

BOUNDARY LINE AGREEMENT AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Allen M. Christensen

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to a boundary line agreement.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ modifies the requirements of a boundary line agreement;
- ▶ allows a record of survey map that meets certain requirements to serve as a boundary line agreement and convey title; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-103, as last amended by Laws of Utah 2017, Chapters 17 and 84

17-27a-103, as last amended by Laws of Utah 2017, Chapter 84

57-1-13, as last amended by Laws of Utah 2011, Chapter 88

57-1-45, as last amended by Laws of Utah 2011, Chapter 88



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

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

30 **10-9a-103. Definitions.**

31 As used in this chapter:

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

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

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

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

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

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

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

51 (i) an operating charter school;

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

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

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

57 (5) "Conditional use" means a land use that, because of its unique characteristics or
58 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be

59 compatible in some areas or may be compatible only if certain conditions are required that
60 mitigate or eliminate the detrimental impacts.

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

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

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

68 (8) "Development activity" means:

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

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

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

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

78 (b) "Disability" does not include current illegal use of, or addiction to, any federally
79 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
80 802.

81 (10) "Educational facility":

82 (a) means:

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

86 (ii) a structure or facility:

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

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

89 (iii) a building to provide office and related space to a school district's administrative

90 personnel; and

91 (b) does not include:

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

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

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

97 (ii) a therapeutic school.

98 (11) "Fire authority" means the department, agency, or public entity with responsibility
99 to review and approve the feasibility of fire protection and suppression services for the subject
100 property.

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

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

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

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

110 (14) "Geologic hazard" means:

111 (a) a surface fault rupture;

112 (b) shallow groundwater;

113 (c) liquefaction;

114 (d) a landslide;

115 (e) a debris flow;

116 (f) unstable soil;

117 (g) a rock fall; or

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

119 (i) to life;

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

121 (iii) of substantial damage to real property.

122 (15) "Historic preservation authority" means a person, board, commission, or other
123 body designated by a legislative body to:

124 (a) recommend land use regulations to preserve local historic districts or areas; and

125 (b) administer local historic preservation land use regulations within a local historic
126 district or area.

127 (16) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
128 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
129 utility system.

130 (17) "Identical plans" means building plans submitted to a municipality that:

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

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

134 (c) describe a building that:

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

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

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

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

142 (18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
143 Impact Fees Act.

144 (19) "Improvement completion assurance" means a surety bond, letter of credit,
145 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
146 by a municipality to guaranty the proper completion of landscaping or an infrastructure
147 improvement required as a condition precedent to:

148 (a) recording a subdivision plat; or

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

150 (20) "Improvement warranty" means an applicant's unconditional warranty that the
151 applicant's installed and accepted landscaping or infrastructure improvement:

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

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

156 (21) "Improvement warranty period" means a period:

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

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

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

162 (ii) has substantial evidence, on record:

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

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

166 (22) "Infrastructure improvement" means permanent infrastructure that an applicant
167 must install:

168 (a) pursuant to published installation and inspection specifications for public
169 improvements; and

170 (b) as a condition of:

171 (i) recording a subdivision plat; or

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

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

176 (a) runs with the land; and

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

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

181 (24) "Land use applicant" means a property owner, or the property owner's designee,
182 who submits a land use application regarding the property owner's land.

- 183 (25) "Land use application":
184 (a) means an application that is:
185 (i) required by a municipality; and
186 (ii) submitted by a land use applicant to obtain a land use decision; and
187 (b) does not mean an application to enact, amend, or repeal a land use regulation.
188 (26) "Land use authority" means:
189 (a) a person, board, commission, agency, or body, including the local legislative body,
190 designated by the local legislative body to act upon a land use application; or
191 (b) if the local legislative body has not designated a person, board, commission,
192 agency, or body, the local legislative body.
193 (27) "Land use decision" means a final action of a land use authority or appeal
194 authority regarding:
195 (a) a land use permit;
196 (b) a land use application; or
197 (c) the enforcement of a land use regulation, land use permit, or development
198 agreement.
199 (28) "Land use permit" means a permit issued by a land use authority.
200 (29) "Land use regulation":
201 (a) means an ordinance, law, code, map, resolution, specification, fee, or rule that
202 governs the use or development of land; and
203 (b) does not include:
204 (i) a general plan;
205 (ii) a land use decision of the legislative body acting as the land use authority, even if
206 the decision is expressed in a resolution or ordinance; or
207 (iii) a temporary revision to an engineering specification that does not materially:
208 (A) increase a land use applicant's cost of development compared to the existing
209 specification; or
210 (B) impact a land use applicant's use of land.
211 (30) "Legislative body" means the municipal council.
212 (31) "Local district" means an entity under Title 17B, Limited Purpose Local
213 Government Entities - Local Districts, and any other governmental or quasi-governmental

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

215 (32) "Local historic district or area" means a geographically definable area that:

216 (a) contains any combination of buildings, structures, sites, objects, landscape features,
217 archeological sites, or works of art that contribute to the historic preservation goals of a
218 legislative body; and

219 (b) is subject to land use regulations to preserve the historic significance of the local
220 historic district or area.

