{deleted text} shows text that was in HB0243S02 but was deleted in HB0243S03.

inserted text shows text that was not in HB0243S02 but was inserted into HB0243S03.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Gay Lynn Bennion proposes the following substitute bill:

RIPARIAN AMENDMENTS

2024 GENERAL SESSION STATE OF UTAH

Chief Sponsor: \ Gay Lynn Bennion

Senate Sponsor: {-}_____

LONG TITLE

General Description:

This bill {modifies provisions related to general plans and} addresses riparian areas.

Highlighted Provisions:

This bill:

- \{\text{revises definition provisions};}\]
- permits a riparian area element to be part of a municipal general plan and to align with elements of a county general plan;
- provides for technical assistance from the Division of Water Resources (division)}
 defines terms;
- directs the {appointment} <u>creation</u> of a state position related to riparian areas with a sunset date on the position;
- requires the division to publish information related to riparian areas;

- directs the creation of a repository where geographic layers useful for delineating riparian areas can be publicly accessed;
- requires the division to create a program to recognize local government efforts
 related to riparian areas;} and
 - makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

{73-10-36} <u>73-10-39</u>, { as last amended by Laws of } Utah {2023, Chapter 238} <u>Code</u> <u>Annotated 1953</u>

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

Section 1. Section $\{10-9a-10\}$ 63I-1-273 is amended to read:

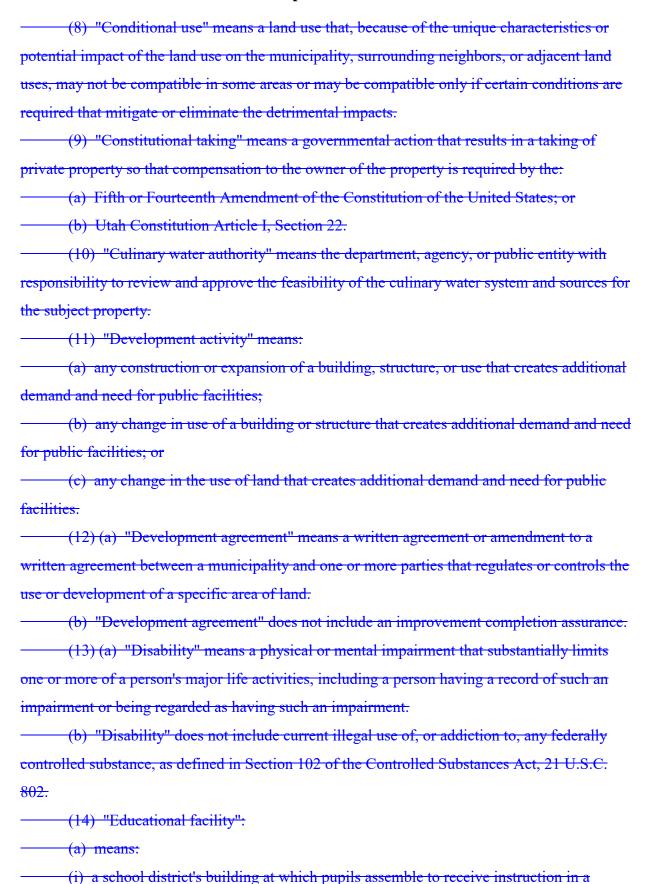
10-9a-103. Definitions.

As used in this chapter:

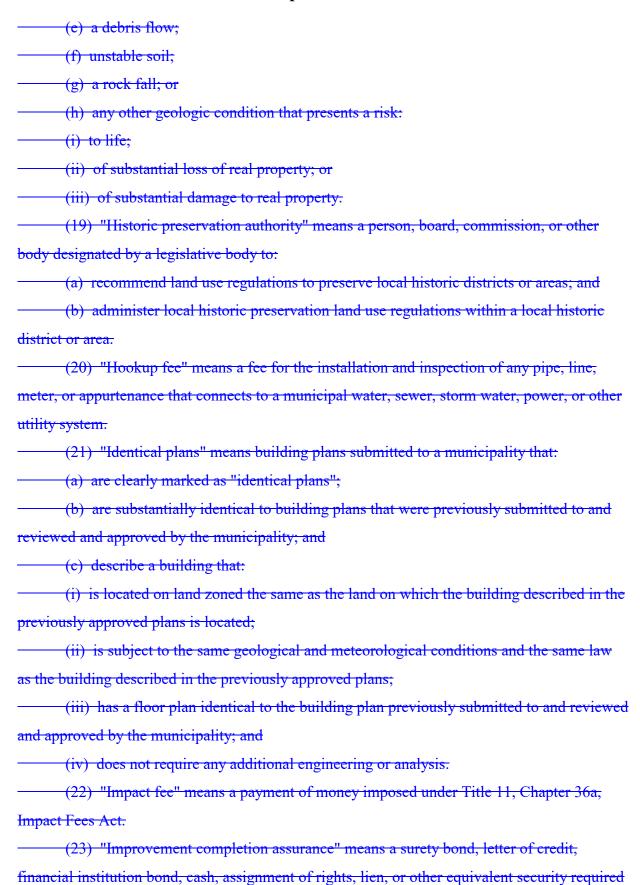
- (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.
 - (2) "Adversely affected party" means a person other than a land use applicant who:
- (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or
 - (b) will suffer a damage different in kind than, or an injury distinct from, that of the

general community as a result of the land use decision. (3) "Affected entity" means a county, municipality, special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Department of Transportation, if: (a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land; (b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or (c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter. (4) "Affected owner" means the owner of real property that is: (a) a single project; (b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and (c) determined to be legally referable under Section 20A-7-602.8. (5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance. (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located. (7) (a) "Charter school" means: (i) an operating charter school; (ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or (iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

