

LAND USE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Schultz

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill modifies county and municipal land use provisions.

Highlighted Provisions:

This bill:

▶ enacts and modifies definitions applicable to county and municipal land use provisions;

▶ addresses a provision relating to the imposition of stricter requirements or higher standards than required by state law;

▶ enacts a provision directing a land use authority on how to interpret and apply land use regulations and specifying the nature of a land use authority's land use decision;

▶ addresses provisions relating to the preparation, recommendation, and enactment of land use regulations;

▶ addresses a provision relating to the authority to adopt and amend land use regulations; and

▶ addresses provisions relating to appeals of land use decisions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

- 29 **10-9a-103**, as last amended by Laws of Utah 2015, Chapter 327
- 30 **10-9a-104**, as last amended by Laws of Utah 2013, Chapter 309
- 31 **10-9a-205**, as last amended by Laws of Utah 2013, Chapter 324
- 32 **10-9a-302**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 33 **10-9a-501**, as last amended by Laws of Utah 2006, Chapter 240
- 34 **10-9a-502**, as last amended by Laws of Utah 2013, Chapter 324
- 35 **10-9a-503**, as last amended by Laws of Utah 2016, Chapter 404
- 36 **10-9a-509**, as last amended by Laws of Utah 2014, Chapter 136
- 37 **10-9a-707**, as enacted by Laws of Utah 2005, Chapter 254
- 38 **10-9a-801**, as last amended by Laws of Utah 2007, Chapters 306 and 363
- 39 **11-36a-504**, as enacted by Laws of Utah 2011, Chapter 47
- 40 **17-27a-103**, as last amended by Laws of Utah 2015, Chapters 327, 352, and 465
- 41 **17-27a-104**, as last amended by Laws of Utah 2013, Chapter 309
- 42 **17-27a-205**, as last amended by Laws of Utah 2014, Chapter 189
- 43 **17-27a-302**, as last amended by Laws of Utah 2015, Chapters 352 and 465
- 44 **17-27a-501**, as last amended by Laws of Utah 2006, Chapter 240
- 45 **17-27a-502**, as last amended by Laws of Utah 2015, Chapter 465
- 46 **17-27a-503**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 47 **17-27a-508**, as last amended by Laws of Utah 2014, Chapter 136
- 48 **17-27a-707**, as enacted by Laws of Utah 2005, Chapter 254
- 49 **17-27a-801**, as last amended by Laws of Utah 2007, Chapters 306 and 363
- 50 **17C-1-104**, as enacted by Laws of Utah 2006, Chapter 359
- 51 **63I-2-217**, as last amended by Laws of Utah 2016, Chapters 348 and 411

52 ENACTS:

- 53 **10-9a-306**, Utah Code Annotated 1953
- 54 **17-27a-308**, Utah Code Annotated 1953



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

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

58 **10-9a-103. Definitions.**

59 As used in this chapter:

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

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

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

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

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

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

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

79 (i) an operating charter school;

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

82 (iii) an entity that is working on behalf of a charter school or approved charter
83 applicant to develop or construct a charter school building.

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

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

89 (6) "Constitutional taking" means a governmental action that results in a taking of

90 private property so that compensation to the owner of the property is required by the:

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

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

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

96 (8) "Development activity" means:

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

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

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

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

106 (b) "Disability" does not include current illegal use of, or addiction to, any federally
107 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
108 802.

109 (10) "Educational facility":

110 (a) means:

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

114 (ii) a structure or facility:

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

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

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

119 (b) does not include:

120 (i) land or a structure, including land or a structure for inventory storage, equipment

121 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

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

123 and

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

125 (ii) a therapeutic school.

126 (11) "Fire authority" means the department, agency, or public entity with responsibility

127 to review and approve the feasibility of fire protection and suppression services for the subject

128 property.

129 (12) "Flood plain" means land that:

130 (a) is within the 100-year flood plain designated by the Federal Emergency

131 Management Agency; or

132 (b) has not been studied or designated by the Federal Emergency Management Agency

133 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because

134 the land has characteristics that are similar to those of a 100-year flood plain designated by the

135 Federal Emergency Management Agency.

136 (13) "General plan" means a document that a municipality adopts that sets forth general

137 guidelines for proposed future development of the land within the municipality.

138 (14) "Geologic hazard" means:

139 (a) a surface fault rupture;

140 (b) shallow groundwater;

141 (c) liquefaction;

142 (d) a landslide;

143 (e) a debris flow;

144 (f) unstable soil;

145 (g) a rock fall; or

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

147 (i) to life;

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

149 (iii) of substantial damage to real property.

150 (15) "Hookup fee" means a fee for the installation and inspection of any pipe, line,

151 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other

152 utility system.

153 (16) "Identical plans" means building plans submitted to a municipality that:

154 (a) are clearly marked as "identical plans";

155 (b) are substantially identical to building plans that were previously submitted to and
156 reviewed and approved by the municipality; and

157 (c) describe a building that:

158 (i) is located on land zoned the same as the land on which the building described in the
159 previously approved plans is located;

160 (ii) is subject to the same geological and meteorological conditions and the same law
161 as the building described in the previously approved plans;

162 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
163 and approved by the municipality; and

164 (iv) does not require any additional engineering or analysis.

165 (17) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
166 Impact Fees Act.

167 (18) "Improvement completion assurance" means a surety bond, letter of credit,
168 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
169 by a municipality to guaranty the proper completion of landscaping or an infrastructure
170 improvement required as a condition precedent to:

171 (a) recording a subdivision plat; or

172 (b) development of a commercial, industrial, mixed use, or multifamily project.

173 (19) "Improvement warranty" means an applicant's unconditional warranty that the
174 applicant's installed and accepted landscaping or infrastructure improvement:

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

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

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

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

181 (b) no later than one year after a municipality's acceptance of required infrastructure,
182 unless the municipality:

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

185 (ii) has substantial evidence, on record:

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

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

189 (21) "Infrastructure improvement" means permanent infrastructure that an applicant
190 must install:

191 (a) pursuant to published installation and inspection specifications for public
192 improvements; and

193 (b) as a condition of:

194 (i) recording a subdivision plat; or

195 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily
196 project.

197 (22) "Internal lot restriction" means a platted note, platted demarcation, or platted
198 designation that:

199 (a) runs with the land; and

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

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

204 (23) "Land use applicant" means a property owner, or the property owner's designee,
205 who submits a land use application regarding the property owner's land.

206 [~~(23)~~] (24) "Land use application":

207 (a) means an application that is:

208 (i) required by a [~~municipality's land use ordinance.~~] municipality; and

209 (ii) submitted by a land use applicant to obtain a land use decision; and

210 (b) does not mean an application to enact, amend, or repeal a land use regulation.

211 [~~(24)~~] (25) "Land use authority" means:

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

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

216 [~~(25)~~ "Land use ordinance" means a planning, zoning, development, or subdivision
217 ordinance of the municipality, but does not include the general plan.]

218 (26) "Land use decision" means a final action of a land use authority or appeal
219 authority regarding:

220 (a) a land use permit;

221 (b) a land use application; or

222 (c) the enforcement of a land use regulation, land use permit, or development
223 agreement.

224 [~~(26)~~] (27) "Land use permit" means a permit issued by a land use authority.

225 (28) "Land use regulation":

226 (a) means an ordinance, law, code, map, resolution, specification, fee, or rule that
227 governs the use or development of land; and

228 (b) does not include:

229 (i) a general plan;

230 (ii) a land use decision of the legislative body acting as the land use authority, even if
231 the decision is expressed in a resolution or ordinance; or

232 (iii) a temporary revision to an engineering specification that does not materially:

233 (A) increase a land use applicant's cost of development compared to the existing
234 specification; or

235 (B) impact a land use applicant's use of land.

236 [~~(27)~~] (29) "Legislative body" means the municipal council.

237 [~~(28)~~] (30) "Local district" means an entity under Title 17B, Limited Purpose Local
238 Government Entities - Local Districts, and any other governmental or quasi-governmental
239 entity that is not a county, municipality, school district, or the state.

240 [~~(29)~~] (31) "Lot line adjustment" means the relocation of the property boundary line in
241 a subdivision between two adjoining lots with the consent of the owners of record.

242 [~~(30)~~] (32) "Moderate income housing" means housing occupied or reserved for
243 occupancy by households with a gross household income equal to or less than 80% of the
244 median gross income for households of the same size in the county in which the city is located.

245 [~~(31)~~] (33) "Nominal fee" means a fee that reasonably reimburses a municipality only
246 for time spent and expenses incurred in:

- 247 (a) verifying that building plans are identical plans; and
- 248 (b) reviewing and approving those minor aspects of identical plans that differ from the
249 previously reviewed and approved building plans.

250 [~~(32)~~] (34) "Noncomplying structure" means a structure that:

- 251 (a) legally existed before its current land use designation; and
- 252 (b) because of one or more subsequent land use ordinance changes, does not conform
253 to the setback, height restrictions, or other regulations, excluding those regulations, which
254 govern the use of land.

255 [~~(33)~~] (35) "Nonconforming use" means a use of land that:

- 256 (a) legally existed before its current land use designation;
- 257 (b) has been maintained continuously since the time the land use ordinance governing
258 the land changed; and
- 259 (c) because of one or more subsequent land use ordinance changes, does not conform
260 to the regulations that now govern the use of the land.

261 [~~(34)~~] (36) "Official map" means a map drawn by municipal authorities and recorded in
262 a county recorder's office that:

- 263 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
264 highways and other transportation facilities;
- 265 (b) provides a basis for restricting development in designated rights-of-way or between
266 designated setbacks to allow the government authorities time to purchase or otherwise reserve
267 the land; and
- 268 (c) has been adopted as an element of the municipality's general plan.

