

**Representative Kim F. Coleman** proposes the following substitute bill:

1                   **AGRICULTURE AND INDUSTRIAL PROTECTION AREAS**

2                                   **AMENDMENTS**

3   2019 GENERAL SESSION

4   STATE OF UTAH

5                           **Chief Sponsor: Kim F. Coleman**

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

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8           **LONG TITLE**

9           **General Description:**

10           This bill amends provisions in Title 17, Chapter 41, Agriculture and Industrial  
11           Protection Areas.

12           **Highlighted Provisions:**

13           This bill:

14           ▶ amends a definition of "land use regulation" to bring certain actions of applicable  
15           legislative bodies within a land use appeal process;

16           ▶ requires an applicable legislative body to approve a proposal to create an agriculture  
17           protection area, industrial protection area, or mining protection area under certain  
18           circumstances; and

19           ▶ makes technical and conforming changes.

20           **Money Appropriated in this Bill:**

21           None

22           **Other Special Clauses:**

23           None

24           **Utah Code Sections Affected:**

25           AMENDS:



26 **10-9a-103**, as last amended by Laws of Utah 2018, Chapters 339 and 415  
27 **17-27a-103**, as last amended by Laws of Utah 2018, Chapters 339 and 415  
28 **17-41-304**, as last amended by Laws of Utah 2010, Chapter 90

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

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

32 **10-9a-103. Definitions.**

33 As used in this chapter:

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

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

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

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

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

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

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

53 (i) an operating charter school;

54 (ii) a charter school applicant that has its application approved by a charter school  
55 authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

56 (iii) an entity that is working on behalf of a charter school or approved charter

57 applicant to develop or construct a charter school building.

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

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

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

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

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

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

70 (8) "Development activity" means:

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

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

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

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

80 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
81 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
82 802.

83 (10) "Educational facility":

84 (a) means:

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

88 (ii) a structure or facility:  
89 (A) located on the same property as a building described in Subsection (10)(a)(i); and  
90 (B) used in support of the use of that building; and

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

93 (b) does not include:

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

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

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

99 (ii) a therapeutic school.

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

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

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

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

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

112 (14) "Geologic hazard" means:

113 (a) a surface fault rupture;

114 (b) shallow groundwater;

115 (c) liquefaction;

116 (d) a landslide;

117 (e) a debris flow;

118 (f) unstable soil;

- 119 (g) a rock fall; or
- 120 (h) any other geologic condition that presents a risk:
- 121 (i) to life;
- 122 (ii) of substantial loss of real property; or
- 123 (iii) of substantial damage to real property.
- 124 (15) "Historic preservation authority" means a person, board, commission, or other
- 125 body designated by a legislative body to:
- 126 (a) recommend land use regulations to preserve local historic districts or areas; and
- 127 (b) administer local historic preservation land use regulations within a local historic
- 128 district or area.
- 129 (16) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 130 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
- 131 utility system.
- 132 (17) "Identical plans" means building plans submitted to a municipality that:
- 133 (a) are clearly marked as "identical plans";
- 134 (b) are substantially identical to building plans that were previously submitted to and
- 135 reviewed and approved by the municipality; and
- 136 (c) describe a building that:
- 137 (i) is located on land zoned the same as the land on which the building described in the
- 138 previously approved plans is located;
- 139 (ii) is subject to the same geological and meteorological conditions and the same law
- 140 as the building described in the previously approved plans;
- 141 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 142 and approved by the municipality; and
- 143 (iv) does not require any additional engineering or analysis.
- 144 (18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
- 145 Impact Fees Act.
- 146 (19) "Improvement completion assurance" means a surety bond, letter of credit,
- 147 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
- 148 by a municipality to guaranty the proper completion of landscaping or an infrastructure
- 149 improvement required as a condition precedent to:

