfare of citizens of the state, and shall provide:

773 (i) the information identified in Section 19-3-305;  
774 (ii) information supported by credible studies that demonstrates that the provisions of  
775 Subsection 19-3-307(2) have been satisfied; and

776 (iii) specific measures to mitigate the effects of high-level nuclear waste and greater  
777 than class C radioactive waste and guarantee the health and safety of the citizens of the state.

778 (b) A county may, in lieu of complying with Subsection (3)(a), adopt an ordinance  
779 indicating that all proposals for the siting of a storage facility or transfer facility for the  
780 placement of high-level nuclear waste or greater than class C radioactive waste wholly or  
781 partially within the county are rejected.

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

783 (d) The county shall send a certified copy of the ordinance under Subsection (3)(b) to  
784 the executive director of the Department of Environmental Quality by certified mail within 30  
785 days of enactment.

786 (e) If a county repeals an ordinance adopted pursuant to Subsection (3)(b) the county  
787 shall:

788 (i) comply with Subsection (3)(a) as soon as reasonably possible; and

789 (ii) send a certified copy of the repeal to the executive director of the Department of  
790 Environmental Quality by certified mail within 30 days after the repeal.

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

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

795 (6) If a county has designated a mountainous planning district, the general plan for the  
796 mountainous planning district is the controlling plan and takes precedence over a municipality's  
797 general plan for property located within the mountainous planning district.

798 Section 9. Section 17-27a-403 is amended to read:

799 **17-27a-403. Plan preparation.**

800 (1) (a) The planning commission shall provide notice, as provided in Section

801 17-27a-203, of its intent to make a recommendation to the county legislative body for a general  
802 plan or a comprehensive general plan amendment when the planning commission initiates the  
803 process of preparing its recommendation.

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

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

807 (ii) if the planning commission is a planning commission for a mountainous planning  
808 district, the mountainous planning district.

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

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

815 (iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous  
816 planning district, the plan for the mountainous planning district controls and precedes a  
817 municipal plan, if any, to which the property would be subject.

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

821 (i) a land use element that:

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

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

828 (ii) a transportation and traffic circulation element consisting of the general location  
829 and extent of existing and proposed freeways, arterial and collector streets, mass transit, and  
830 any other modes of transportation that the planning commission considers appropriate, all  
831 correlated with the population projections and the proposed land use element of the general

832 plan; and

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

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

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

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

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

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

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

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

851 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate  
852 income housing;

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

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

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

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

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

862 (i) identify and consider each agriculture protection area within the unincorporated area

863 of the county or mountainous planning district; and

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

866 (3) The proposed general plan may include:

867 (a) an environmental element that addresses:

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

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

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

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

880 (i) historic preservation;

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

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

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

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

891 (f) provisions addressing any of the matters listed in Subsection [17-27a-401\(2\)](#); and

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

893 Section 10. Section **17-27a-502** is amended to read:

894 **17-27a-502. Preparation and adoption of land use ordinance or zoning map.**

895 (1) The planning commission shall:

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

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

899 (c) if applicable, consider each written objection filed in accordance with Subsection  
900 17-27a-205(4) prior to the public hearing; and

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

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

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

907 (ii) forward to the legislative body all objections filed in accordance with Subsection  
908 17-27a-205(4).

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

914 Section 11. Section 17-27a-505.5 is amended to read:

915 **17-27a-505.5. Limit on single family designation.**

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

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

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

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

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

923 (iii) a mountainous planning district; or

924 (b) four, for each other county.

925 Section 12. Section 17-27a-602 is amended to read:

926 **17-27a-602. Planning commission preparation and recommendation of**  
927 **subdivision ordinance -- Adoption or rejection by legislative body.**

928 (1) The planning commission shall:

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

931 (b) prepare and recommend or consider and recommend a proposed ordinance that  
932 amends the regulation of the subdivision of the unincorporated land in the county or, in the  
933 case of a mountainous planning district, the mountainous planning district;

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

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

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

940 Section 13. Section 17-27a-604 is amended to read:

941 **17-27a-604. Subdivision plat approval procedure -- Effect of not complying.**

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

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

945 (b) the plat has been approved by:

946 (i) the land use authority of the;

947 (A) county in whose unincorporated area the land described in the plat is located; [and]

948 or

949 (B) mountainous planning district in whose area the land described in the plat is  
950 located; and

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

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

954 (2) An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if  
955 the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a,

956 Community Association Act.

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

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

959 Section 14. Section **17-27a-605** is amended to read:

960 **17-27a-605. Exemptions from plat requirement.**

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

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

965 (b) the proposed subdivision:

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

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

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

970 (iv) conforms to all applicable land use ordinances or has properly received a variance  
971 from the requirements of an otherwise conflicting and applicable land use ordinance.