269 [~~(35)~~] (37) "Parcel boundary adjustment" means a recorded agreement between owners
270 of adjoining properties adjusting their mutual boundary if:

- 271 (a) no additional parcel is created; and
- 272 (b) each property identified in the agreement is unsubdivided land, including a
273 remainder of subdivided land.

274 [~~(36)~~] (38) "Person" means an individual, corporation, partnership, organization,
275 association, trust, governmental agency, or any other legal entity.

276 [~~(37)~~] (39) "Plan for moderate income housing" means a written document adopted by
277 a city legislative body that includes:

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

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

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

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

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

287 [~~(38)~~] (40) "Plat" means a map or other graphical representation of lands being laid out
288 and prepared in accordance with Section [10-9a-603](#), [17-23-17](#), or [57-8-13](#).

289 [~~(39)~~] (41) "Potential geologic hazard area" means an area that:

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

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

296 [~~(40)~~] (42) "Public agency" means:

297 (a) the federal government;

298 (b) the state;

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

301 (d) a charter school.

302 [~~(41)~~] (43) "Public hearing" means a hearing at which members of the public are
303 provided a reasonable opportunity to comment on the subject of the hearing.

304 [~~(42)~~] (44) "Public meeting" means a meeting that is required to be open to the public
305 under Title 52, Chapter 4, Open and Public Meetings Act.

306 [~~(43)~~] (45) "Receiving zone" means an area of a municipality that the municipality

307 designates, by ordinance, as an area in which an owner of land may receive a transferable
308 development right.

309 ~~[(44)]~~ (46) "Record of survey map" means a map of a survey of land prepared in
310 accordance with Section 17-23-17.

311 ~~[(45)]~~ (47) "Residential facility for persons with a disability" means a residence:

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

313 (b) (i) which is licensed or certified by the Department of Human Services under Title
314 62A, Chapter 2, Licensure of Programs and Facilities; or

315 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
316 21, Health Care Facility Licensing and Inspection Act.

317 ~~[(46)]~~ (48) "Rules of order and procedure" means a set of rules that govern and
318 prescribe in a public meeting:

319 (a) parliamentary order and procedure;

320 (b) ethical behavior; and

321 (c) civil discourse.

322 ~~[(47)]~~ (49) "Sanitary sewer authority" means the department, agency, or public entity
323 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
324 wastewater systems.

325 ~~[(48)]~~ (50) "Sending zone" means an area of a municipality that the municipality
326 designates, by ordinance, as an area from which an owner of land may transfer a transferable
327 development right.

328 ~~[(49)]~~ (51) "Specified public agency" means:

329 (a) the state;

330 (b) a school district; or

331 (c) a charter school.

332 ~~[(50)]~~ (52) "Specified public utility" means an electrical corporation, gas corporation,
333 or telephone corporation, as those terms are defined in Section 54-2-1.

334 ~~[(51)]~~ (53) "State" includes any department, division, or agency of the state.

335 ~~[(52)]~~ (54) "Street" means a public right-of-way, including a highway, avenue,
336 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
337 or other way.

338 ~~[(53)]~~ (55) (a) "Subdivision" means any land that is divided, resubdivided or proposed
339 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
340 purpose, whether immediate or future, for offer, sale, lease, or development either on the
341 installment plan or upon any and all other plans, terms, and conditions.

342 (b) "Subdivision" includes:

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

345 (ii) except as provided in Subsection ~~[(53)]~~ (55)(c), divisions of land for residential and
346 nonresidential uses, including land used or to be used for commercial, agricultural, and
347 industrial purposes.

348 (c) "Subdivision" does not include:

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

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

355 (A) no new lot is created; and

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

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

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

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

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

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

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

366 (v) a bona fide division or partition of land by deed or other instrument where the land
367 use authority expressly approves in writing the division in anticipation of further land use
368 approvals on the parcel or parcels; or

369 (vi) a parcel boundary adjustment.

370 (d) The joining of a subdivided parcel of property to another parcel of property that has
371 not been subdivided does not constitute a subdivision under this Subsection [~~(53)~~] (55) as to
372 the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
373 subdivision ordinance.

374 [~~(54)~~] (56) "Suspect soil" means soil that has:

375 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
376 3% swell potential;

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

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

380 [~~(55)~~] (57) "Therapeutic school" means a residential group living facility:

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

382 (i) the owner of the facility; or

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

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

385 (i) at home;

386 (ii) in a public school; or

387 (iii) in a nonresidential private school; and

388 (c) that offers:

389 (i) room and board; and

390 (ii) an academic education integrated with:

391 (A) specialized structure and supervision; or

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

394 [~~(56)~~] (58) "Transferable development right" means a right to develop and use land that
395 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
396 land use rights from a designated sending zone to a designated receiving zone.

397 [~~(57)~~] (59) "Unincorporated" means the area outside of the incorporated area of a city
398 or town.

399 [~~(58)~~] (60) "Water interest" means any right to the beneficial use of water, including:

- 400 (a) each of the rights listed in Section 73-1-11; and
- 401 (b) an ownership interest in the right to the beneficial use of water represented by:
- 402 (i) a contract; or
- 403 (ii) a share in a water company, as defined in Section 73-3-3.5.
- 404 ~~[(59)]~~ (61) "Zoning map" means a map, adopted as part of a land use ordinance, that
- 405 depicts land use zones, overlays, or districts.

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

10-9a-104. Stricter requirements or higher standards.

- 408 (1) Except as provided in Subsection (2), a municipality may enact ~~[an ordinance]~~ a
- 409 land use regulation imposing stricter requirements or higher standards than are required by this
- 410 chapter.
- 411 (2) A municipality may not impose ~~[stricter requirements or higher standards than are~~
- 412 required by:] a requirement or standard that conflicts with a provision of this chapter, other
- 413 state law, or federal law.

~~[(a) Section 10-9a-305; and]~~

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

Section 3. Section 10-9a-205 is amended to read:

10-9a-205. Notice of public hearings and public meetings on adoption or modification of land use ordinance.

- 419 (1) Each municipality shall give:
- 420 (a) notice of the date, time, and place of the first public hearing to consider the
- 421 adoption or any modification of a land use ~~[ordinance]~~ regulation; and
- 422 (b) notice of each public meeting on the subject.
- 423 (2) Each notice of a public hearing under Subsection (1)(a) shall be:
- 424 (a) mailed to each affected entity at least 10 calendar days before the public hearing;
- 425 (b) posted:
- 426 (i) in at least three public locations within the municipality; or
- 427 (ii) on the municipality's official website; and
- 428 (c) (i) (A) published in a newspaper of general circulation in the area at least 10
- 429 calendar days before the public hearing; and
- 430 (B) published on the Utah Public Notice Website created in Section 63F-1-701, at least

431 10 calendar days before the public hearing; or
432 (ii) mailed at least 10 days before the public hearing to:
433 (A) each property owner whose land is directly affected by the land use ordinance
434 change; and
435 (B) each adjacent property owner within the parameters specified by municipal
436 ordinance.
437 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
438 before the meeting and shall be posted:
439 (a) in at least three public locations within the municipality; or
440 (b) on the municipality's official website.
441 (4) (a) ~~[If a municipality plans to hold a public hearing in accordance with Section~~
442 ~~10-9a-502 to adopt a zoning map or map amendment, the]~~ A municipality shall send a courtesy
443 notice to each owner of private real property whose property is located entirely or partially
444 within ~~[the]~~ a proposed zoning map enactment or amendment at least 10 days ~~[prior to]~~ before
445 the scheduled day of the public hearing.
446 (b) The notice shall:
447 (i) identify with specificity each owner of record of real property that will be affected
448 by the proposed zoning map or map amendments;
449 (ii) state the current zone in which the real property is located;
450 (iii) state the proposed new zone for the real property;
451 (iv) provide information regarding or a reference to the proposed regulations,
452 prohibitions, and permitted uses that the property will be subject to if the zoning map or map
453 amendment is adopted;
454 (v) state that the owner of real property may no later than 10 days after the day of the
455 first public hearing file a written objection to the inclusion of the owner's property in the
456 proposed zoning map or map amendment;
457 (vi) state the address where the property owner should file the protest;
458 (vii) notify the property owner that each written objection filed with the municipality
459 will be provided to the municipal legislative body; and
460 (viii) state the location, date, and time of the public hearing described in Section
461 10-9a-502.

462 (c) If a municipality mails notice to a property owner in accordance with Subsection
463 (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this
464 Subsection (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather
465 than sent separately.

466 Section 4. Section **10-9a-302** is amended to read:

467 **Part 3. General Land Use Provisions**

468 **10-9a-302. Planning commission powers and duties.**

469 The planning commission shall make a recommendation to the legislative body for:

- 470 (1) a general plan and amendments to the general plan;
- 471 (2) land use [~~ordinances, zoning maps, official maps, and amendments~~] regulations;
- 472 (3) an appropriate delegation of power to at least one designated land use authority to
473 hear and act on a land use application;
- 474 (4) an appropriate delegation of power to at least one appeal authority to hear and act
475 on an appeal from a decision of the land use authority; and

476 (5) application processes that:

- 477 (a) may include a designation of routine land use matters that, upon application and
478 proper notice, will receive informal streamlined review and action if the application is
479 uncontested; and

480 (b) shall protect the right of each:

- 481 (i) applicant and third party to require formal consideration of any application by a land
482 use authority;
- 483 (ii) applicant, adversely affected party, or municipal officer or employee to appeal a
484 land use authority's decision to a separate appeal authority; and
- 485 (iii) participant to be heard in each public hearing on a contested application.

486 Section 5. Section **10-9a-306** is enacted to read:

487 **10-9a-306. Land use authority requirements -- Nature of land use decision.**

- 488 (1) A land use authority shall apply the plain language of land use regulations.
- 489 (2) If a land use regulation does not plainly restrict a land use application, the land use
490 authority shall interpret and apply the land use regulation to favor the land use application.
- 491 (3) A land use decision of a land use authority is an administrative act, even if the land
492 use authority is the legislative body.