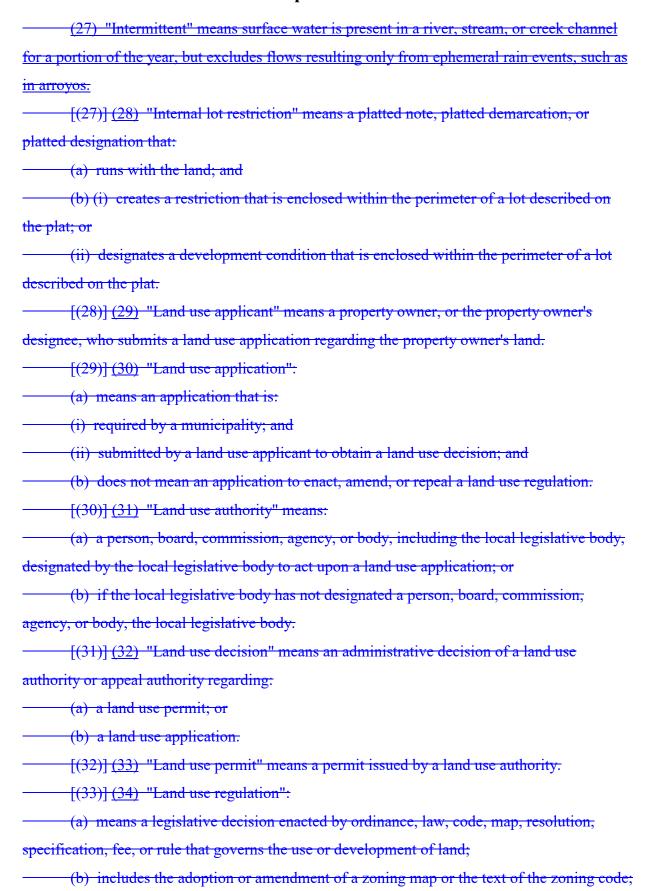
(b) "Charter school" does not include a therapeutic school.

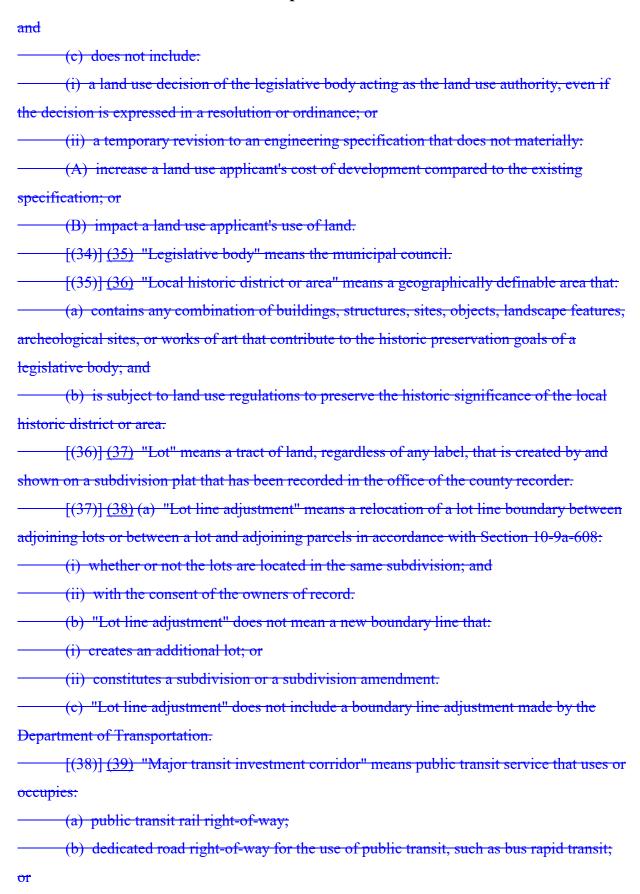


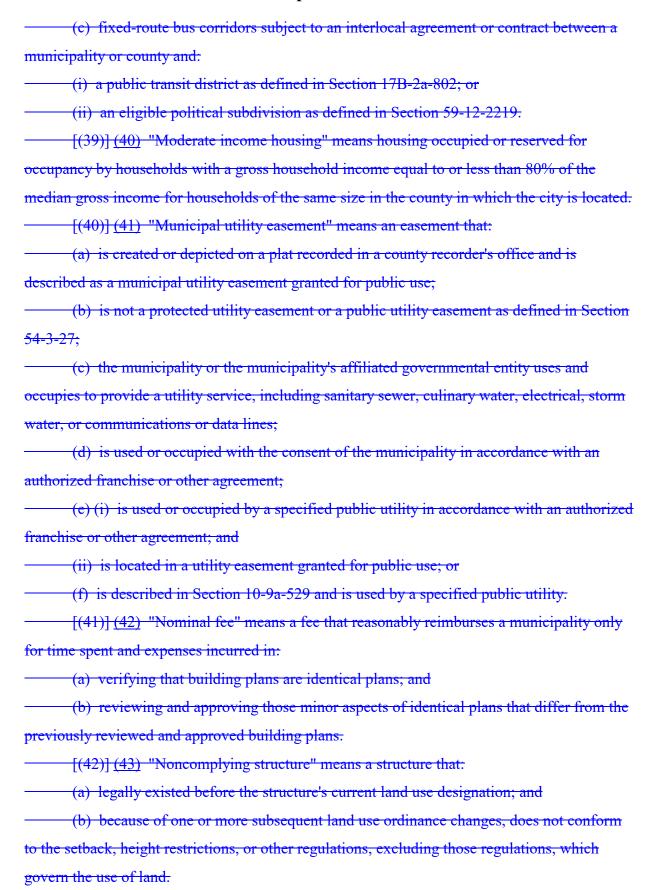
program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities; (ii) a structure or facility: (A) located on the same property as a building described in Subsection (14)(a)(i); and (B) used in support of the use of that building; and (iii) a building to provide office and related space to a school district's administrative personnel; and (b) does not include: (i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is: (A) not located on the same property as a building described in Subsection (14)(a)(i); and (B) used in support of the purposes of a building described in Subsection (14)(a)(i); or (ii) a therapeutic school. (15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property. (16) "Flood plain" means land that: (a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or (b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency. (17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality. (18) "Geologic hazard" means: (a) a surface fault rupture; (b) shallow groundwater; (c) liquefaction; (d) a landslide;