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

974 (i) the lot or parcel:

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

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

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

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

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

982 (b) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural  
983 purpose, the county shall require the lot or parcel to comply with the requirements of Section  
984 **17-27a-603** and all applicable land use ordinance requirements.

985 (3) (a) Except as provided in Subsection (4), a document recorded in the county  
986 recorder's office that divides property by a metes and bounds description does not create an



987 approved subdivision allowed by this part unless the land use authority's certificate of written  
988 approval required by Subsection (1) is attached to the document.

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

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

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

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

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

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

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

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

1000 (ii) "Land to be divided" means land that is proposed to be divided by a minor  
1001 subdivision.

1002 (iii) "Minor subdivision" means a division of at least 100 contiguous acres of  
1003 agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that,  
1004 after the division, is separate from the remainder of the original 100 or more contiguous acres  
1005 of agricultural land.

1006 (iv) "Minor subdivision lot" means a lot created by a minor subdivision.

1007 (b) Notwithstanding Sections [17-27a-603](#) and [17-27a-604](#), an owner of at least 100  
1008 contiguous acres of agricultural land may make a minor subdivision by submitting for  
1009 recording in the office of the recorder of the county in which the land to be divided is located:

1010 (i) a recordable deed containing the legal description of the minor subdivision lot; and

1011 (ii) a notice:

1012 (A) indicating that the owner of the land to be divided is making a minor subdivision;

1013 (B) referring specifically to this section as the authority for making the minor  
1014 subdivision; and

1015 (C) containing the legal description of:

1016 (I) the land to be divided; and

1017 (II) the minor subdivision lot.

- 1018 (c) A minor subdivision lot:
- 1019 (i) may not be less than one acre in size;
- 1020 (ii) may not be within 1,000 feet of another minor subdivision lot; and
- 1021 (iii) is not subject to the subdivision ordinance of the county in which the minor
- 1022 subdivision lot is located.
- 1023 (d) Land to be divided by a minor subdivision may not include divided land.
- 1024 (e) A county:
- 1025 (i) may not deny a building permit to an owner of a minor subdivision lot based on:
- 1026 (A) the lot's status as a minor subdivision lot; or
- 1027 (B) the absence of standards described in Subsection (4)(e)(ii); and
- 1028 (ii) may, in connection with the issuance of a building permit, subject a minor
- 1029 subdivision lot to reasonable health, safety, and access standards that the county has established
- 1030 and made public.

1031 Section 15. Section **17-27a-901** is enacted to read:

1032 **Part 9. Mountainous Planning District**

1033 **17-27a-901. Mountainous planning district.**

1034 (1) (a) The legislative body of a county of the first class may adopt an ordinance  
1035 designating an area located within the county as a mountainous planning district if the  
1036 legislative body determines that:

1037 (i) the area is primarily used for recreational purposes, including canyons, foothills, ski  
1038 resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas;

1039 (ii) the area is used by residents of the county who live inside and outside the limits of  
1040 cities and towns;

1041 (iii) the total resident population in the proposed mountainous planning district is equal  
1042 to or less than 5% of the population of the county; and

1043 (iv) the area is within the unincorporated area of the county or was within the  
1044 unincorporated area of the county before May 12, 2015.

1045 (b) (i) A mountainous planning district may include within its boundaries a  
1046 municipality, whether in whole or in part.

1047 (ii) A subdivision and zoning ordinance that governs property located within a  
1048 mountainous planning district shall control over any subdivision or zoning ordinance, as

1049 applicable, that a municipality may adopt.

1050 (c) The population figure under Subsection (1)(a)(iii) shall be derived from a  
1051 population estimate by the Utah Population Estimates Committee.

1052 (2) (a) Notwithstanding Subsection 10-9a-102(2), 17-34-1(2)(a), or 17-50-302(1)(b), or  
1053 Section 17-50-314, a county may adopt a general plan and adopt a zoning or subdivision  
1054 ordinance for a property that is located within:

1055 (i) a mountainous planning district; and

1056 (ii) a municipality.

1057 (b) A county plan or zoning or subdivision ordinance governs a property described in  
1058 Subsection (2)(a).