493 Section 6. Section **10-9a-501** is amended to read:

494 **Part 5. Land Use Regulations**

495 **10-9a-501. Enactment of land use regulation.**

496 (1) ~~[The]~~ Only a legislative body may enact a land use ~~[ordinances and a zoning map]~~
497 regulation.

498 (2) (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use
499 regulation only by ordinance.

500 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that
501 imposes a fee.

502 (3) A land use regulation shall be consistent with the purposes set forth in this chapter.

503 Section 7. Section **10-9a-502** is amended to read:

504 **10-9a-502. Preparation and adoption of land use regulation.**

505 (1) The planning commission shall:

506 (a) provide notice as required by Subsection **10-9a-205**(1)(a) and, if applicable,
507 Subsection **10-9a-205**(4);

508 (b) hold a public hearing on a proposed land use ~~[ordinance or zoning map]~~ regulation;

509 (c) if applicable, consider each written objection filed in accordance with Subsection
510 **10-9a-205**(4) prior to the public hearing; and

511 (d) (i) prepare and recommend to the legislative body a proposed land use ~~[ordinance~~
512 ~~or ordinances and zoning map that represent]~~ regulation that represents the planning
513 commission's recommendation for regulating the use and development of land within all or any
514 part of the area of the municipality; and

515 (ii) forward to the legislative body all objections filed in accordance with Subsection
516 **10-9a-205**(4).

517 (2) The ~~[municipal]~~ legislative body shall consider each proposed land use ~~[ordinance~~
518 ~~and zoning map]~~ regulation recommended to ~~[it]~~ the legislative body by the planning
519 commission, and, after providing notice as required by Subsection **10-9a-205**(1)(b) and holding
520 a public meeting, the legislative body may adopt or reject the ~~[ordinance or map]~~ land use
521 regulation either as proposed by the planning commission or after making any revision the
522 ~~[municipal]~~ legislative body considers appropriate.

523 Section 8. Section **10-9a-503** is amended to read:

524 **10-9a-503. Zoning district or land use regulation amendments -- Historic district**
525 **or area.**

526 (1) [The] Only a legislative body may amend:

527 (a) the number, shape, boundaries, or area of any zoning district;

528 (b) any regulation of or within the zoning district; or

529 (c) any other provision of a land use [~~ordinance~~] regulation.

530 (2) The legislative body may not make any amendment authorized by this section
531 unless the amendment was proposed by the planning commission or was first submitted to the
532 planning commission for its recommendation.

533 (3) The legislative body shall comply with the procedure specified in Section
534 10-9a-502 in preparing and adopting an amendment to a land use [~~ordinance or a zoning map~~]
535 regulation.

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

537 (i) "Condominium project" means the same as that term is defined in Section 57-8-3.

538 (ii) "Local historic district or area" means a geographically or thematically definable
539 area that contains any combination of buildings, structures, sites, objects, landscape features,
540 archeological sites, or works of art that contribute to the historic preservation goals of a
541 legislative body.

542 (iii) "Unit" means the same as that term is defined in Section 57-8-3.

543 (b) If a municipality provides a process by which one or more residents of the
544 municipality may initiate the creation of a local historic district or area, the process shall
545 require that:

546 (i) more than 33% of the property owners within the boundaries of the proposed local
547 historic district or area agree in writing to the creation of the proposed local historic district or
548 area;

549 (ii) before any property owner agrees to the creation of a proposed local historic district
550 or area under Subsection (4)(b)(i), the municipality prepare and distribute, to each property
551 owner within the boundaries of the proposed local historic district or area, a neutral
552 information pamphlet that:

553 (A) describes the process to create a local historic district or area; and

554 (B) lists the pros and cons of a local historic district or area;

555 (iii) after the property owners satisfy the requirement described in Subsection (4)(b)(i),
556 for each parcel or, if the parcel contains a condominium project, each unit, within the
557 boundaries of the proposed local historic district or area, the municipality provide:

558 (A) a second copy of the neutral information pamphlet described in Subsection
559 (4)(b)(ii); and

560 (B) one public support ballot that, subject to Subsection (4)(c), allows the owner or
561 owners of record to vote in favor of or against the creation of the proposed local historic district
562 or area;

563 (iv) in a vote described in Subsection (4)(b)(iii)(B), the returned public support ballots
564 that reflect a vote in favor of the creation of the proposed local historic district or area:

565 (A) equal at least two-thirds of the returned public support ballots; and

566 (B) represent more than 50% of the parcels and units within the proposed local historic
567 district or area;

568 (v) if a local historic district or area proposal fails in a vote described in Subsection
569 (4)(b)(iii)(B), the legislative body may override the vote and create the proposed local historic
570 district or area with an affirmative vote of two-thirds of the members of the legislative body;
571 and

572 (vi) if a local historic district or area proposal fails in a vote described in Subsection
573 (4)(b)(iii)(B) and the legislative body does not override the vote under Subsection (4)(b)(v), a
574 resident may not initiate the creation of a local historic district or area that includes more than
575 50% of the same property as the failed local historic district or area proposal for four years after
576 the day on which the public support ballots for the vote are due.

577 (c) In a vote described in Subsection (4)(b)(iii)(B):

578 (i) a property owner is eligible to vote regardless of whether the property owner is an
579 individual, a private entity, or a public entity;

580 (ii) the municipality shall count no more than one public support ballot for:

581 (A) each parcel within the boundaries of the proposed local historic district or area; or

582 (B) if the parcel contains a condominium project, each unit within the boundaries of
583 the proposed local historic district or area; and

584 (iii) if a parcel or unit has more than one owner of record, the municipality shall count
585 a public support ballot for the parcel or unit only if the public support ballot reflects the vote of

586 the property owners who own at least a 50% interest in the parcel or unit.

587 (d) The requirements described in Subsection (4)(b)(iv) apply to the creation of a local
588 historic district or area that is:

589 (i) initiated in accordance with a municipal process described in Subsection (4)(b); and

590 (ii) not complete on or before January 1, 2016.

591 (e) A vote described in Subsection (4)(b)(iii)(B) is not subject to Title 20A, Election
592 Code.

593 Section 9. Section **10-9a-509** is amended to read:

594 **10-9a-509. Applicant's entitlement to land use application approval -- Exceptions**
595 **-- Application relating to land in a high priority transportation corridor -- Municipality's**
596 **requirements and limitations -- Vesting upon submission of development plan and**
597 **schedule.**

598 (1) (a) (i) An applicant who has filed a complete land use application, including the
599 payment of all application fees, is entitled to substantive land use review of the land use
600 application under the land use ~~[laws]~~ regulations in effect on the date that the application is
601 complete and as further provided in this section.

602 (ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
603 land use application if the application conforms to the requirements of the municipality's land
604 use ~~[maps, zoning map, a municipal specification for public improvements applicable to a~~
605 ~~subdivision or development, and an applicable land use ordinance]~~ regulations in effect when a
606 complete application is submitted and all application fees have been paid, unless:

607 (A) the land use authority, on the record, finds that a compelling, countervailing public
608 interest would be jeopardized by approving the application; or

609 (B) in the manner provided by local ordinance and before the application is submitted,
610 the municipality has formally initiated proceedings to amend ~~[its ordinances]~~ the municipality's
611 land use regulations in a manner that would prohibit approval of the application as submitted.

612 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
613 of a land use application until the requirements of this Subsection (1)(b) have been met if the
614 land use application relates to land located within the boundaries of a high priority
615 transportation corridor designated in accordance with Section [72-5-403](#).

616 (ii) (A) A municipality shall notify the executive director of the Department of

617 Transportation of any land use applications that relate to land located within the boundaries of
618 a high priority transportation corridor.

619 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
620 certified or registered mail to the executive director of the Department of Transportation.

621 (iii) Except as provided in Subsection (1)(c), a municipality may not approve a land
622 use application that relates to land located within the boundaries of a high priority
623 transportation corridor until:

624 (A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the
625 Department of Transportation if the land use application is for a building permit; or

626 (B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the
627 Department of Transportation if the land use application is for any land use other than a
628 building permit.

629 (iv) (A) If an application is an application for a subdivision approval, including any
630 land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal,
631 the land use authority shall:

632 (I) within 30 days after the day on which the application is filed, notify the canal
633 company or canal operator responsible for the canal, if the canal company or canal operator has
634 provided information under Section 10-9a-211; and

635 (II) wait at least 10 days after the day on which the land use authority notifies a canal
636 company or canal operator under Subsection (1)(b)(iv)(A)(I) to approve or reject the
637 subdivision application described in Subsection (1)(b)(iv)(A).

638 (B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by
639 certified or registered mail to the canal company or canal operator contact described in Section
640 10-9a-211.

641 (C) The location of land described in Subsection (1)(b)(iv)(A) shall be:

642 (I) provided by a canal company or canal operator to the land use authority; and

643 (II) (Aa) determined by use of mapping-grade global positioning satellite units; or

644 (Bb) digitized from the most recent aerial photo available to the canal company or
645 canal operator.

646 (c) (i) A land use application is exempt from the requirements of Subsections (1)(b)(i)
647 and (ii) if:

648 (A) the land use application relates to land that was the subject of a previous land use
649 application; and

650 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
651 with the requirements of Subsections (1)(b)(i) and (ii).

652 (ii) A municipality may approve a land use application without making the required
653 notifications under Subsection (1)(b)(ii)(A) if:

654 (A) the land use application relates to land that was the subject of a previous land use
655 application; and

656 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
657 complied with the requirements of Subsections (1)(b)(i) and (ii).

658 (d) After a municipality has complied with the requirements of Subsection (1)(b) for a
659 land use application, the municipality may not withhold approval of the land use application for
660 which the applicant is otherwise entitled under Subsection (1)(a).