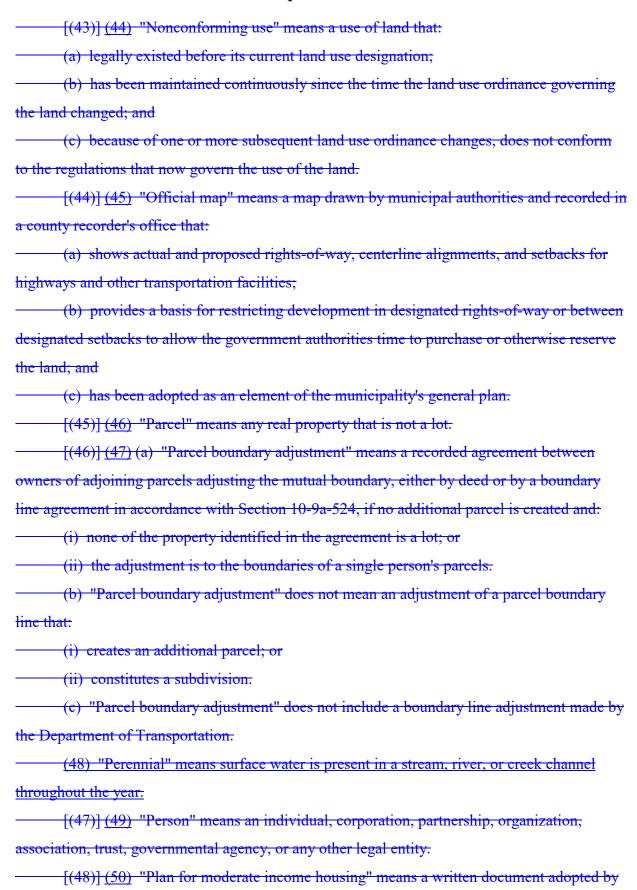


by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to: (a) recording a subdivision plat; or (b) development of a commercial, industrial, mixed use, or multifamily project. (24) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement: (a) complies with the municipality's written standards for design, materials, and workmanship; and (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period. (25) "Improvement warranty period" means a period: (a) no later than one year after a municipality's acceptance of required landscaping; or (b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality: (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and (ii) has substantial evidence, on record: (A) of prior poor performance by the applicant; or (B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil. (26) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that: (a) is required for human occupation; and (b) an applicant must install: (i) in accordance with published installation and inspection specifications for public improvements; and (ii) whether the improvement is public or private, as a condition of: (A) recording a subdivision plat; (B) obtaining a building permit; or (C) development of a commercial, industrial, mixed use, condominium, or multifamily project.