- 150 (a) recording a subdivision plat; or
- 151 (b) development of a commercial, industrial, mixed use, or multifamily project.
- 152 (20) "Improvement warranty" means an applicant's unconditional warranty that the
- 153 applicant's installed and accepted landscaping or infrastructure improvement:
- 154 (a) complies with the municipality's written standards for design, materials, and
- 155 workmanship; and
- 156 (b) will not fail in any material respect, as a result of poor workmanship or materials,
- 157 within the improvement warranty period.
- 158 (21) "Improvement warranty period" means a period:
- 159 (a) no later than one year after a municipality's acceptance of required landscaping; or
- 160 (b) no later than one year after a municipality's acceptance of required infrastructure,
- 161 unless the municipality:
- 162 (i) determines for good cause that a one-year period would be inadequate to protect the
- 163 public health, safety, and welfare; and
- 164 (ii) has substantial evidence, on record:
- 165 (A) of prior poor performance by the applicant; or
- 166 (B) that the area upon which the infrastructure will be constructed contains suspect soil
- 167 and the municipality has not otherwise required the applicant to mitigate the suspect soil.
- 168 (22) "Infrastructure improvement" means permanent infrastructure that an applicant
- 169 must install:
- 170 (a) pursuant to published installation and inspection specifications for public
- 171 improvements; and
- 172 (b) as a condition of:
- 173 (i) recording a subdivision plat; or
- 174 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily
- 175 project.
- 176 (23) "Internal lot restriction" means a platted note, platted demarcation, or platted
- 177 designation that:
- 178 (a) runs with the land; and
- 179 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
- 180 the plat; or

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

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

185 (25) "Land use application":

186 (a) means an application that is:

187 (i) required by a municipality; and

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

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

190 (26) "Land use authority" means:

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

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

195 (27) "Land use decision" means an administrative decision of a land use authority or  
196 appeal authority regarding:

197 (a) a land use permit;

198 (b) a land use application; or

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

201 (28) "Land use permit" means a permit issued by a land use authority.

202 (29) "Land use regulation":

203 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,  
204 specification, fee, or rule that governs the use or development of land;

205 (b) includes:

206 (i) the adoption or amendment of a zoning map or the text of the zoning code; and

207 (ii) the approval or rejection of a proposal to create an agriculture protection area, an  
208 industrial protection area, or a mining protection area under Title 17, Chapter 41, Agriculture  
209 and Industrial Protection Areas; and

210 (c) does not include:

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

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

213 (ii) a temporary revision to an engineering specification that does not materially:

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

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

217 (30) "Legislative body" means the municipal council.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

256 (39) "Parcel boundary adjustment" means a recorded agreement between owners of  
257 adjoining properties adjusting their mutual boundary if:

258 (a) no additional parcel is created; and

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

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

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

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

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

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

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

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

274 (42) "Plat" means a map or other graphical representation of lands being laid out and  
275 prepared in accordance with Section [10-9a-603](#), [17-23-17](#), 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 [17-23-17](#).

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

329 (b) "Subdivision" includes:

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

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

335 (c) "Subdivision" does not include:

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

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

342 (A) no new lot is created; and

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

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

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

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

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

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

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

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

356 (vi) a parcel boundary adjustment.

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

361 (58) "Suspect soil" means soil that has:

362 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
363 3% swell potential;

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

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

367 (59) "Therapeutic school" means a residential group living facility:

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

369 (i) the owner of the facility; or

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

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

372 (i) at home;

373 (ii) in a public school; or

374 (iii) in a nonresidential private school; and

375 (c) that offers:

376 (i) room and board; and

377 (ii) an academic education integrated with:

378 (A) specialized structure and supervision; or

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

381 (60) "Transferable development right" means a right to develop and use land that  
382 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer  
383 land use rights from a designated sending zone to a designated receiving zone.

384 (61) "Unincorporated" means the area outside of the incorporated area of a city or  
385 town.

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

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

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

389 (i) a contract; or

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

391 (63) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts  
392 land use zones, overlays, or districts.

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

394 **17-27a-103. Definitions.**

395 As used in this chapter:

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

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

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

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

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

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

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

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

415 (i) an operating charter school;

416 (ii) a charter school applicant that has its application approved by a charter school  
417 authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

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

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

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

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

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

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

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

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

434 (9) "Development activity" means:

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

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

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

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

444 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
445 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
446 802.

447 (11) "Educational facility":

448 (a) means:

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

452 (ii) a structure or facility:

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

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

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

457 (b) does not include:

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

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

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

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

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

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

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

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

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

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

478 (b) for a mountainous planning district, the land within the mountainous planning  
479 district.

480 (16) "Geologic hazard" means:

481 (a) a surface fault rupture;

482 (b) shallow groundwater;

483 (c) liquefaction;

484 (d) a landslide;

485 (e) a debris flow;

486 (f) unstable soil;

487 (g) a rock fall; or

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

489 (i) to life;

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



491 (iii) of substantial damage to real property.

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

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

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

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

499 (c) describe a building that:

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

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

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

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

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

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

513 (a) recording a subdivision plat; or

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

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

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

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

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

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

553 who submits a land use application regarding the property owner's land.