661 (e) The municipality shall process an application without regard to proceedings
662 initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii)(B) if:

663 (i) 180 days have passed since the proceedings were initiated; and

664 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
665 application as submitted.

666 (f) An application for a land use approval is considered submitted and complete when
667 the application is provided in a form that complies with the requirements of applicable
668 ordinances and all applicable fees have been paid.

669 (g) The continuing validity of an approval of a land use application is conditioned upon
670 the applicant proceeding after approval to implement the approval with reasonable diligence.

671 (h) A municipality may not impose on an applicant who has submitted a complete
672 application for preliminary subdivision approval a requirement that is not expressed in:

673 (i) this chapter;

674 (ii) a municipal ordinance; or

675 (iii) a municipal specification for public improvements applicable to a subdivision or
676 development that is in effect on the date that the applicant submits an application.

677 (i) A municipality may not impose on a holder of an issued land use permit or a final,
678 unexpired subdivision plat a requirement that is not expressed:

- 679 (i) in a land use permit;
- 680 (ii) on the subdivision plat;
- 681 (iii) in a document on which the land use permit or subdivision plat is based;
- 682 (iv) in the written record evidencing approval of the land use permit or subdivision
- 683 plat;
- 684 (v) in this chapter; or
- 685 (vi) in a municipal ordinance.

686 (j) A municipality may not withhold issuance of a certificate of occupancy or
687 acceptance of subdivision improvements because of an applicant's failure to comply with a
688 requirement that is not expressed:

- 689 (i) in the building permit or subdivision plat, documents on which the building permit
690 or subdivision plat is based, or the written record evidencing approval of the land use permit or
691 subdivision plat; or
- 692 (ii) in this chapter or the municipality's ordinances.

693 (2) A municipality is bound by the terms and standards of applicable land use
694 [~~ordinances~~] regulations and shall comply with mandatory provisions of those [~~ordinances~~]
695 regulations.

696 (3) A municipality may not, as a condition of land use application approval, require a
697 person filing a land use application to obtain documentation regarding a school district's
698 willingness, capacity, or ability to serve the development proposed in the land use application.

699 (4) Upon a specified public agency's submission of a development plan and schedule as
700 required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the
701 specified public agency vests in the municipality's applicable land use maps, zoning map,
702 hookup fees, impact fees, other applicable development fees, and land use [~~ordinances~~]
703 regulations in effect on the date of submission.

704 Section 10. Section 10-9a-707 is amended to read:

705 **10-9a-707. Scope of review of factual matters on appeal -- Appeal authority**
706 **requirements.**

707 (1) A municipality may, by ordinance, designate the [~~standard~~] scope of review of of
708 factual matters for appeals of land use authority decisions.

709 (2) If the municipality fails to designate a [~~standard~~] scope of review of factual matters,

710 the appeal authority shall review the matter de novo, without deference to the land use
711 authority's determination of factual matters.

712 (3) If the scope of review of factual matters is on the record, the appeal authority shall
713 determine whether the record on appeal includes substantial evidence for each essential finding
714 of fact.

715 ~~[(3)]~~ (4) The appeal authority shall:

716 (a) determine the correctness of ~~[a decision of]~~ the land use ~~[authority in its]~~ authority's
717 interpretation and application of [a] the plain meaning of the land use ~~[ordinance.]~~ regulations;
718 and

719 (b) interpret and apply a land use regulation to favor a land use application unless the
720 land use regulation plainly restricts the land use application.

721 (5) An appeal authority's land use decision is a quasi-judicial act, even if the appeal
722 authority is the legislative body.

723 ~~[(4)]~~ (6) Only ~~[those decisions]~~ a decision in which a land use authority has applied a
724 land use ~~[ordinance]~~ regulation to a particular land use application, person, or parcel may be
725 appealed to an appeal authority.

726 Section 11. Section **10-9a-801** is amended to read:

727 **10-9a-801. No district court review until administrative remedies exhausted --**

728 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**
729 **-- Staying of decision.**

730 (1) No person may challenge in district court a ~~[municipality's]~~ land use decision
731 ~~[made under this chapter, or under a regulation made under authority of this chapter,]~~ until that
732 person has exhausted the person's administrative remedies as provided in Part 7, Appeal
733 Authority and Variances, if applicable.

734 (2) (a) Any person adversely affected by a final decision made in the exercise of or in
735 violation of the provisions of this chapter may file a petition for review of the decision with the
736 district court within 30 days after the ~~[local land use]~~ decision is final.

737 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a
738 property owner files a request for arbitration of a constitutional taking issue with the property
739 rights ombudsman under Section **13-43-204** until 30 days after:

740 (A) the arbitrator issues a final award; or

741 (B) the property rights ombudsman issues a written statement under Subsection
742 ~~13-43-204~~(3)(b) declining to arbitrate or to appoint an arbitrator.

743 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
744 taking issue that is the subject of the request for arbitration filed with the property rights
745 ombudsman by a property owner.

746 (iii) A request for arbitration filed with the property rights ombudsman after the time
747 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

748 (3) (a) ~~[The courts]~~ A court shall:

749 (i) ~~presume that a [decision, ordinance, or] land use regulation [made] properly enacted~~
750 ~~under the authority of this chapter is valid; and~~

751 (ii) ~~determine only whether [or not the decision, ordinance, or regulation is arbitrary,~~
752 ~~capricious, or illegal.];~~

753 ~~[(b) A decision, ordinance, or regulation involving the exercise of legislative discretion~~
754 ~~is valid if it is reasonably debatable that the decision, ordinance, or regulation promotes the~~
755 ~~purposes of this chapter and is not otherwise illegal.]~~

756 ~~[(c) A final decision of a land use authority or an appeal authority is valid if the~~
757 ~~decision is supported by substantial evidence in the record and is not arbitrary, capricious, or~~
758 ~~illegal.]~~

759 ~~[(d) A determination of illegality requires a determination that the decision, ordinance,~~
760 ~~or regulation violates a law, statute, or ordinance in effect at the time the decision was made or~~
761 ~~the ordinance or regulation adopted.]~~

762 (A) the land use regulation is expressly preempted by, or was enacted contrary to, state
763 or federal law; and

764 (B) it is reasonably debatable that the land use regulation is consistent with this
765 chapter.

766 (b) A court shall:

767 (i) presume that a final decision of a land use authority or an appeal authority is valid;
768 and

769 (ii) uphold the decision unless the decision is:

770 (A) arbitrary and capricious; or

771 (B) illegal.

772 (c) (i) A decision is arbitrary and capricious unless the decision is supported by
773 substantial evidence in the record.

774 (ii) A decision is illegal if the decision is:

775 (A) based on an incorrect interpretation of a land use regulation; or

776 (B) contrary to law.

777 (4) The provisions of Subsection (2)(a) apply from the date on which the municipality
778 takes final action on a land use application for any adversely affected third party, if the
779 municipality conformed with the notice provisions of Part 2, Notice, or for any person who had
780 actual notice of the pending decision.

781 (5) If the municipality has complied with Section 10-9a-205, a challenge to the
782 enactment of a land use ~~[ordinance]~~ regulation or general plan may not be filed with the district
783 court more than 30 days after the enactment.

784 (6) ~~[The petition]~~ A challenge to a land use decision is barred unless ~~[it]~~ the challenge
785 is filed within 30 days after the ~~[appeal authority's]~~ land use decision is final.

786 (7) (a) The land use authority or appeal authority, as the case may be, shall transmit to
787 the reviewing court the record of its proceedings, including its minutes, findings, orders, and, if
788 available, a true and correct transcript of its proceedings.

789 (b) If the proceeding was ~~[tape]~~ recorded, a transcript of that ~~[tape]~~ recording is a true
790 and correct transcript for purposes of this Subsection (7).

791 (8) (a) (i) If there is a record, the district court's review is limited to the record provided
792 by the land use authority or appeal authority, as the case may be.

793 (ii) The court may not accept or consider any evidence outside the record of the land
794 use authority or appeal authority, as the case may be, unless that evidence was offered to the
795 land use authority or appeal authority, respectively, and the court determines that it was
796 improperly excluded.

797 (b) If there is no record, the court may call witnesses and take evidence.

798 (9) (a) The filing of a petition does not stay the decision of the land use authority or
799 authority appeal authority, as the case may be.

800 (b) (i) Before filing a petition under this section or a request for mediation or
801 arbitration of a constitutional taking issue under Section 13-43-204, the aggrieved party may
802 petition the appeal authority to stay its decision.

803 (ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed
804 pending district court review if the appeal authority finds it to be in the best interest of the
805 municipality.

806 (iii) After a petition is filed under this section or a request for mediation or arbitration
807 of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an
808 injunction staying the appeal authority's decision.

809 Section 12. Section 11-36a-504 is amended to read:

810 **11-36a-504. Notice of intent to adopt impact fee enactment -- Hearing --**

811 **Protections.**

812 (1) Before adopting an impact fee enactment:

813 (a) a municipality legislative body shall:

814 (i) comply with the notice requirements of Section 10-9a-205 as if the impact fee
815 enactment were a land use [ordinance] regulation;

816 (ii) hold a hearing in accordance with Section 10-9a-502 as if the impact fee enactment
817 were a land use [ordinance] regulation; and

818 (iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of
819 Section 10-9a-801 as if the impact fee were a land use [ordinance] regulation;

820 (b) a county legislative body shall:

821 (i) comply with the notice requirements of Section 17-27a-205 as if the impact fee
822 enactment were a land use [ordinance] regulation;

823 (ii) hold a hearing in accordance with Section 17-27a-502 as if the impact fee
824 enactment were a land use [ordinance] regulation; and

825 (iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of
826 Section 17-27a-801 as if the impact fee were a land use [ordinance] regulation;

827 (c) a local district or special service district shall:

828 (i) comply with the notice and hearing requirements of Section 17B-1-111; and

829 (ii) receive the protections of Section 17B-1-111;

830 (d) a local political subdivision shall at least 10 days before the day on which a public
831 hearing is scheduled in accordance with this section:

832 (i) make a copy of the impact fee enactment available to the public; and

833 (ii) post notice of the local political subdivision's intent to enact or modify the impact

834 fee, specifying the type of impact fee being enacted or modified, on the Utah Public Notice
835 Website created under Section 63F-1-701; and

836 (e) a local political subdivision shall submit a copy of the impact fee analysis and a
837 copy of the summary of the impact fee analysis prepared in accordance with Section
838 11-36a-303 on its website or to each public library within the local political subdivision.