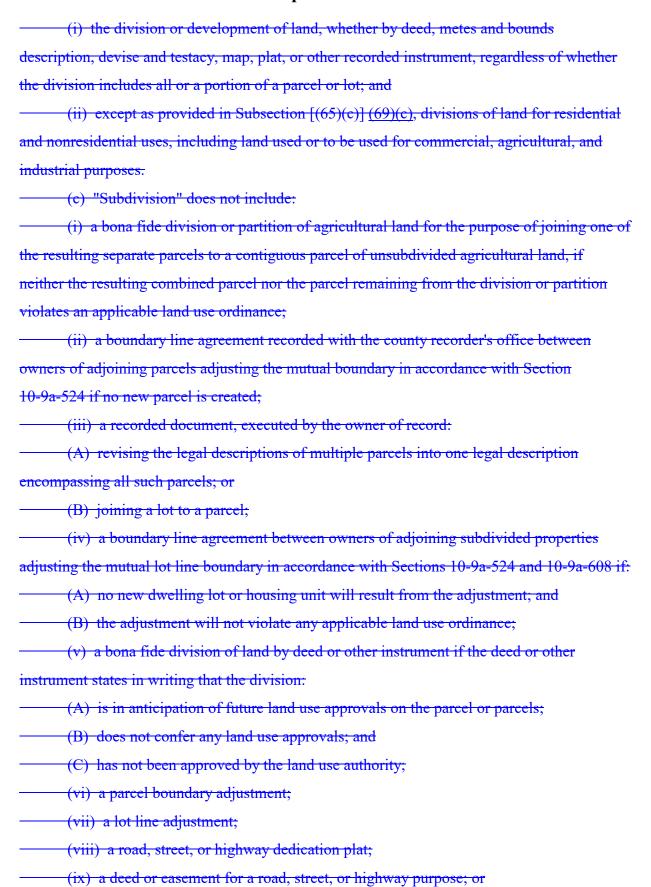


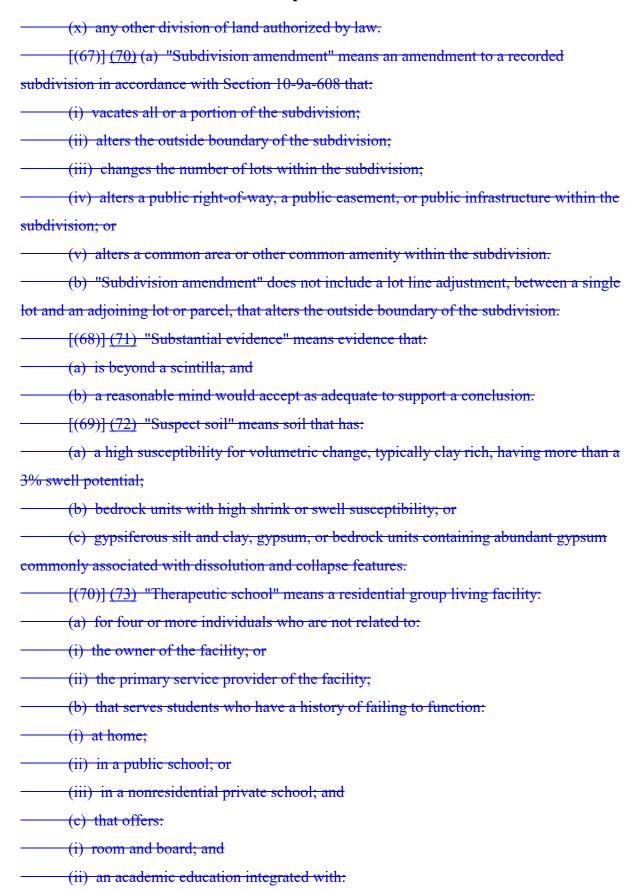
a municipality's legislative body that includes: (a) an estimate of the existing supply of moderate income housing located within the municipality; (b) an estimate of the need for moderate income housing in the municipality for the next five years; (c) a survey of total residential land use; (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and (e) a description of the municipality's program to encourage an adequate supply of moderate income housing. [(49)] (51) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13. -[(50)] (52) "Potential geologic hazard area" means an area that: (a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area. [(51)] (53) "Public agency" means: (a) the federal government; (b) the state; (c) a county, municipality, school district, special district, special service district, or other political subdivision of the state; or (d) a charter school. [(52)] (54) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing. -[(53)] (55) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act. [(54)] (56) "Public street" means a public right-of-way, including a public highway,

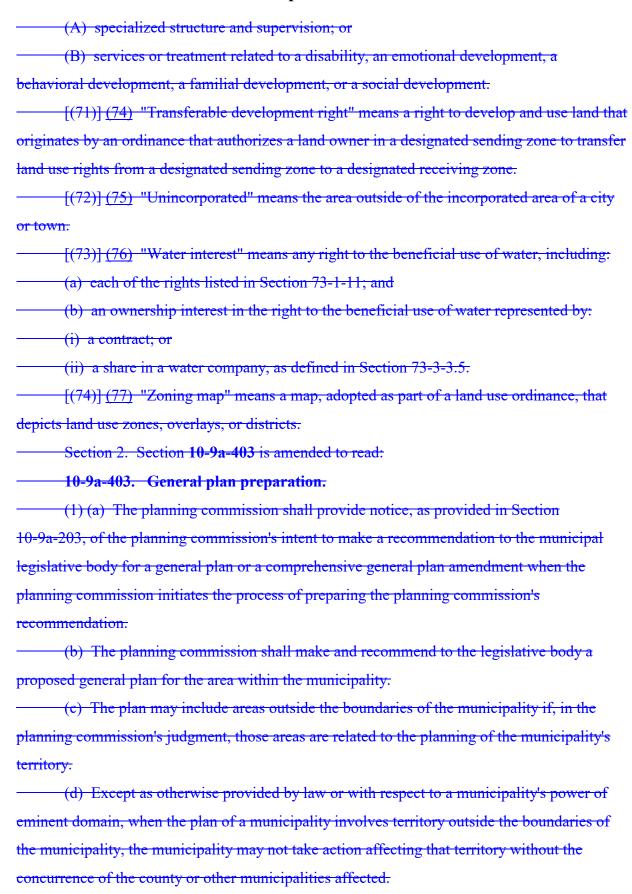
public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way. [(55)] (57) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right. [(56)] (58) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13. [(57)] (59) "Residential facility for persons with a disability" means a residence: (a) in which more than one person with a disability resides; and (b) which is licensed or certified by the Department of Health and Human Services under: (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection. [(58)] (60) "Residential roadway" means a public local residential road that: (a) will serve primarily to provide access to adjacent primarily residential areas and property; (b) is designed to accommodate minimal traffic volumes or vehicular traffic; (c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan; (d) has a posted speed limit of 25 miles per hour or less; (e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network; (f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and (g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas. (61) "Riparian area" means land representing a transition between aquatic and upland habitats with a plant community that: (a) is contiguous to and affected by surface and subsurface hydrologic features of