554 (28) "Land use application":

555 (a) means an application that is:

556 (i) required by a county; and

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

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

559 (29) "Land use authority" means:

560 (a) a person, board, commission, agency, or body, including the local legislative body,

561 designated by the local legislative body to act upon a land use application; or

562 (b) if the local legislative body has not designated a person, board, commission,

563 agency, or body, the local legislative body.

564 (30) "Land use decision" means an administrative decision of a land use authority or

565 appeal authority regarding:

566 (a) a land use permit;

567 (b) a land use application; or

568 (c) the enforcement of a land use regulation, land use permit, or development

569 agreement.

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

571 (32) "Land use regulation":

572 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,

573 specification, fee, or rule that governs the use or development of land;

574 (b) includes:

575 (i) the adoption or amendment of a zoning map or the text of the zoning code; and

576 (ii) the approval or rejection of a proposal to create an agriculture protection area, an

577 industrial protection area, or a mining protection area under Title 17, Chapter 41, Agriculture

578 and Industrial Protection Areas; and

579 (c) does not include:

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

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

582 (ii) a temporary revision to an engineering specification that does not materially:

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

584 specification; or

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

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

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

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

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 a recorded agreement between owners of  
624 adjoining properties adjusting their mutual boundary if:

625 (a) no additional parcel is created; and

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

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

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

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

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

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

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

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

641 (45) "Planning advisory area" means a contiguous, geographically defined portion of  
642 the unincorporated area of a county established under this part with planning and zoning  
643 functions as exercised through the planning advisory area planning commission, as provided in  
644 this chapter, but with no legal or political identity separate from the county and no taxing  
645 authority.

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

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

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

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

655 (48) "Public agency" means:

656 (a) the federal government;

657 (b) the state;

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

660 (d) a charter school.

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

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

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

668 (52) "Record of survey map" means a map of a survey of land prepared in accordance  
669 with Section 17-23-17.

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

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

672 (b) (i) which is licensed or certified by the Department of Human Services under Title  
673 62A, Chapter 2, Licensure of Programs and Facilities; or

674 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter  
675 21, Health Care Facility Licensing and Inspection Act.

676 (54) "Rules of order and procedure" means a set of rules that govern and prescribe in a

677 public meeting:

678 (a) parliamentary order and procedure;

679 (b) ethical behavior; and

680 (c) civil discourse.

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

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

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

690 (58) "Specified public agency" means:

691 (a) the state;

692 (b) a school district; or

693 (c) a charter school.

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

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

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

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

704 (b) "Subdivision" includes:

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

707 (ii) except as provided in Subsection (62)(c), divisions of land for residential and

708 nonresidential uses, including land used or to be used for commercial, agricultural, and  
709 industrial purposes.

710 (c) "Subdivision" does not include:

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

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

714 (A) no new lot is created; and

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

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

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

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

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

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

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

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

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

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

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

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

734 (vii) a parcel boundary adjustment.

735 (d) The joining of a subdivided parcel of property to another parcel of property that has  
736 not been subdivided does not constitute a subdivision under this Subsection (62) as to the  
737 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision  
738 ordinance.



- 739 (63) "Suspect soil" means soil that has:
- 740 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 741 3% swell potential;
- 742 (b) bedrock units with high shrink or swell susceptibility; or
- 743 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 744 commonly associated with dissolution and collapse features.
- 745 (64) "Therapeutic school" means a residential group living facility:
- 746 (a) for four or more individuals who are not related to:
- 747 (i) the owner of the facility; or
- 748 (ii) the primary service provider of the facility;
- 749 (b) that serves students who have a history of failing to function:
- 750 (i) at home;
- 751 (ii) in a public school; or
- 752 (iii) in a nonresidential private school; and
- 753 (c) that offers:
- 754 (i) room and board; and
- 755 (ii) an academic education integrated with:
- 756 (A) specialized structure and supervision; or
- 757 (B) services or treatment related to a disability, an emotional development, a
- 758 behavioral development, a familial development, or a social development.
- 759 (65) "Transferable development right" means a right to develop and use land that
- 760 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
- 761 land use rights from a designated sending zone to a designated receiving zone.
- 762 (66) "Unincorporated" means the area outside of the incorporated area of a
- 763 municipality.
- 764 (67) "Water interest" means any right to the beneficial use of water, including:
- 765 (a) each of the rights listed in Section 73-1-11; and
- 766 (b) an ownership interest in the right to the beneficial use of water represented by:
- 767 (i) a contract; or
- 768 (ii) a share in a water company, as defined in Section 73-3-3.5.
- 769 (68) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts

770 land use zones, overlays, or districts.