839 (2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning
840 commission in the impact fee enactment process.

841 Section 13. Section 17-27a-103 is amended to read:

842 **17-27a-103. Definitions.**

843 As used in this chapter:

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

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

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

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

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

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

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

863 (i) an operating charter school;

864 (ii) a charter school applicant that has its application approved by a charter school

865 authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or
866 (iii) an entity that is working on behalf of a charter school or approved charter
867 applicant to develop or construct a charter school building.

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

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

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

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

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

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

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

882 (9) "Development activity" means:

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

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

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

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

892 (b) "Disability" does not include current illegal use of, or addiction to, any federally
893 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
894 802.

895 (11) "Educational facility":

896 (a) means:

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

900 (ii) a structure or facility:

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

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

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

905 (b) does not include:

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

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

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

911 (ii) a therapeutic school.

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

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

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

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

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

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

925 (a) the unincorporated land within the county; or

926 (b) for a mountainous planning district, the land within the mountainous planning

927 district.

928 (16) "Geologic hazard" means:

929 (a) a surface fault rupture;

930 (b) shallow groundwater;

931 (c) liquefaction;

932 (d) a landslide;

933 (e) a debris flow;

934 (f) unstable soil;

935 (g) a rock fall; or

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

937 (i) to life;

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

939 (iii) of substantial damage to real property.

940 (17) "Hookup fee" means a fee for the installation and inspection of any pipe, line,

941 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility

942 system.

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

944 (a) are clearly marked as "identical plans";

945 (b) are substantially identical building plans that were previously submitted to and
946 reviewed and approved by the county; and

947 (c) describe a building that:

948 (i) is located on land zoned the same as the land on which the building described in the
949 previously approved plans is located;

950 (ii) is subject to the same geological and meteorological conditions and the same law
951 as the building described in the previously approved plans;

952 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
953 and approved by the county; and

954 (iv) does not require any additional engineering or analysis.

955 (19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
956 Impact Fees Act.

957 (20) "Improvement completion assurance" means a surety bond, letter of credit,

958 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
959 by a county to guaranty the proper completion of landscaping or an infrastructure improvement
960 required as a condition precedent to:

961 (a) recording a subdivision plat; or

962 (b) development of a commercial, industrial, mixed use, or multifamily project.

963 (21) "Improvement warranty" means an applicant's unconditional warranty that the
964 applicant's installed and accepted landscaping or infrastructure improvement:

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

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

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

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

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

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

975 (ii) has substantial evidence, on record:

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

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

979 (23) "Infrastructure improvement" means permanent infrastructure that an applicant
980 must install:

981 (a) pursuant to published installation and inspection specifications for public
982 improvements; and

983 (b) as a condition of:

984 (i) recording a subdivision plat; or

985 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily
986 project.

987 (24) "Internal lot restriction" means a platted note, platted demarcation, or platted
988 designation that:

989 (a) runs with the land; and

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

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

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

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

1000 (27) "Land use applicant" means a property owner, or the property owner's designee,
1001 who submits a land use application regarding the property owner's land.

1002 ~~[(27)]~~ (28) "Land use application":

1003 (a) means an application that is:

1004 (i) required by a ~~[county's land use ordinance.]~~ county; and

1005 (ii) submitted by a land use applicant to obtain a land use decision; and

1006 (b) does not mean an application to enact, amend, or repeal a land use regulation.

1007 ~~[(28)]~~ (29) "Land use authority" means:

1008 (a) a person, board, commission, agency, or body, including the local legislative body,
1009 designated by the local legislative body to act upon a land use application; or

1010 (b) if the local legislative body has not designated a person, board, commission,
1011 agency, or body, the local legislative body.

1012 ~~[(29) "Land use ordinance" means a planning, zoning, development, or subdivision
1013 ordinance of the county, but does not include the general plan.]~~

1014 (30) "Land use decision" means a final action of a land use authority or appeal
1015 authority regarding:

1016 (a) a land use permit;

1017 (b) a land use application; or

1018 (c) the enforcement of a land use regulation, land use permit, or development
1019 agreement.

1020 ~~[(30)]~~ (31) "Land use permit" means a permit issued by a land use authority.

1021 (32) "Land use regulation":

1022 (a) means an ordinance, law, code, map, resolution, specification, fee, or rule that

1023 governs the use or development of land; and

1024 (b) does not include:

1025 (i) a general plan;

1026 (ii) a land use decision of the legislative body acting as the land use authority, even if

1027 the decision is expressed in a resolution or ordinance; or

1028 (iii) a temporary revision to an engineering specification that does not materially:

1029 (A) increase a land use applicant's cost of development compared to the existing

1030 specification; or

1031 (B) impact a land use applicant's use of land.

1032 ~~[(31)]~~ (33) "Legislative body" means the county legislative body, or for a county that

1033 has adopted an alternative form of government, the body exercising legislative powers.

1034 ~~[(32)]~~ (34) "Local district" means any entity under Title 17B, Limited Purpose Local

1035 Government Entities - Local Districts, and any other governmental or quasi-governmental

1036 entity that is not a county, municipality, school district, or the state.

1037 ~~[(33)]~~ (35) "Lot line adjustment" means the relocation of the property boundary line in

1038 a subdivision between two adjoining lots with the consent of the owners of record.

1039 ~~[(34)]~~ (36) "Moderate income housing" means housing occupied or reserved for

1040 occupancy by households with a gross household income equal to or less than 80% of the

1041 median gross income for households of the same size in the county in which the housing is

1042 located.

1043 ~~[(35)]~~ (37) "Mountainous planning district" means an area:

1044 (a) designated by a county legislative body in accordance with Section 17-27a-901; and

1045 (b) that is not otherwise exempt under ~~[Subsection]~~ Section 10-9a-304~~[(2)(b)]~~.

1046 ~~[(36)]~~ (38) "Nominal fee" means a fee that reasonably reimburses a county only for

1047 time spent and expenses incurred in:

1048 (a) verifying that building plans are identical plans; and

1049 (b) reviewing and approving those minor aspects of identical plans that differ from the

1050 previously reviewed and approved building plans.

1051 [~~(37)~~] (39) "Noncomplying structure" means a structure that:
1052 (a) legally existed before its current land use designation; and
1053 (b) because of one or more subsequent land use ordinance changes, does not conform
1054 to the setback, height restrictions, or other regulations, excluding those regulations that govern
1055 the use of land.

1056 [~~(38)~~] (40) "Nonconforming use" means a use of land that:
1057 (a) legally existed before its current land use designation;
1058 (b) has been maintained continuously since the time the land use ordinance regulation
1059 governing the land changed; and
1060 (c) because of one or more subsequent land use ordinance changes, does not conform
1061 to the regulations that now govern the use of the land.

1062 [~~(39)~~] (41) "Official map" means a map drawn by county authorities and recorded in
1063 the county recorder's office that:

1064 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
1065 highways and other transportation facilities;
1066 (b) provides a basis for restricting development in designated rights-of-way or between
1067 designated setbacks to allow the government authorities time to purchase or otherwise reserve
1068 the land; and
1069 (c) has been adopted as an element of the county's general plan.

1070 [~~(40)~~] (42) "Parcel boundary adjustment" means a recorded agreement between owners
1071 of adjoining properties adjusting their mutual boundary if:
1072 (a) no additional parcel is created; and
1073 (b) each property identified in the agreement is unsubdivided land, including a
1074 remainder of subdivided land.

1075 [~~(41)~~] (43) "Person" means an individual, corporation, partnership, organization,
1076 association, trust, governmental agency, or any other legal entity.

1077 [~~(42)~~] (44) "Plan for moderate income housing" means a written document adopted by
1078 a county legislative body that includes:

1079 (a) an estimate of the existing supply of moderate income housing located within the
1080 county;
1081 (b) an estimate of the need for moderate income housing in the county for the next five

1082 years as revised biennially;

1083 (c) a survey of total residential land use;

1084 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
1085 income housing; and

1086 (e) a description of the county's program to encourage an adequate supply of moderate
1087 income housing.

1088 [~~(43)~~] (45) "Planning advisory area" means a contiguous, geographically defined
1089 portion of the unincorporated area of a county established under this part with planning and
1090 zoning functions as exercised through the planning advisory area planning commission, as
1091 provided in this chapter, but with no legal or political identity separate from the county and no
1092 taxing authority.

1093 [~~(44)~~] (46) "Plat" means a map or other graphical representation of lands being laid out
1094 and prepared in accordance with Section [17-27a-603](#), [17-23-17](#), or [57-8-13](#).

1095 [~~(45)~~] (47) "Potential geologic hazard area" means an area that:

1096 (a) is designated by a Utah Geological Survey map, county geologist map, or other
1097 relevant map or report as needing further study to determine the area's potential for geologic
1098 hazard; or

1099 (b) has not been studied by the Utah Geological Survey or a county geologist but
1100 presents the potential of geologic hazard because the area has characteristics similar to those of
1101 a designated geologic hazard area.

1102 [~~(46)~~] (48) "Public agency" means:

1103 (a) the federal government;

1104 (b) the state;

1105 (c) a county, municipality, school district, local district, special service district, or other
1106 political subdivision of the state; or

1107 (d) a charter school.

1108 [~~(47)~~] (49) "Public hearing" means a hearing at which members of the public are
1109 provided a reasonable opportunity to comment on the subject of the hearing.