221 (33) "Lot line adjustment" means [~~the~~] a relocation of the property boundary line [~~in a~~
222 ~~subdivision~~] between [~~two~~] adjoining lots or subdivisions with the consent of the owners of
223 record and in accordance with Section 10-9a-608.

224 (34) "Moderate income housing" means housing occupied or reserved for occupancy
225 by households with a gross household income equal to or less than 80% of the median gross
226 income for households of the same size in the county in which the city is located.

227 (35) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
228 spent and expenses incurred in:

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

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

232 (36) "Noncomplying structure" means a structure that:

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

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

237 (37) "Nonconforming use" means a use of land that:

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

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

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

243 (38) "Official map" means a map drawn by municipal authorities and recorded in a
244 county recorder's office that:

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

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

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

251 (39) "Parcel boundary adjustment" means:

252 (a) a recorded agreement between owners of adjoining ~~[properties]~~ parcels adjusting
253 [their] the parcels' mutual boundary, either by quitclaim deed or by a boundary line agreement
254 in accordance with Section 57-1-45, if:

255 ~~[(a)]~~ (i) no additional parcel is created; and

256 ~~[(b)]~~ (ii) each property identified in the agreement is ~~[unsubdivided land, including a~~
257 ~~remainder of subdivided land.]~~ not subdivided land; or

258 (b) a single owner of separate parcels adjusting the owner's parcels' boundaries if no
259 additional parcel is created.

260 (40) "Person" means an individual, corporation, partnership, organization, association,
261 trust, governmental agency, or any other legal entity.

262 (41) "Plan for moderate income housing" means a written document adopted by a city
263 legislative body that includes:

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

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

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

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

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

273 (42) "Plat" means a map or other graphical representation of lands ~~[being laid]~~ that a
274 licensed professional land surveyor lays out and [prepared] prepares in accordance with Section
275 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

276 (43) "Potential geologic hazard area" means an area that:

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

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

283 (44) "Public agency" means:

284 (a) the federal government;

285 (b) the state;

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

288 (d) a charter school.

289 (45) "Public hearing" means a hearing at which members of the public are provided a
290 reasonable opportunity to comment on the subject of the hearing.

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

293 (47) "Receiving zone" means an area of a municipality that the municipality
294 designates, by ordinance, as an area in which an owner of land may receive a transferable
295 development right.

296 (48) "Record of survey map" means a map of a survey of land prepared in accordance
297 with Section [10-9a-603](#), [17-23-17](#), [17-27a-603](#), or [57-8-13](#).

298 (49) "Residential facility for persons with a disability" means a residence:

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

300 (b) (i) which is licensed or certified by the Department of Human Services under Title
301 62A, Chapter 2, Licensure of Programs and Facilities; or

302 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
303 21, Health Care Facility Licensing and Inspection Act.

304 (50) "Rules of order and procedure" means a set of rules that govern and prescribe in a
305 public meeting:

306 (a) parliamentary order and procedure;

307 (b) ethical behavior; and

308 (c) civil discourse.

309 (51) "Sanitary sewer authority" means the department, agency, or public entity with
310 responsibility to review and approve the feasibility of sanitary sewer services or onsite
311 wastewater systems.

312 (52) "Sending zone" means an area of a municipality that the municipality designates,
313 by ordinance, as an area from which an owner of land may transfer a transferable development
314 right.

315 (53) "Specified public agency" means:

316 (a) the state;

317 (b) a school district; or

318 (c) a charter school.

319 (54) "Specified public utility" means an electrical corporation, gas corporation, or
320 telephone corporation, as those terms are defined in Section 54-2-1.

321 (55) "State" includes any department, division, or agency of the state.

322 (56) "Street" means a public right-of-way, including a highway, avenue, boulevard,
323 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
324 way.

325 (57) "Subdivided land" means the land, tract, or parcel described in a recorded plat.