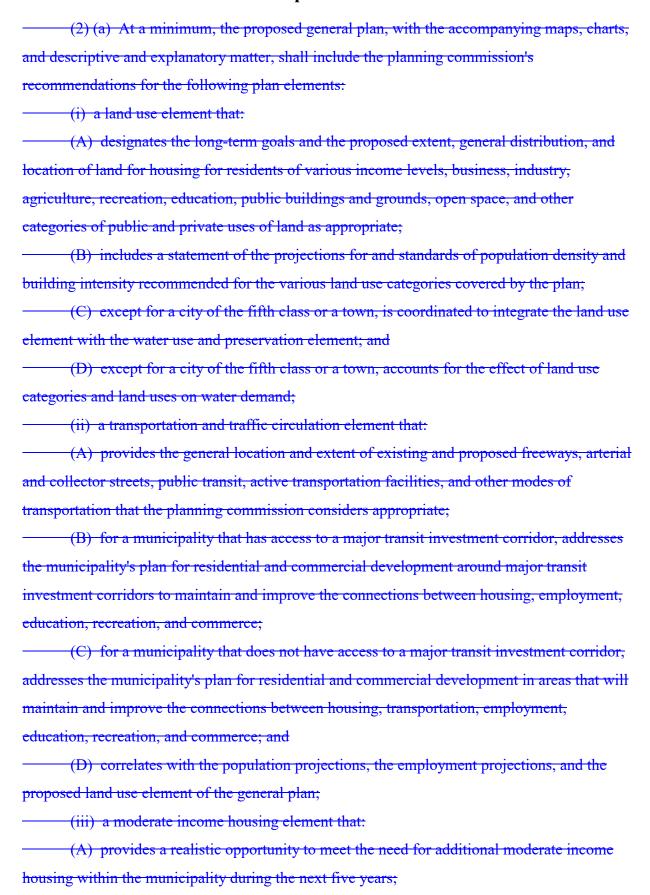
perennial or intermittent rivers, streams, or creeks; and
(b) has one or both of the following characteristics:
(i) distinctly different vegetative species than adjacent areas; or
(ii) species similar to adjacent areas but exhibiting more vigorous or robust growth
<u>forms.</u>
[(59)] (62) "Rules of order and procedure" means a set of rules that govern and
prescribe in a public meeting:
(a) parliamentary order and procedure;
(b) ethical behavior; and
(c) civil discourse.
[(60)] (63) "Sanitary sewer authority" means the department, agency, or public entity
with responsibility to review and approve the feasibility of sanitary sewer services or onsite
wastewater systems.
[(61)] (64) "Sending zone" means an area of a municipality that the municipality
designates, by ordinance, as an area from which an owner of land may transfer a transferable
development right.
[(62)] (65) "Special district" means an entity under Title 17B, Limited Purpose Local
Government Entities - Special Districts, and any other governmental or quasi-governmental
entity that is not a county, municipality, school district, or the state.
[(63)] (66) "Specified public agency" means:
(a) the state;
(b) a school district; or
(c) a charter school.
[(64)] (67) "Specified public utility" means an electrical corporation, gas corporation,
or telephone corporation, as those terms are defined in Section 54-2-1.
[(65)] (68) "State" includes any department, division, or agency of the state.
[(66)] (69) (a) "Subdivision" means any land that is divided, resubdivided, or propose
to be divided into two or more lots or other division of land for the purpose, whether
immediate or future, for offer, sale, lease, or development either on the installment plan or
upon any and all other plans, terms, and conditions.
(b) "Subdivision" includes:

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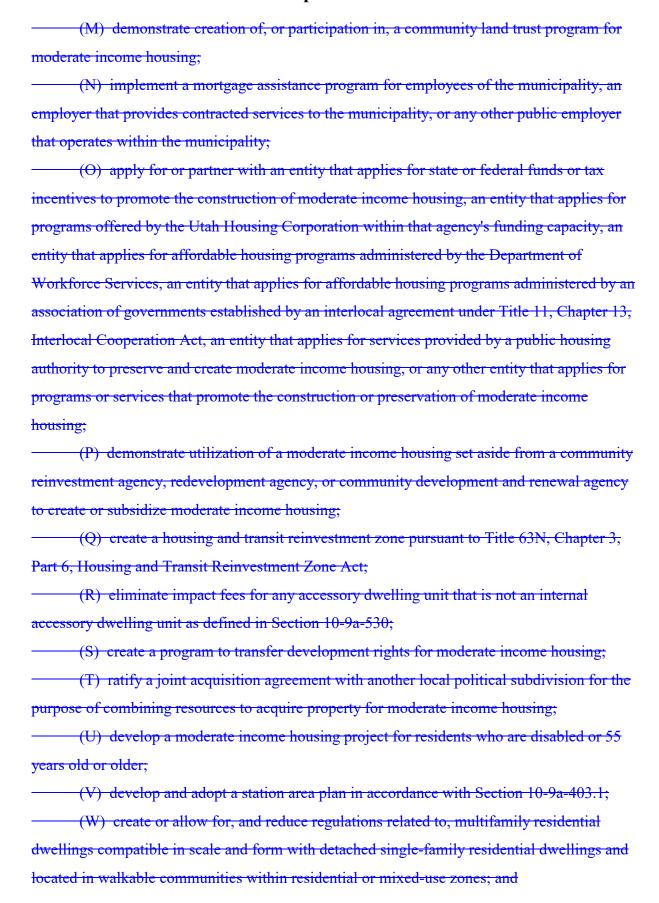