1110 [~~(48)~~] (50) "Public meeting" means a meeting that is required to be open to the public
1111 under Title 52, Chapter 4, Open and Public Meetings Act.

1112 [~~(49)~~] (51) "Receiving zone" means an unincorporated area of a county that the county

1113 designates, by ordinance, as an area in which an owner of land may receive a transferable
1114 development right.

1115 ~~[(50)]~~ (52) "Record of survey map" means a map of a survey of land prepared in
1116 accordance with Section 17-23-17.

1117 ~~[(51)]~~ (53) "Residential facility for persons with a disability" means a residence:

1118 (a) in which more than one person with a disability resides; and

1119 (b) (i) which is licensed or certified by the Department of Human Services under Title
1120 62A, Chapter 2, Licensure of Programs and Facilities; or

1121 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
1122 21, Health Care Facility Licensing and Inspection Act.

1123 ~~[(52)]~~ (54) "Rules of order and procedure" means a set of rules that govern and
1124 prescribe in a public meeting:

1125 (a) parliamentary order and procedure;

1126 (b) ethical behavior; and

1127 (c) civil discourse.

1128 ~~[(53)]~~ (55) "Sanitary sewer authority" means the department, agency, or public entity
1129 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
1130 wastewater systems.

1131 ~~[(54)]~~ (56) "Sending zone" means an unincorporated area of a county that the county
1132 designates, by ordinance, as an area from which an owner of land may transfer a transferable
1133 development right.

1134 ~~[(55)]~~ (57) "Site plan" means a document or map that may be required by a county
1135 during a preliminary review preceding the issuance of a building permit to demonstrate that an
1136 owner's or developer's proposed development activity meets a land use requirement.

1137 ~~[(56)]~~ (58) "Specified public agency" means:

1138 (a) the state;

1139 (b) a school district; or

1140 (c) a charter school.

1141 ~~[(57)]~~ (59) "Specified public utility" means an electrical corporation, gas corporation,
1142 or telephone corporation, as those terms are defined in Section 54-2-1.

1143 ~~[(58)]~~ (60) "State" includes any department, division, or agency of the state.

1144 [~~(59)~~] (61) "Street" means a public right-of-way, including a highway, avenue,
1145 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
1146 or other way.

1147 [~~(60)~~] (62) (a) "Subdivision" means any land that is divided, resubdivided or proposed
1148 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
1149 purpose, whether immediate or future, for offer, sale, lease, or development either on the
1150 installment plan or upon any and all other plans, terms, and conditions.

1151 (b) "Subdivision" includes:

1152 (i) the division or development of land whether by deed, metes and bounds description,
1153 devise and testacy, map, plat, or other recorded instrument; and

1154 (ii) except as provided in Subsection [~~(60)~~] (62)(c), divisions of land for residential and
1155 nonresidential uses, including land used or to be used for commercial, agricultural, and
1156 industrial purposes.

1157 (c) "Subdivision" does not include:

1158 (i) a bona fide division or partition of agricultural land for agricultural purposes;

1159 (ii) a recorded agreement between owners of adjoining properties adjusting their
1160 mutual boundary if:

1161 (A) no new lot is created; and

1162 (B) the adjustment does not violate applicable land use ordinances;

1163 (iii) a recorded document, executed by the owner of record:

1164 (A) revising the legal description of more than one contiguous unsubdivided parcel of
1165 property into one legal description encompassing all such parcels of property; or

1166 (B) joining a subdivided parcel of property to another parcel of property that has not
1167 been subdivided, if the joinder does not violate applicable land use ordinances;

1168 (iv) a bona fide division or partition of land in a county other than a first class county
1169 for the purpose of siting, on one or more of the resulting separate parcels:

1170 (A) an electrical transmission line or a substation;

1171 (B) a natural gas pipeline or a regulation station; or

1172 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
1173 utility service regeneration, transformation, retransmission, or amplification facility;

1174 (v) a recorded agreement between owners of adjoining subdivided properties adjusting

1175 their mutual boundary if:

1176 (A) no new dwelling lot or housing unit will result from the adjustment; and

1177 (B) the adjustment will not violate any applicable land use ordinance;

1178 (vi) a bona fide division or partition of land by deed or other instrument where the land

1179 use authority expressly approves in writing the division in anticipation of further land use

1180 approvals on the parcel or parcels; or

1181 (vii) a parcel boundary adjustment.

1182 (d) The joining of a subdivided parcel of property to another parcel of property that has

1183 not been subdivided does not constitute a subdivision under this Subsection [~~(60)~~] (62) as to

1184 the unsubdivided parcel of property or subject the unsubdivided parcel to the county's

1185 subdivision ordinance.

1186 [~~(61)~~] (63) "Suspect soil" means soil that has:

1187 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
1188 3% swell potential;

1189 (b) bedrock units with high shrink or swell susceptibility; or

1190 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum

1191 commonly associated with dissolution and collapse features.

1192 [~~(62)~~] (64) "Therapeutic school" means a residential group living facility:

1193 (a) for four or more individuals who are not related to:

1194 (i) the owner of the facility; or

1195 (ii) the primary service provider of the facility;

1196 (b) that serves students who have a history of failing to function:

1197 (i) at home;

1198 (ii) in a public school; or

1199 (iii) in a nonresidential private school; and

1200 (c) that offers:

1201 (i) room and board; and

1202 (ii) an academic education integrated with:

1203 (A) specialized structure and supervision; or

1204 (B) services or treatment related to a disability, an emotional development, a

1205 behavioral development, a familial development, or a social development.

1206 ~~[(63)]~~ (65) "Transferable development right" means a right to develop and use land that
1207 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
1208 land use rights from a designated sending zone to a designated receiving zone.

1209 ~~[(64)]~~ (66) "Unincorporated" means the area outside of the incorporated area of a
1210 municipality.

1211 ~~[(65)]~~ (67) "Water interest" means any right to the beneficial use of water, including:

1212 (a) each of the rights listed in Section 73-1-11; and

1213 (b) an ownership interest in the right to the beneficial use of water represented by:

1214 (i) a contract; or

1215 (ii) a share in a water company, as defined in Section 73-3-3.5.

1216 ~~[(66)]~~ (68) "Zoning map" means a map, adopted as part of a land use ordinance, that
1217 depicts land use zones, overlays, or districts.

1218 Section 14. Section 17-27a-104 is amended to read:

1219 **17-27a-104. Stricter requirements or higher standards.**

1220 (1) Except as provided in Subsection (2), a county may enact ~~[an ordinance]~~ a land use
1221 regulation imposing stricter requirements or higher standards than are required by this chapter.

1222 (2) A county may not impose ~~[stricter requirements or higher standards than are~~
1223 ~~required by:]~~ a requirement or standard that conflicts with a provision of this chapter, other
1224 state law, or federal law.

1225 ~~[(a) Section 17-27a-305; and]~~

1226 ~~[(b) Section 17-27a-513:]~~

1227 Section 15. Section 17-27a-205 is amended to read:

1228 **17-27a-205. Notice of public hearings and public meetings on adoption or**
1229 **modification of land use ordinance.**

1230 (1) Each county shall give:

1231 (a) notice of the date, time, and place of the first public hearing to consider the
1232 adoption or modification of a land use ~~[ordinance]~~ regulation; and

1233 (b) notice of each public meeting on the subject.

1234 (2) Each notice of a public hearing under Subsection (1)(a) shall be:

1235 (a) mailed to each affected entity at least 10 calendar days before the public hearing;

1236 (b) posted:

- 1237 (i) in at least three public locations within the county; or
1238 (ii) on the county's official website; and
1239 (c) (i) published:
1240 (A) in a newspaper of general circulation in the area at least 10 calendar days before
1241 the public hearing; and
1242 (B) on the Utah Public Notice Website created in Section 63F-1-701, at least 10
1243 calendar days before the public hearing; or
1244 (ii) mailed at least 10 days before the public hearing to:
1245 (A) each property owner whose land is directly affected by the land use ordinance
1246 change; and
1247 (B) each adjacent property owner within the parameters specified by county ordinance.
1248 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
1249 before the hearing and shall be posted:
1250 (a) in at least three public locations within the county; or
1251 (b) on the county's official website.
1252 (4) (a) [~~If a county plans to hold a public hearing in accordance with Section~~
1253 ~~17-27a-502 to adopt a zoning map or map amendment, the~~] A county shall send a courtesy
1254 notice to each owner of private real property whose property is located entirely or partially
1255 within the proposed zoning map enactment or amendment at least 10 days [~~prior to~~] before the
1256 scheduled day of the public hearing.
1257 (b) The notice shall:
1258 (i) identify with specificity each owner of record of real property that will be affected
1259 by the proposed zoning map or map amendments;
1260 (ii) state the current zone in which the real property is located;
1261 (iii) state the proposed new zone for the real property;
1262 (iv) provide information regarding or a reference to the proposed regulations,
1263 prohibitions, and permitted uses that the property will be subject to if the zoning map or map
1264 amendment is adopted;
1265 (v) state that the owner of real property may no later than 10 days after the day of the
1266 first public hearing file a written objection to the inclusion of the owner's property in the
1267 proposed zoning map or map amendment;

1268 (vi) state the address where the property owner should file the protest;
1269 (vii) notify the property owner that each written objection filed with the county will be
1270 provided to the county legislative body; and

1271 (viii) state the location, date, and time of the public hearing described in Section
1272 17-27a-502.

1273 (c) If a county mails notice to a property owner in accordance with Subsection (2)(c)(ii)
1274 for a public hearing on a zoning map or map amendment, the notice required in this Subsection
1275 (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent
1276 separately.