326 [~~57~~] (58) (a) "Subdivision" means any land that is divided, resubdivided, or proposed
327 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
328 purpose, whether immediate or future, for offer, sale, lease, or development either on the
329 installment plan or upon any and all other plans, terms, and conditions.

330 (b) "Subdivision" includes:

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

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

336 (c) "Subdivision" does not include:

337 (i) a bona fide division or partition of agricultural land for the purpose of joining one of

338 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
 339 neither the resulting combined parcel nor the parcel remaining from the division or partition
 340 violates an applicable land use ordinance;

341 (ii) ~~[a recorded]~~ an agreement between owners of adjoining unsubdivided properties
 342 adjusting ~~[their]~~ the properties' mutual boundary, either by quitclaim deed or by a boundary line
 343 agreement in accordance with Section 57-1-45, if:

344 (A) no new lot is created; and

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

346 (iii) a recorded document, executed by the owner of record~~[-(A)]~~, revising the legal
 347 description of more than one contiguous ~~[unsubdivided]~~ parcel of property that is not
 348 subdivided land into one legal description encompassing all such parcels of property; ~~[or]~~

349 ~~[(B) joining a subdivided parcel of property to another parcel of property that has not~~
 350 ~~been subdivided, if the joinder does not violate applicable land use ordinances;]~~

351 (iv) ~~[a recorded]~~ an agreement between owners of adjoining subdivided properties
 352 adjusting their mutual boundary in accordance with Section 10-9a-603 if:

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

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

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

358 (vi) a parcel boundary adjustment.

359 ~~[(d) The joining of a subdivided parcel of property to another parcel of property that~~
 360 ~~has not been subdivided does not constitute a subdivision under this Subsection (57) as to the~~
 361 ~~unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's~~
 362 ~~subdivision ordinance.]~~

363 ~~[(58)]~~ (59) "Suspect soil" means soil that has:

364 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
 365 3% swell potential;

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

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

369 [~~(59)~~] (60) "Therapeutic school" means a residential group living facility:

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

371 (i) the owner of the facility; or

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

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

374 (i) at home;

375 (ii) in a public school; or

376 (iii) in a nonresidential private school; and

377 (c) that offers:

378 (i) room and board; and

379 (ii) an academic education integrated with:

380 (A) specialized structure and supervision; or

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

383 [~~(60)~~] (61) "Transferable development right" means a right to develop and use land that
384 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
385 land use rights from a designated sending zone to a designated receiving zone.

386 [~~(61)~~] (62) "Unincorporated" means the area outside of the incorporated area of a city
387 or town.

388 [~~(62)~~] (63) "Water interest" means any right to the beneficial use of water, including:

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

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

391 (i) a contract; or

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

393 [~~(63)~~] (64) "Zoning map" means a map, adopted as part of a land use ordinance, that
394 depicts land use zones, overlays, or districts.

395 Section 2. Section 17-27a-103 is amended to read:

396 **17-27a-103. Definitions.**

397 As used in this chapter:

398 (1) "Affected entity" means a county, municipality, local district, special service
399 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal

400 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
401 property owner, property owners association, public utility, or the Utah Department of
402 Transportation, if:

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

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

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

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

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

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

417 (i) an operating charter school;

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

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

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

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

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

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

- 431 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- 432 (b) Utah Constitution, Article I, Section 22.
- 433 (8) "Culinary water authority" means the department, agency, or public entity with
- 434 responsibility to review and approve the feasibility of the culinary water system and sources for
- 435 the subject property.
- 436 (9) "Development activity" means:
- 437 (a) any construction or expansion of a building, structure, or use that creates additional
- 438 demand and need for public facilities;
- 439 (b) any change in use of a building or structure that creates additional demand and need
- 440 for public facilities; or
- 441 (c) any change in the use of land that creates additional demand and need for public
- 442 facilities.
- 443 (10) (a) "Disability" means a physical or mental impairment that substantially limits
- 444 one or more of a person's major life activities, including a person having a record of such an
- 445 impairment or being regarded as having such an impairment.
- 446 (b) "Disability" does not include current illegal use of, or addiction to, any federally
- 447 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
- 448 802.
- 449 (11) "Educational facility":
- 450 (a) means:
- 451 (i) a school district's building at which pupils assemble to receive instruction in a
- 452 program for any combination of grades from preschool through grade 12, including
- 453 kindergarten and a program for children with disabilities;
- 454 (ii) a structure or facility:
- 455 (A) located on the same property as a building described in Subsection (11)(a)(i); and
- 456 (B) used in support of the use of that building; and
- 457 (iii) a building to provide office and related space to a school district's administrative
- 458 personnel; and
- 459 (b) does not include:
- 460 (i) land or a structure, including land or a structure for inventory storage, equipment
- 461 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

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

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

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

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

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

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

476 (14) "Gas corporation" [~~has the same meaning as~~] means the same as that term is
477 defined in Section 54-2-1.