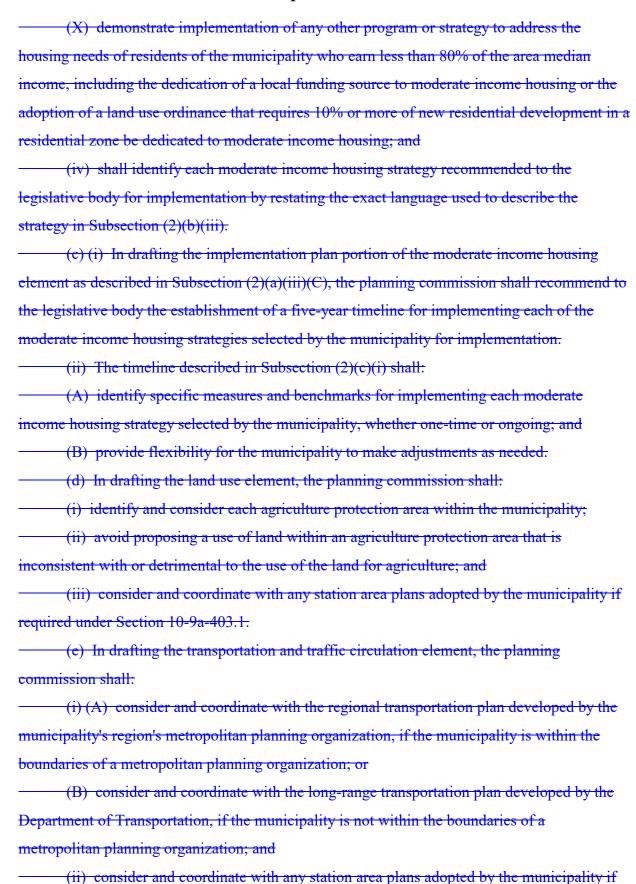


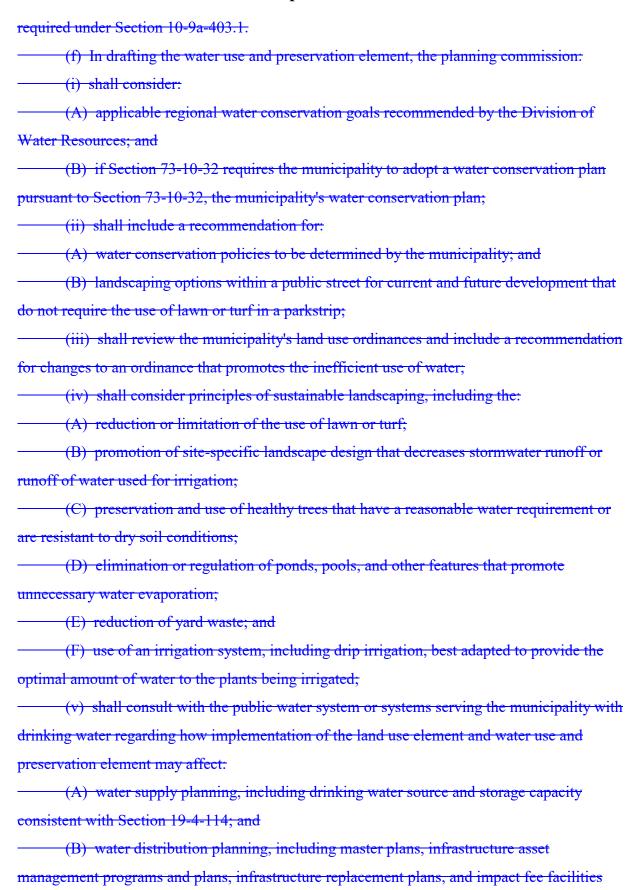


(B) for a town, may include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii); (C) for a specified municipality, as defined in Section 10-9a-408, that does not have a fixed guideway public transit station, shall include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii); (D) for a specified municipality, as defined in Section 10-9a-408, that has a fixed guideway public transit station, shall include a recommendation to implement five or more of the moderate income housing strategies described in Subsection (2)(b)(iii), of which one shall be the moderate income housing strategy described in Subsection (2)(b)(iii)(V), and one shall be a moderate income housing strategy described in Subsection (2)(b)(iii)(G), (H), or (Q); and (E) for a specified municipality, as defined in Section 10-9a-408, shall include an implementation plan as provided in Subsection (2)(c); and (iv) except for a city of the fifth class or a town, a water use and preservation element that addresses: (A) the effect of permitted development or patterns of development on water demand and water infrastructure; (B) methods of reducing water demand and per capita consumption for future development; (C) methods of reducing water demand and per capita consumption for existing development; and (D) opportunities for the municipality to modify the municipality's operations to eliminate practices or conditions that waste water. (b) In drafting the moderate income housing element, the planning commission: (i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing: (A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and (B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; (ii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will provide a realistic

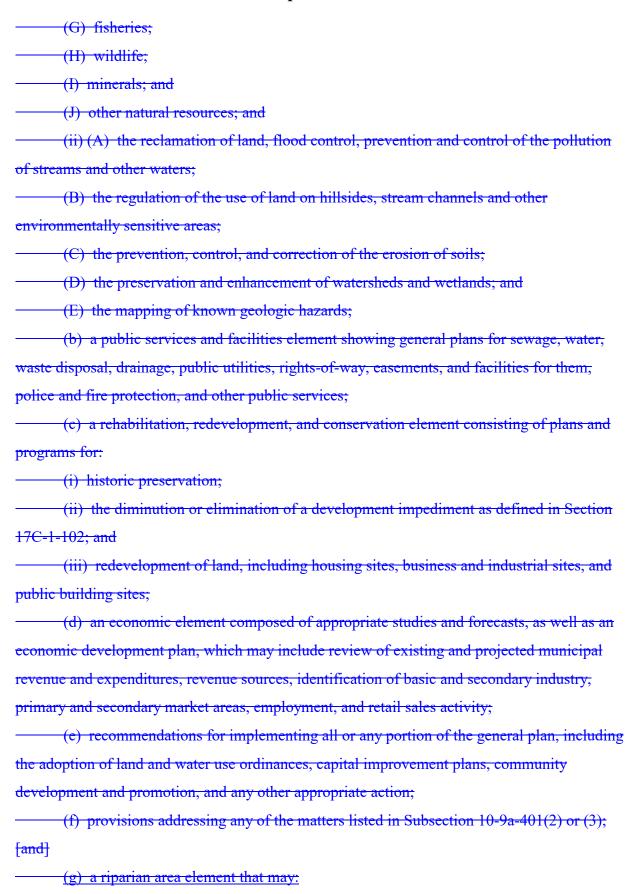
opportunity for the development of moderate income housing within the next five years;
(iii) for a town, may include, and for a specified municipality as defined in Section
10-9a-408, shall include a recommendation to implement the required number of any of the
following moderate income housing strategies as specified in Subsection (2)(a)(iii):
(A) rezone for densities necessary to facilitate the production of moderate income
housing;
(B) demonstrate investment in the rehabilitation or expansion of infrastructure that
facilitates the construction of moderate income housing;
(C) demonstrate investment in the rehabilitation of existing uninhabitable housing
stock into moderate income housing;
(D) identify and utilize general fund subsidies or other sources of revenue to waive
construction related fees that are otherwise generally imposed by the municipality for the
construction or rehabilitation of moderate income housing;
(E) create or allow for, and reduce regulations related to, internal or detached accessory
dwelling units in residential zones;
(F) zone or rezone for higher density or moderate income residential development in
commercial or mixed-use zones near major transit investment corridors, commercial centers, or
employment centers;
(G) amend land use regulations to allow for higher density or new moderate income
residential development in commercial or mixed-use zones near major transit investment
corridors;
(II) amend land use regulations to eliminate or reduce parking requirements for
residential development where a resident is less likely to rely on the resident's own vehicle,
such as residential development near major transit investment corridors or senior living
facilities;
(I) amend land use regulations to allow for single room occupancy developments;
(J) implement zoning incentives for moderate income units in new developments;
(K) preserve existing and new moderate income housing and subsidized units by
utilizing a landlord incentive program, providing for deed restricted units through a grant
program, or, notwithstanding Section 10-9a-535, establishing a housing loss mitigation fund;
(L) reduce, waive, or eliminate impact fees related to moderate income housing;