771 Section 3. Section **17-41-304** is amended to read:

772 **17-41-304. Public hearing -- Review and action on proposal.**

773 (1) After receipt of the written reports from the advisory committee and planning  
774 commission, or after the 45 days have expired, whichever is earlier, the county or municipal  
775 legislative body shall:

776 (a) schedule a public hearing;

777 (b) provide notice of the public hearing by:

778 (i) publishing notice:

779 (A) in a newspaper having general circulation within[~~;~~(~~H~~)] the same county as the land  
780 proposed for inclusion within the agriculture protection area or industrial protection area, if the  
781 land is within the unincorporated part of the county[~~;~~or(~~H~~)],or the same city or town as the  
782 land proposed for inclusion within an agriculture protection area or industrial protection area, if  
783 the land is within a city or town; and

784 (B) on the Utah Public Notice Website created in Section [63F-1-701](#);

785 (ii) posting notice at five public places[~~;~~~~designated by~~] that the applicable legislative  
786 body designates, within or near the proposed agriculture protection area or industrial protection  
787 area; and

788 (iii) mailing written notice to each owner of land within 1,000 feet of the land proposed  
789 for inclusion within an agriculture protection area or industrial protection area; and

790 (c) ensure that the notice includes:

791 (i) the time, date, and place of the public hearing on the proposal;

792 (ii) a description of the proposed agriculture protection area or industrial protection  
793 area;

794 (iii) any proposed modifications to the proposed agriculture protection area or  
795 industrial protection area;

796 (iv) a summary of the recommendations of the advisory committee and planning  
797 commission; and

798 (v) a statement that interested persons may appear at the public hearing and speak in  
799 favor of or against the proposal, any proposed modifications to the proposal, or the  
800 recommendations of the advisory committee and planning commission.

- 801 (2) The applicable legislative body shall:
- 802 (a) convene the public hearing at the time, date, and place specified in the notice; and
- 803 (b) take verbal or written testimony from interested persons.
- 804 (3) (a) Within 120 days of the submission of the proposal and subject to Subsection
- 805 (3)(c), the applicable legislative body shall approve, modify and approve, or reject the proposal.
- 806 (b) The creation of an agriculture protection area or industrial protection area is
- 807 effective at the earlier of:
- 808 (i) the applicable legislative body's approval of a proposal or modified proposal; or
- 809 (ii) 120 days after submission of a proposal complying with Subsection [17-41-301\(2\)](#) if
- 810 the applicable legislative body has failed to approve or reject the proposal within that time.
- 811 (c) If the advisory committee and planning commission have both recommended
- 812 approval of an agricultural protection area, the legislative body may not reject the proposal
- 813 unless the legislative body finds that the existence of the agricultural protection area would
- 814 significantly interfere with the goals and objectives of the general plan or an official map
- 815 adopted under Section [10-9a-407](#) or [17-27a-407](#).
- 816 (4) (a) In order to give constructive notice of the existence of the agriculture protection
- 817 area or industrial protection area to all persons who have, may acquire, or may seek to acquire
- 818 an interest in land in or adjacent to the agriculture protection area or industrial protection area,
- 819 respectively, within 10 days of the creation of an agriculture protection area or industrial
- 820 protection area, the applicable legislative body shall file an executed document containing a
- 821 legal description of the agriculture protection area or industrial protection area, as the case may
- 822 be, with:
- 823 (i) the county recorder of deeds; and
- 824 (ii) the affected planning commission.
- 825 (b) If the legal description of the property to be included in the agriculture protection
- 826 area or industrial protection area is available through the county recorder's office, the
- 827 applicable legislative body shall use that legal description in its executed document required in
- 828 Subsection (4)(a).
- 829 (5) Within 10 days of the recording of the agriculture protection area, the applicable
- 830 legislative body shall:
- 831 (a) send written notification to the commissioner of agriculture and food that the

832 agriculture protection area has been created; and  
833 (b) include in the notification:  
834 (i) the number of landowners owning land within the agriculture protection area;  
835 (ii) the total acreage of the area;  
836 (iii) the date of approval of the area; and  
837 (iv) the date of recording.  
838 (6) The applicable legislative body's failure to record the notice required under  
839 Subsection (4) or to send the written notification under Subsection (5) does not invalidate the  
840 creation of an agriculture protection area.  
841 (7) The applicable legislative body may consider the cost of recording notice under  
842 Subsection (4) and the cost of sending notification under Subsection (5) in establishing a fee  
843 under Subsection [17-41-301\(4\)\(b\)](#).