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

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

481 (b) for a mountainous planning district, the land within the mountainous planning
482 district.

483 (16) "Geologic hazard" means:

484 (a) a surface fault rupture;

485 (b) shallow groundwater;

486 (c) liquefaction;

487 (d) a landslide;

488 (e) a debris flow;

489 (f) unstable soil;

490 (g) a rock fall; or

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

492 (i) to life;

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

494 (iii) of substantial damage to real property.

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

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

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

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

502 (c) describe a building that:

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

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

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

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

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

512 (20) "Improvement completion assurance" means a surety bond, letter of credit,
513 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
514 by a county to guaranty the proper completion of landscaping or an infrastructure improvement
515 required as a condition precedent to:

516 (a) recording a subdivision plat; or

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

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

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

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

524 (22) "Improvement warranty period" means a period:
525 (a) no later than one year after a county's acceptance of required landscaping; or
526 (b) no later than one year after a county's acceptance of required infrastructure, unless
527 the county:
528 (i) determines for good cause that a one-year period would be inadequate to protect the
529 public health, safety, and welfare; and
530 (ii) has substantial evidence, on record:
531 (A) of prior poor performance by the applicant; or
532 (B) that the area upon which the infrastructure will be constructed contains suspect soil
533 and the county has not otherwise required the applicant to mitigate the suspect soil.
534 (23) "Infrastructure improvement" means permanent infrastructure that an applicant
535 must install:
536 (a) pursuant to published installation and inspection specifications for public
537 improvements; and
538 (b) as a condition of:
539 (i) recording a subdivision plat; or
540 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily
541 project.
542 (24) "Internal lot restriction" means a platted note, platted demarcation, or platted
543 designation that:
544 (a) runs with the land; and
545 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
546 the plat; or
547 (ii) designates a development condition that is enclosed within the perimeter of a lot
548 described on the plat.
549 (25) "Interstate pipeline company" means a person or entity engaged in natural gas
550 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
551 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
552 (26) "Intrastate pipeline company" means a person or entity engaged in natural gas
553 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
554 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

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

557 (28) "Land use application":

558 (a) means an application that is:

559 (i) required by a county; and

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

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

562 (29) "Land use authority" means:

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

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

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

569 (a) a land use permit;

570 (b) a land use application; or

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

573 (31) "Land use permit" means a permit issued by a land use authority.

574 (32) "Land use regulation":

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

577 (b) does not include:

578 (i) a general plan;

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

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

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

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

585 (33) "Legislative body" means the county legislative body, or for a county that has

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

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

590 (35) "Lot line adjustment" means the relocation of [~~the~~] a property boundary line [~~in a~~
591 ~~subdivision~~] between [~~two~~] adjoining lots or subdivisions with the consent of the owners of
592 record and in accordance with Section 17-27a-608.

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

596 (37) "Mountainous planning district" means an area:

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

598 (b) that is not otherwise exempt under Section 10-9a-304.

599 (38) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
600 and expenses incurred in:

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

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

604 (39) "Noncomplying structure" means a structure that:

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

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

609 (40) "Nonconforming use" means a use of land that:

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

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

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

615 (41) "Official map" means a map drawn by county authorities and recorded in the
616 county recorder's office that:

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

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

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

623 (42) "Parcel boundary adjustment" means:

624 (a) a recorded agreement between owners of adjoining [~~properties~~] parcels adjusting
625 [~~their~~] the parcels' mutual boundary, either by quitclaim deed or by a boundary line agreement
626 in accordance with Section 57-1-45, if:

627 [~~(a)~~] (i) no additional parcel is created; and

628 [~~(b)~~] (ii) each property identified in the agreement is [~~unsubdivided land, including a~~
629 ~~remainder of subdivided land.~~] not subdivided land; or

630 (b) a single owner of separate parcels adjusting the owner's parcels' boundaries if no
631 additional parcel is created.

632 (43) "Person" means an individual, corporation, partnership, organization, association,
633 trust, governmental agency, or any other legal entity.