1059 Section 16. Section **63I-2-210** is amended to read:

1060 **63I-2-210. Repeal dates -- Title 10.**

1061 (1) Section **10-2-130** is repealed July 1, 2016.

1062 [~~2) Subsection **10-9a-305**(2) is repealed July 1, 2013.~~]

1063 (2) Subsection **10-9a-304**(2) is repealed July 1, 2017.

1064 Section 17. Section **63I-2-217** is amended to read:

1065 **63I-2-217. Repeal dates -- Title 17.**

1066 (1) Subsection **17-8-7**(2), the language that states "Sections **17-19-1** to **17-19-28** and"  
1067 and ", as applicable," is repealed January 1, 2015.

1068 (2) Section **17-15-30** is repealed July 1, 2015.

1069 (3) Title 17, Chapter 19, County Auditor, is repealed January 1, 2015.

1070 (4) Subsection **17-24-1**(4)(b), the language that states ", as applicable, Sections  
1071 **17-19-1**, **17-19-3**, and **17-19-5** or" is repealed January 1, 2015.

1072 (5) Subsection **17-24-4**(2), the language that states ", as applicable, Subsection  
1073 **17-19-3**(3)(b) or" is repealed January 1, 2015.

1074 (6) Subsection **17-27a-102**(1)(b), the language that states "or a designated mountainous  
1075 planning district" is repealed July 1, 2017.

1076 (7) (a) Subsection **17-27a-103**(15)(b) is repealed July 1, 2017.

1077 (b) Subsection **17-27a-103**(34) is repealed July 1, 2017.

1078 (8) Subsection **17-27a-210**(2)(a), the language that states "or the mountainous planning  
1079 district area" is repealed July 1, 2017.

- 1080 (9) (a) Subsection 17-27a-301(1)(b)(iii) is repealed July 1, 2017.
- 1081 (b) Subsection 17-27a-301(1)(c) is repealed July 1, 2017.
- 1082 (c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection
- 1083 (1)(a) or (c)" is repealed July 1, 2017.
- 1084 (10) Subsection 17-27a-302(1), the language that states ", or mountainous planning
- 1085 district" and "or the mountainous planning district," is repealed July 1, 2017.
- 1086 (11) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning
- 1087 district or" and ", as applicable" is repealed July 1, 2017.
- 1088 (12) (a) Subsection 17-27a-401(1)(b)(ii) is repealed July 1, 2017.
- 1089 (b) Subsection 17-27a-401(6) is repealed July 1, 2017.
- 1090 (13) (a) Subsection 17-27a-403(1)(b)(ii) is repealed July 1, 2017.
- 1091 (b) Subsection 17-27a-403(1)(c)(iii) is repealed July 1, 2017.
- 1092 (c) Subsection (2)(a)(iii), the language that states "or the mountainous planning
- 1093 district" is repealed July 1, 2017.
- 1094 (d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning
- 1095 district" is repealed July 1, 2017.
- 1096 (14) Subsection 17-27a-502(1)(d)(i)(B) is repealed July 1, 2017.
- 1097 (15) Subsection 17-27a-505.5 (2)(a)(iii) is repealed July 1, 2017.
- 1098 (16) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a
- 1099 mountainous planning district, the mountainous planning district" is repealed July 1, 2017.
- 1100 (17) Subsection 17-27a-604(1)(b)(i)(B) is repealed July 1, 2017.
- 1101 (18) Subsection 17-27a-605(1), the language that states "or mountainous planning
- 1102 district land" is repealed July 1, 2017.
- 1103 (19) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed July 1,
- 1104 2017.
- 1105 [(6)] (20) (a) Subsection 17-36-3(5)(a), the language that states "for a county of the
- 1106 second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive
- 1107 as provided in Subsection 17-19-19(1); or" is repealed January 1, 2015.
- 1108 (b) Subsection 17-36-3(5)(b), the language that states "for a county of the first class," is
- 1109 repealed January 1, 2015.
- 1110 (c) Subsection 17-36-3(7), the language that states "17-19-3," and ", or 17-24-4, as

1111 applicable" is repealed January 1, 2015.

1112       ~~[(7)]~~ (21) Subsection 17-36-9(1)(a)(iii), the language that states "17-36-10.1, as  
1113 applicable, or" is repealed January 1, 2015.

1114       ~~[(8)]~~ (22) Subsection 17-36-10(1), the language that states the following is repealed  
1115 January 1, 2015:

1116       "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or  
1117 sixth class is not subject to the provisions of this section; and

1118       (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class  
1119 is subject to the provisions of this section."