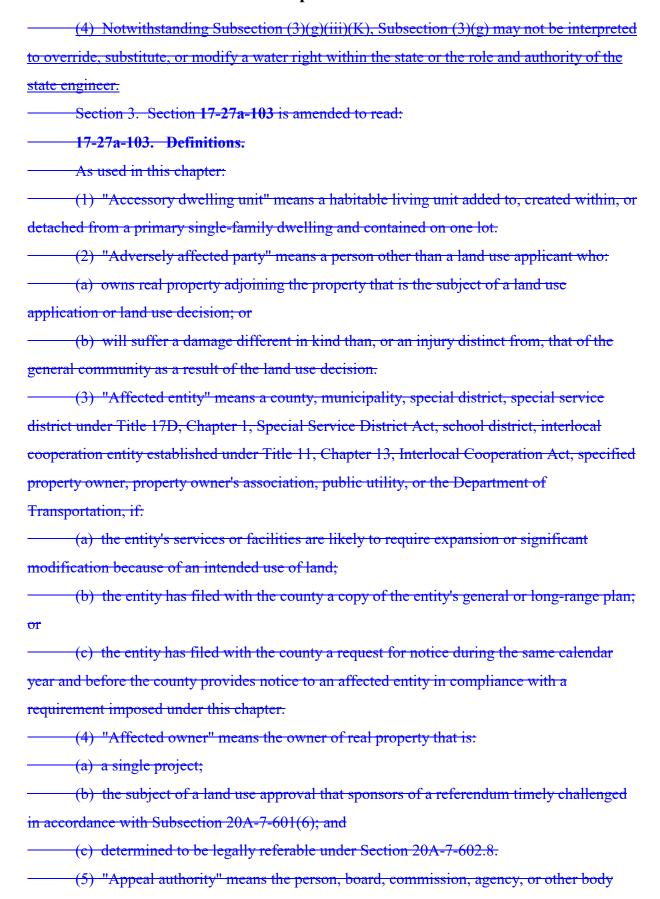


plans;
(vi) shall consult with the Division of Water Resources for information and technical
resources regarding regional water conservation goals, including how implementation of the
land use element and the water use and preservation element may affect the Great Salt Lake;
(vii) may include recommendations for additional water demand reduction strategies,
including:
(A) creating a water budget associated with a particular type of development;
(B) adopting new or modified lot size, configuration, and landscaping standards that
will reduce water demand for new single family development;
(C) providing one or more water reduction incentives for existing development such a
modification of existing landscapes and irrigation systems and installation of water fixtures or
systems that minimize water demand;
(D) discouraging incentives for economic development activities that do not adequate
account for water use or do not include strategies for reducing water demand; and
(E) adopting water concurrency standards requiring that adequate water supplies and
facilities are or will be in place for new development; and
(viii) for a town, may include, and for another municipality, shall include, a
recommendation for low water use landscaping standards for a new:
(A) commercial, industrial, or institutional development;
(B) common interest community, as defined in Section 57-25-102; or
(C) multifamily housing project.
(3) The proposed general plan may include:
(a) an environmental element that addresses:
(i) the protection, conservation, development, and use of natural resources, including
the quality of:
——————————————————————————————————————
(B) forests;
(C) soils;
(D) rivers;
(E) groundwater and other waters;
(F) harbors;



(i) address the following that are applicable to the municipality's riparian area: (A) preserving and enhancing natural stream functions for hydrologic conveyance and storage, including flood plains and wetlands; (B) managing erosion, sedimentation, and flood control; (C) minimizing flood and fire risk to property through development of buffer zones and removal of dead or diseased vegetation considered to represent excessive fuel loads; (D) reducing water pollution, including by filtration; (E) protecting fish and wildlife habitat; (F) preserving or restoring vegetation while managing invasive plants, noxious weeds, and fuel loads; and (G) preserving aesthetic and recreational values that are compatible with the items listed in this Subsection (3)(g)(i); (ii) establish a vision for the riparian area within the municipality and identifies strategies to implement the municipality's vision for the riparian area that includes: (A) recommendations to update the municipality's land use ordinances to support the riparian area vision as established in the planning process; and (B) other strategies as the municipality considers appropriate; (iii) address: (A) situations identified in Subsection (3)(g)(i) that warrant the implementation of innovative or established zoning and preservation tools to regulate development to achieve riparian area protections; (B) situations that consider the ecological function and integrity of features that cut across a riparian area adjacent to flowing water, including a stream, bank, wetland, flood plain, or upland; (C) situations calling for the protection of native riparian plants, including identification and management of invasive species in accordance with state and federal law; (D) situations calling for the protection of culturally significant landforms, historical flood plains, or other important features close to rivers, streams, and wetlands; (E) what constitutes best practices for the use of herbicides, pesticides, and fertilizer in accordance, where relevant, with applicable state and federal law for management of recognized listed species;