634 (44) "Plan for moderate income housing" means a written document adopted by a
635 county legislative body that includes:

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

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

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

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

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

645 (45) "Planning advisory area" means a contiguous, geographically defined portion of
646 the unincorporated area of a county established under this part with planning and zoning
647 functions as exercised through the planning advisory area planning commission, as provided in

648 this chapter, but with no legal or political identity separate from the county and no taxing
649 authority.

650 (46) "Plat" means a map or other graphical representation of lands [~~being laid~~] that a
651 licensed professional land surveyor lays out and [prepared] prepares in accordance with Section
652 10-9a-603, 17-23-17, 17-27a-603, [~~17-23-17~~] or 57-8-13.

653 (47) "Potential geologic hazard area" means an area that:

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

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

660 (48) "Public agency" means:

661 (a) the federal government;

662 (b) the state;

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

665 (d) a charter school.

666 (49) "Public hearing" means a hearing at which members of the public are provided a
667 reasonable opportunity to comment on the subject of the hearing.

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

670 (51) "Receiving zone" means an unincorporated area of a county that the county
671 designates, by ordinance, as an area in which an owner of land may receive a transferable
672 development right.

673 (52) "Record of survey map" means a map of a survey of land prepared in accordance
674 with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

675 (53) "Residential facility for persons with a disability" means a residence:

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

677 (b) (i) which is licensed or certified by the Department of Human Services under Title
678 62A, Chapter 2, Licensure of Programs and Facilities; or

679 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
680 21, Health Care Facility Licensing and Inspection Act.

681 (54) "Rules of order and procedure" means a set of rules that govern and prescribe in a
682 public meeting:

683 (a) parliamentary order and procedure;

684 (b) ethical behavior; and

685 (c) civil discourse.

686 (55) "Sanitary sewer authority" means the department, agency, or public entity with
687 responsibility to review and approve the feasibility of sanitary sewer services or onsite
688 wastewater systems.

689 (56) "Sending zone" means an unincorporated area of a county that the county
690 designates, by ordinance, as an area from which an owner of land may transfer a transferable
691 development right.

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

695 (58) "Specified public agency" means:

696 (a) the state;

697 (b) a school district; or

698 (c) a charter school.

699 (59) "Specified public utility" means an electrical corporation, gas corporation, or
700 telephone corporation, as those terms are defined in Section 54-2-1.

701 (60) "State" includes any department, division, or agency of the state.

702 (61) "Street" means a public right-of-way, including a highway, avenue, boulevard,
703 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
704 way.

705 (62) "Subdivided land" means the land, tract, or parcel described in a recorded plat.

706 [~~62~~] (63) (a) "Subdivision" means any land that is divided, resubdivided or proposed
707 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
708 purpose, whether immediate or future, for offer, sale, lease, or development either on the
709 installment plan or upon any and all other plans, terms, and conditions.

710 (b) "Subdivision" includes:

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

713 (ii) except as provided in Subsection ~~[(62)]~~ (63)(c), divisions of land for residential and
714 nonresidential uses, including land used or to be used for commercial, agricultural, and
715 industrial purposes.

716 (c) "Subdivision" does not include:

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

718 (ii) ~~[a recorded]~~ an agreement between owners of adjoining properties adjusting ~~[their]~~
719 the properties' mutual boundary either by quitclaim deed or by a boundary line agreement in
720 accordance with Section 57-1-45, if:

721 (A) no new lot is created; and

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

723 (iii) a recorded document, executed by the owner of record~~[(A)]~~, revising the legal
724 description of more than one contiguous ~~[unsubdivided]~~ parcel of property that is not
725 subdivided land into one legal description encompassing all such parcels of property; ~~[or]~~

726 ~~[(B) joining a subdivided parcel of property to another parcel of property that has not~~
727 ~~been subdivided, if the joinder does not violate applicable land use ordinances;]~~

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

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

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

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

734 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
735 ~~[their]~~ the properties' mutual boundary in accordance with Section 17-27a-603, if:

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

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

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

741 (vii) a parcel boundary adjustment.

742 [~~(d)~~] The joining of a subdivided parcel of property to another parcel of property that
743 has not been subdivided does not constitute a subdivision under this Subsection (62) as to the
744 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
745 ordinance.]