1277 Section 16. Section 17-27a-302 is amended to read:

Part 3. General Land Use Provisions

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

1280 Each countywide planning advisory area or mountainous planning district planning
1281 commission shall, with respect to the unincorporated area of the county, the planning advisory
1282 area, or the mountainous planning district, make a recommendation to the county legislative
1283 body for:

- 1284 (1) a general plan and amendments to the general plan;
- 1285 (2) land use [~~ordinances, zoning maps, official maps, and amendments~~] regulations;
- 1286 (3) an appropriate delegation of power to at least one designated land use authority to
1287 hear and act on a land use application;
- 1288 (4) an appropriate delegation of power to at least one appeal authority to hear and act
1289 on an appeal from a decision of the land use authority; and

1290 (5) application processes that:
1291 (a) may include a designation of routine land use matters that, upon application and
1292 proper notice, will receive informal streamlined review and action if the application is
1293 uncontested; and

1294 (b) shall protect the right of each:
1295 (i) applicant and third party to require formal consideration of any application by a land
1296 use authority;
1297 (ii) applicant, adversely affected party, or county officer or employee to appeal a land
1298 use authority's decision to a separate appeal authority; and

1299 (iii) participant to be heard in each public hearing on a contested application.

1300 Section 17. Section 17-27a-308 is enacted to read:

1301 **17-27a-308. Land use authority requirements -- Nature of land use decision.**

1302 (1) A land use authority shall apply the plain language of land use regulations.

1303 (2) If a land use regulation does not plainly restrict a land use application, the land use
1304 authority shall interpret and apply the land use regulation to favor the land use application.

1305 (3) A land use decision of a land use authority is an administrative act, even if the land
1306 use authority is the legislative body.

1307 Section 18. Section 17-27a-501 is amended to read:

1308 **Part 5. Land Use Regulations**

1309 **17-27a-501. Enactment of land use regulation.**

1310 (1) [The] Only a legislative body may enact a land use [ordinances and a zoning map]
1311 regulation.

1312 (2) (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use
1313 regulation only by ordinance.

1314 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that
1315 imposes a fee.

1316 (3) A land use regulation shall be consistent with the purposes set forth in this chapter.

1317 Section 19. Section 17-27a-502 is amended to read:

1318 **17-27a-502. Preparation and adoption of land use regulation.**

1319 (1) The planning commission shall:

1320 (a) provide notice as required by Subsection 17-27a-205(1)(a) and, if applicable,
1321 Subsection 17-27a-205(4);

1322 (b) hold a public hearing on a proposed land use [~~ordinance or zoning map~~] regulation;

1323 (c) if applicable, consider each written objection filed in accordance with Subsection
1324 17-27a-205(4) prior to the public hearing; and

1325 (d) (i) prepare and recommend to the legislative body a proposed land use [~~ordinance~~
1326 ~~or ordinances and zoning map that represent~~] regulation that represents the planning
1327 commission's recommendation for regulating the use and development of land within:

1328 (A) all or any part of the unincorporated area of the county; or

1329 (B) for a mountainous planning district, all or any part of the area in the mountainous

1330 planning district; and

1331 (ii) forward to the legislative body all objections filed in accordance with Subsection
1332 17-27a-205(4).

1333 (2) The ~~[county]~~ legislative body shall consider each proposed land use ~~[ordinance and~~
1334 ~~zoning map]~~ regulation recommended to ~~[it]~~ the legislative body by the planning commission,
1335 and, after providing notice as required by Subsection 17-27a-205(1)(b) and holding a public
1336 meeting, the legislative body may adopt or reject the proposed ~~[ordinance or map]~~ land use
1337 regulation either as proposed by the planning commission or after making any revision the
1338 ~~[county]~~ legislative body considers appropriate.

1339 Section 20. Section **17-27a-503** is amended to read:

1340 **17-27a-503. Zoning district or land use regulation amendments.**

1341 (1) ~~[The]~~ Only a legislative body may amend:

1342 (a) the number, shape, boundaries, or area of any zoning district;

1343 (b) any regulation of or within the zoning district; or

1344 (c) any other provision of a land use ~~[ordinance]~~ regulation.

1345 (2) The legislative body may not make any amendment authorized by this ~~[subsection]~~
1346 section unless the amendment was proposed by the planning commission or is first submitted
1347 to the planning commission for its recommendation.

1348 (3) The legislative body shall comply with the procedure specified in Section
1349 17-27a-502 in preparing and adopting an amendment to a land use ~~[ordinance or a zoning map]~~
1350 regulation.

1351 Section 21. Section **17-27a-508** is amended to read:

1352 **17-27a-508. Applicant's entitlement to land use application approval --**
1353 **Exceptions -- Application relating to land in a high priority transportation corridor --**
1354 **County's requirements and limitations -- Vesting upon submission of development plan**
1355 **and schedule.**

1356 (1) (a) (i) An applicant who has filed a complete land use application, including the
1357 payment of all application fees, is entitled to substantive land use review of the land use
1358 application under the land use ~~[laws]~~ regulations in effect on the date that the application is
1359 complete and as further provided in this section.

1360 (ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a

1361 land use application if the application conforms to the requirements of the county's land use
1362 [~~maps, zoning map, and applicable land use ordinance~~] regulations in effect when a complete
1363 application is submitted and all application fees have been paid, unless:

1364 (A) the land use authority, on the record, finds that a compelling, countervailing public
1365 interest would be jeopardized by approving the application; or

1366 (B) in the manner provided by local ordinance and before the application is submitted,
1367 the county has formally initiated proceedings to amend [~~its ordinances~~] the county's land use
1368 regulations in a manner that would prohibit approval of the application as submitted.

1369 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
1370 of a land use application until the requirements of this Subsection (1)(b)(i) and Subsection
1371 (1)(b)(ii) have been met if the land use application relates to land located within the boundaries
1372 of a high priority transportation corridor designated in accordance with Section [72-5-403](#).

1373 (ii) (A) A county shall notify the executive director of the Department of
1374 Transportation of any land use applications that relate to land located within the boundaries of
1375 a high priority transportation corridor.

1376 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
1377 certified or registered mail to the executive director of the Department of Transportation.

1378 (iii) Except as provided in Subsection (1)(c), a county may not approve a land use
1379 application that relates to land located within the boundaries of a high priority transportation
1380 corridor until:

1381 (A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the
1382 Department of Transportation if the land use application is for a building permit; or

1383 (B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the
1384 Department of Transportation if the land use application is for any land use other than a
1385 building permit.

1386 (iv) (A) If an application is an application for a subdivision approval, including any
1387 land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal,
1388 the land use authority shall:

1389 (I) within 30 days after the day on which the application is filed, notify the canal
1390 company or canal operator responsible for the canal, if the canal company or canal owner has
1391 provided information under Section [17-27a-211](#); and

1392 (II) wait at least 10 days after the day on which the land use authority notifies a canal
1393 company or canal operator under Subsection (1)(b)(iv)(A)(I) to approve or reject the
1394 subdivision application described in Subsection (1)(b)(iv)(A).

1395 (B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by
1396 certified or registered mail to the canal company or canal operator contact described in Section
1397 [17-27a-211](#).

1398 (C) The location of land described in Subsection (1)(b)(iv)(A) shall be:

1399 (I) provided by a canal company or canal operator to the land use authority; and

1400 (II) (Aa) determined by use of mapping-grade global positioning satellite units; or

1401 (Bb) digitized from the most recent aerial photo available to the canal company or
1402 canal operator.

1403 (c) (i) A land use application is exempt from the requirements of Subsection (1)(b)(i)
1404 if:

1405 (A) the land use application relates to land that was the subject of a previous land use
1406 application; and

1407 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
1408 with the requirements of Subsections (1)(b)(i) and (ii).

1409 (ii) A county may approve a land use application without making the required
1410 notifications under Subsections (1)(b)(i) and (ii) if:

1411 (A) the land use application relates to land that was the subject of a previous land use
1412 application; and

1413 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
1414 complied with the requirements of Subsections (1)(b)(i) and (ii).

1415 (d) After a county has complied with the requirements of Subsection (1)(b) for a land
1416 use application, the county may not withhold approval of the land use application for which the
1417 applicant is otherwise entitled under Subsection (1)(a).

1418 (e) The county shall process an application without regard to proceedings initiated to
1419 amend the county's ordinances as provided in Subsection (1)(a)(ii)(B) if:

1420 (i) 180 days have passed since the proceedings were initiated; and

1421 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
1422 application as submitted.

1423 (f) An application for a land use approval is considered submitted and complete when
1424 the application is provided in a form that complies with the requirements of applicable
1425 ordinances and all applicable fees have been paid.

1426 (g) The continuing validity of an approval of a land use application is conditioned upon
1427 the applicant proceeding after approval to implement the approval with reasonable diligence.

1428 (h) A county may not impose on an applicant who has submitted a complete
1429 application for preliminary subdivision approval a requirement that is not expressed:

1430 (i) in this chapter;

1431 (ii) in a county ordinance; or

1432 (iii) in a county specification for public improvements applicable to a subdivision or
1433 development that is in effect on the date that the applicant submits an application.

1434 (i) A county may not impose on a holder of an issued land use permit or a final,
1435 unexpired subdivision plat a requirement that is not expressed:

1436 (i) in a land use permit;

1437 (ii) on the subdivision plat;

1438 (iii) in a document on which the land use permit or subdivision plat is based;

1439 (iv) in the written record evidencing approval of the land use permit or subdivision
1440 plat;

1441 (v) in this chapter; or

1442 (vi) in a county ordinance.

1443 (j) A county may not withhold issuance of a certificate of occupancy or acceptance of
1444 subdivision improvements because of an applicant's failure to comply with a requirement that
1445 is not expressed:

1446 (i) in the building permit or subdivision plat, documents on which the building permit
1447 or subdivision plat is based, or the written record evidencing approval of the building permit or
1448 subdivision plat; or

1449 (ii) in this chapter or the county's ordinances.

1450 (2) A county is bound by the terms and standards of applicable land use [~~ordinances~~]
1451 regulations and shall comply with mandatory provisions of those [~~ordinances~~] regulations.