1120       ~~[(9)]~~ (23) Section 17-36-10.1 is repealed January 1, 2015.

1121       ~~[(10)]~~ (24) Subsection 17-36-11(1), the language that states the following is repealed  
1122 January 1, 2015:

1123       "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or  
1124 sixth class is not subject to the provisions of this section; and

1125       (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class  
1126 is subject to the provisions of this section."

1127       ~~[(11)]~~ (25) Section 17-36-11.1 is repealed January 1, 2015.

1128       ~~[(12)]~~ (26) Subsection 17-36-15(1), the language that states the following is repealed  
1129 January 1, 2015:

1130       "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or  
1131 sixth class is not subject to the provisions of this section; and

1132       (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class  
1133 is subject to the provisions of this section."

1134       ~~[(13)]~~ (27) Section 17-36-15.1 is repealed January 1, 2015.

1135       ~~[(14)]~~ (28) Subsection 17-36-20(1), the language that states the following is repealed  
1136 January 1, 2015:

1137       "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or  
1138 sixth class is not subject to the provisions of this section; and

1139       (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class  
1140 is subject to the provisions of this section."

1141       ~~[(15)]~~ (29) Section 17-36-20.1 is repealed January 1, 2015.

1142            [~~16~~] (30) Subsection [17-36-32\(4\)](#), the language that states "or [17-36-20.1](#), as  
1143 applicable, and" is repealed January 1, 2015.

1144            [~~17~~] (31) Subsection [17-36-43\(1\)](#), the language that states the following is repealed  
1145 January 1, 2015:

1146            "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or  
1147 sixth class is not subject to the provisions of this section; and

1148            (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class  
1149 is subject to the provisions of this section."

1150            [~~18~~] (32) Section [17-36-43.1](#) is repealed January 1, 2015.

1151            [~~19~~] (33) Section [17-36-44](#), the language that states "or [17-36-43.1](#), as applicable" is  
1152 repealed January 1, 2015.

1153            [~~20~~] (34) Subsection [17-50-401\(1\)](#), the language that states the following is repealed  
1154 January 1, 2015:

1155            "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or  
1156 sixth class is not subject to the provisions of this section; and

1157            (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class  
1158 is subject to the provisions of this section."

1159            [~~21~~] (35) Section [17-50-401.1](#) is repealed January 1, 2015.

1160            [~~22~~] (36) Subsection [17-52-101\(2\)](#), the language that states "or [17-52-401.1](#), as  
1161 applicable" is repealed January 1, 2015.

1162            [~~23~~] (37) Subsection [17-52-401\(1\)](#), the language that states the following is repealed  
1163 January 1, 2015:

1164            "(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or  
1165 sixth class is not subject to the provisions of this section; and

1166            (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class  
1167 is subject to the provisions of this section."

1168            [~~24~~] (38) Section [17-52-401.1](#) is repealed January 1, 2015.

1169            [~~25~~] (39) Subsection [17-52-403\(1\)\(a\)](#), the language that states "or [17-52-401.1\(2\)\(c\)](#),  
1170 as applicable" is repealed January 1, 2015.

1171            [~~26~~] (40) On January 1, 2015, when making the changes in this section, the Office of  
1172 Legislative Research and General Counsel shall:

1173 (a) in addition to its authority under Subsection [36-12-12\(3\)](#), make corrections  
1174 necessary to ensure that sections and subsections identified in this section are complete  
1175 sentences and accurately reflect the office's perception of the Legislature's intent; and

1176 (b) identify the text of the affected sections and subsections based upon the section and  
1177 subsection numbers used in Laws of Utah 2012, Chapter 17.

1178 (41) On July 1, 2017, when making the changes in this section, the Office of  
1179 Legislative Research and General Counsel shall:

1180 (a) in addition to its authority under Subsection [36-12-12\(3\)](#), make corrections  
1181 necessary to ensure that sections and subsections identified in this section are complete  
1182 sentences and accurately reflect the office's perception of the Legislature's intent; and

1183 (b) identify the text of the affected sections and subsections based upon the section and  
1184 subsection numbers used in this bill.

1185 Section 18. **Revisor instructions.**

1186 The Legislature intends that the Office of Legislative Research and General Counsel, in  
1187 preparing the Utah Code database for publication, replace the language "this bill" in Subsection  
1188 [63I-2-217\(41\)\(b\)](#) with the bill's designated chapter number in the Laws of Utah.