746 [~~(63)~~] (64) "Suspect soil" means soil that has:

747 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
748 3% swell potential;

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

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

752 [~~(64)~~] (65) "Therapeutic school" means a residential group living facility:

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

754 (i) the owner of the facility; or

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

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

757 (i) at home;

758 (ii) in a public school; or

759 (iii) in a nonresidential private school; and

760 (c) that offers:

761 (i) room and board; and

762 (ii) an academic education integrated with:

763 (A) specialized structure and supervision; or

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

766 [~~(65)~~] (66) "Transferable development right" means a right to develop and use land that
767 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
768 land use rights from a designated sending zone to a designated receiving zone.

769 [~~(66)~~] (67) "Unincorporated" means the area outside of the incorporated area of a
770 municipality.

771 [~~(67)~~] (68) "Water interest" means any right to the beneficial use of water, including:

- 772 (a) each of the rights listed in Section 73-1-11; and
- 773 (b) an ownership interest in the right to the beneficial use of water represented by:
- 774 (i) a contract; or
- 775 (ii) a share in a water company, as defined in Section 73-3-3.5.
- 776 [(68)] (69) "Zoning map" means a map, adopted as part of a land use ordinance, that
- 777 depicts land use zones, overlays, or districts.

778 Section 3. Section 57-1-13 is amended to read:

779 **57-1-13. Form of quitclaim deed -- Effect.**

780 (1) A conveyance of land may also be substantially in the following form:

781 "QUITCLAIM DEED

782 ____ (here insert name), grantor, of ____ (insert place of residence), hereby quitclaims

783 to ____ (insert name), grantee, of ____ (here insert place of residence), for the sum of ____

784 dollars, the following described tract ____ of land in ____ County, Utah, to wit: (here describe

785 the premises).

786 Witness the hand of said grantor this _____(month\day\year).

787 A quitclaim deed when executed as required by law shall have the effect of a

788 conveyance of all right, title, interest, and estate of the grantor in and to the premises therein

789 described and all rights, privileges, and appurtenances thereunto belonging, at the date of the

790 conveyance."

791 [~~(2) For a boundary line agreement operating as a quitclaim deed as described in~~

792 ~~Section 57-1-45, the boundary line agreement shall include, in addition to a legal description of~~

793 ~~the agreed upon boundary line:]~~

794 [~~(a) the signature of each grantor;]~~

795 [~~(b) a sufficient acknowledgment for each grantor's signature; and]~~

796 [~~(c) the address of each grantee for assessment purposes:]~~

797 (2) A boundary line agreement operating as a quitclaim deed shall meet the

798 requirements described in Section 57-1-45.

799 Section 4. Section 57-1-45 is amended to read:

800 **57-1-45. Boundary line agreements.**

801 (1) If properly executed and acknowledged as required under this chapter, and when

802 recorded in the office of the recorder of the county in which the property is located, an

803 agreement between adjoining property owners [~~designating~~] of land that is not subdivided that
804 designates the boundary line between [~~their properties, when recorded in the office of the~~
805 ~~recorder of the county in which the property is located, shall act~~] the adjoining properties acts
806 as a quitclaim deed and [~~convey~~] conveys all of each party's right, title, interest, and estate in
807 property outside the agreed boundary line that had been the subject of the boundary dispute that
808 led to the boundary line agreement.

809 (2) A boundary line agreement described in Subsection (1) shall include:

810 (a) a legal description of the agreed upon boundary line that a licensed professional
811 land surveyor sealed;

812 (b) the name and signature of each grantor that is party to the agreement;

813 (c) a sufficient acknowledgment for each grantor's signature; [~~and~~]

814 (d) the address of each grantee for assessment purposes[-];

815 (e) a record of survey map, as defined in Sections [10-9a-103](#) and [17-27a-103](#);

816 (f) the date of the agreement; and

817 (g) language that:

818 (i) prohibits encroachments over the common property line created by the agreement;

819 (ii) states that the agreement runs with the land and is binding upon all parties,

820 including the parties' successors and assignees;

821 (iii) states that any easement on the property recorded before the date on which the
822 agreement is executed shall remain in effect as originally granted;

823 (iv) acknowledges that the agreement was prepared in accordance with this section;

824 (v) states that the parties to the agreement, for consideration, agree to the relocation of
825 the parties' common boundary line; and

826 (vi) is substantially similar in form to a quitclaim deed as described in Subsection
827 [57-1-13\(1\)](#).

828 (3) The record of survey map described in Subsection (2)(e) may serve as a boundary
829 line agreement and convey title if the map:

830 (a) is recorded with the county recorder of the county in which the property is located;

831 (b) is titled "Boundary Line Agreement Map"; and

832 (c) meets the requirements described in this section.

Legislative Review Note
Office of Legislative Research and General Counsel