1452 (3) A county may not, as a condition of land use application approval, require a person
1453 filing a land use application to obtain documentation regarding a school district's willingness,

1454 capacity, or ability to serve the development proposed in the land use application.

1455 (4) Upon a specified public agency's submission of a development plan and schedule as
1456 required in Subsection 17-27a-305(8) that complies with the requirements of that subsection,
1457 the specified public agency vests in the county's applicable land use maps, zoning map, hookup
1458 fees, impact fees, other applicable development fees, and land use [~~ordinances~~] regulations in
1459 effect on the date of submission.

1460 Section 22. Section **17-27a-707** is amended to read:

1461 **17-27a-707. Scope of review of factual matters on appeal -- Appeal authority**
1462 **requirements.**

1463 (1) A county may, by ordinance, designate the [~~standard~~] scope of review of factual
1464 matters for appeals of land use authority decisions.

1465 (2) If the county fails to designate a [~~standard~~] scope of review of factual matters, the
1466 appeal authority shall review the matter de novo, without deference to the land use authority's
1467 determination of factual matters.

1468 (3) If the scope of review of factual matters is on the record, the appeal authority shall
1469 determine whether the record on appeal includes substantial evidence for each essential finding
1470 of fact.

1471 [~~(3)~~] (4) The appeal authority shall:

1472 (a) determine the correctness of [~~a decision of~~] the land use [~~authority in its~~] authority's
1473 interpretation and application of [a] the plain meaning of the land use [~~ordinance:~~] regulations;
1474 and

1475 (b) interpret and apply a land use regulation to favor a land use application unless the
1476 land use regulation plainly restricts the land use application.

1477 (5) An appeal authority's land use decision is a quasi-judicial act, even if the appeal
1478 authority is the legislative body.

1479 [~~(4)~~] (6) Only [~~those decisions~~] a decision in which a land use authority has applied a
1480 land use [~~ordinance~~] regulation to a particular land use application, person, or parcel may be
1481 appealed to an appeal authority.

1482 Section 23. Section **17-27a-801** is amended to read:

1483 **17-27a-801. No district court review until administrative remedies exhausted --**
1484 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**

1485 -- **Staying of decision.**

1486 (1) No person may challenge in district court a [county's] land use decision [made
1487 under this chapter, or under a regulation made under authority of this chapter,] until that person
1488 has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and
1489 Variances, if applicable.

1490 (2) (a) Any person adversely affected by a final decision made in the exercise of or in
1491 violation of the provisions of this chapter may file a petition for review of the decision with the
1492 district court within 30 days after the [local land use] decision is final.

1493 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a
1494 property owner files a request for arbitration of a constitutional taking issue with the property
1495 rights ombudsman under Section 13-43-204 until 30 days after:

1496 (A) the arbitrator issues a final award; or

1497 (B) the property rights ombudsman issues a written statement under Subsection
1498 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

1499 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
1500 taking issue that is the subject of the request for arbitration filed with the property rights
1501 ombudsman by a property owner.

1502 (iii) A request for arbitration filed with the property rights ombudsman after the time
1503 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

1504 (3) (a) ~~[The courts]~~ A court shall:

1505 (i) presume that a ~~[decision, ordinance, or]~~ land use regulation [made] properly enacted
1506 under the authority of this chapter is valid; and

1507 (ii) determine only whether ~~[or not the decision, ordinance, or regulation is arbitrary,~~
1508 ~~capricious, or illegal.]:~~

1509 (A) the land use regulation is expressly preempted by, or was enacted contrary to, state
1510 or federal law; and

1511 (B) it is reasonably debatable that the land use regulation is consistent with this
1512 chapter.

1513 (b) A court shall:

1514 (i) presume that a final decision of a land use authority or an appeal authority is valid;

1515 and

1516 (ii) uphold the decision unless the decision is:

1517 (A) arbitrary and capricious; or

1518 (B) illegal.

1519 (c) (i) A decision is arbitrary and capricious unless the decision is supported by

1520 substantial evidence in the record.

1521 (ii) A decision is illegal if the decision is:

1522 (A) based on an incorrect interpretation of a land use regulation; or

1523 (B) contrary to law.

1524 ~~[(b) A decision, ordinance, or regulation involving the exercise of legislative discretion~~

1525 ~~is valid if it is reasonably debatable that the decision, ordinance, or regulation promotes the~~

1526 ~~purposes of this chapter and is not otherwise illegal.]~~

1527 ~~[(c) A final decision of a land use authority or an appeal authority is valid if the~~

1528 ~~decision is supported by substantial evidence in the record and is not arbitrary, capricious, or~~

1529 ~~illegal.]~~

1530 ~~[(d) A determination of illegality requires a determination that the decision, ordinance,~~

1531 ~~or regulation violates a law, statute, or ordinance in effect at the time the decision was made or~~

1532 ~~the ordinance or regulation adopted.]~~

1533 (4) The provisions of Subsection (2)(a) apply from the date on which the county takes

1534 final action on a land use application for any adversely affected third party, if the county

1535 conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice

1536 of the pending decision.

1537 (5) If the county has complied with Section [17-27a-205](#), a challenge to the enactment

1538 of a land use [~~ordinance~~] regulation or general plan may not be filed with the district court

1539 more than 30 days after the enactment.

1540 (6) [~~The petition~~] A challenge to a land use decision is barred unless [it] the challenge

1541 is filed within 30 days after the land use [~~authority or the appeal authority's~~] decision is final.

1542 (7) (a) The land use authority or appeal authority, as the case may be, shall transmit to

1543 the reviewing court the record of its proceedings, including its minutes, findings, orders and, if

1544 available, a true and correct transcript of its proceedings.

1545 (b) If the proceeding was [~~tape~~] recorded, a transcript of that [~~tape~~] recording is a true

1546 and correct transcript for purposes of this Subsection (7).

1547 (8) (a) (i) If there is a record, the district court's review is limited to the record provided
 1548 by the land use authority or appeal authority, as the case may be.

1549 (ii) The court may not accept or consider any evidence outside the record of the land
 1550 use authority or appeal authority, as the case may be, unless that evidence was offered to the
 1551 land use authority or appeal authority, respectively, and the court determines that it was
 1552 improperly excluded.

1553 (b) If there is no record, the court may call witnesses and take evidence.

1554 (9) (a) The filing of a petition does not stay the decision of the land use authority or
 1555 appeal authority, as the case may be.

1556 (b) (i) Before filing a petition under this section or a request for mediation or
 1557 arbitration of a constitutional taking issue under Section 13-43-204, the aggrieved party may
 1558 petition the appeal authority to stay its decision.

1559 (ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed
 1560 pending district court review if the appeal authority finds it to be in the best interest of the
 1561 county.

1562 (iii) After a petition is filed under this section or a request for mediation or arbitration
 1563 of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an
 1564 injunction staying the appeal authority's decision.

1565 Section 24. Section 17C-1-104 is amended to read:

1566 **17C-1-104. Actions not subject to land use laws.**

1567 (1) An action taken under this title is not subject to Title 10, Chapter 9a, Municipal
 1568 Land Use, Development, and Management Act or Title 17, Chapter 27a, County Land Use,
 1569 Development, and Management Act.

1570 (2) An ordinance or resolution adopted under this title is not a land use [ordinance]
 1571 regulation as defined in Sections 10-9a-103 and 17-27a-103.

1572 Section 25. Section 63I-2-217 is amended to read:

1573 **63I-2-217. Repeal dates -- Title 17.**

1574 (1) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous
 1575 planning district" is repealed June 1, 2017.

1576 (2) (a) Subsection 17-27a-103(15)(b) is repealed June 1, 2017.

1577 (b) Subsection 17-27a-103[(34)](36) is repealed June 1, 2017.

1578 (3) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning
1579 district area" is repealed June 1, 2017.

1580 (4) (a) Subsection 17-27a-301(1)(b)(iii) is repealed June 1, 2017.

1581 (b) Subsection 17-27a-301(1)(c) is repealed June 1, 2017.

1582 (c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection
1583 (1)(a) or (c)" is repealed June 1, 2017.

1584 (5) Subsection 17-27a-302(1), the language that states ", or mountainous planning
1585 district" and "or the mountainous planning district," is repealed June 1, 2017.

1586 (6) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning
1587 district or" and ", as applicable" is repealed June 1, 2017.

1588 (7) (a) Subsection 17-27a-401(1)(b)(ii) is repealed June 1, 2017.

1589 (b) Subsection 17-27a-401(6) is repealed June 1, 2017.

1590 (8) (a) Subsection 17-27a-403(1)(b)(ii) is repealed June 1, 2017.

1591 (b) Subsection 17-27a-403(1)(c)(iii) is repealed June 1, 2017.

1592 (c) Subsection (2)(a)(iii), the language that states "or the mountainous planning
1593 district" is repealed June 1, 2017.

1594 (d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning
1595 district" is repealed June 1, 2017.

1596 (9) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, 2017.

1597 (10) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, 2017.

1598 (11) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a
1599 mountainous planning district, the mountainous planning district" is repealed June 1, 2017.

1600 (12) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, 2017.

1601 (13) Subsection 17-27a-605(1), the language that states "or mountainous planning
1602 district land" is repealed June 1, 2017.

1603 (14) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1,
1604 2017.

1605 (15) On June 1, 2016, when making the changes in this section, the Office of
1606 Legislative Research and General Counsel shall:

1607 (a) in addition to its authority under Subsection 36-12-12(3), make corrections
1608 necessary to ensure that sections and subsections identified in this section are complete

1609 sentences and accurately reflect the office's perception of the Legislature's intent; and
1610 (b) identify the text of the affected sections and subsections based upon the section and
1611 subsection numbers used in Laws of Utah 2015, Chapter 465.

Legislative Review Note
Office of Legislative Research and General Counsel