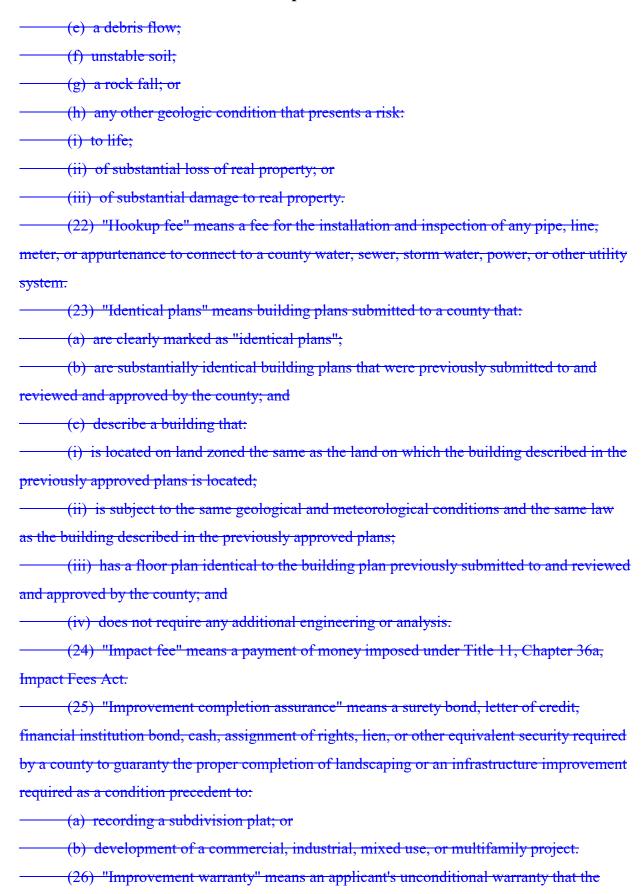
(F) situations calling for specific permits, analysis, or requests for minor exceptions or reasonable use exceptions if no feasible alternative exists; (G) what circumstances necessitate an applicant with a proposed project in a riparian area to submit a resource inventory and impact analysis for the riparian area; (II) whether to allow use of heavy equipment for construction of amenities or for removal of debris; (I) situations calling for the maintenance of trees that pose a safety risk from treefall, fire, or flow conveyance during flooding, or calling for removal of diseased trees; (J) situations calling for the maintenance or installation of irrigation and flood control devices; (K) how to account for activities approved by the United States Army Corps of Engineers or state engineer; (L) best practices in allowing public utility work; (M) the need to coordinate and cooperate with watershed councils, other governmental agencies, and jurisdictions to facilitate compatible regulation and protection of a riparian area and recognize the riparian and hydrologic functions that are regional in nature and that cross jurisdictional boundaries; (N) strategies to avoid, minimize, or mitigate negative impacts affecting a riparian area; (O) tools available for the management of a riparian area, such as tools published by the Division of Water Resources from federal, state, or local government agencies, including interlocal entities, and assistance provided under Section 73-10-36; (P) a repository with publicly accessible geographic data layers compiled by the Utah Geological Survey pursuant to Section 73-10-36 to facilitate delineation of riparian areas; (Q) the need for a process through which a landowner may modify riparian requirements to respond to unforeseen circumstances or to allow innovative development techniques that meet or exceed adopted standards; and (R) property rights and appropriate compensation or benefits for property owners; and (iv) provide for management of the riparian area as part of the regulation of environmentally sensitive areas under this Subsection (3); and [(g)] (h) any other element the municipality considers appropriate.



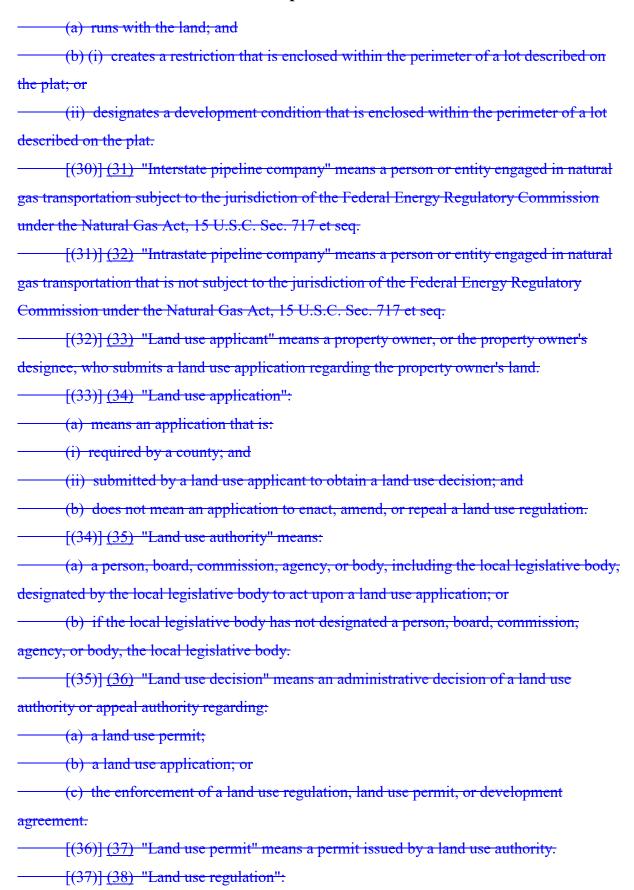
designated by ordinance to decide an appeal of a decision of a land use application or a variance. (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located. (7) (a) "Charter school" means: (i) an operating charter school; (ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or (iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building. (b) "Charter school" does not include a therapeutic school. (8) "Chief executive officer" means the person or body that exercises the executive powers of the county. (9) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts. (10) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the: (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or (b) Utah Constitution, Article I, Section 22. (11) "County utility easement" means an easement that: (a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement; (b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27; (c) the county or the county's affiliated governmental entity owns or creates; and (d) (i) either: (A) no person uses or occupies; or (B) the county or the county's affiliated governmental entity uses and occupies to

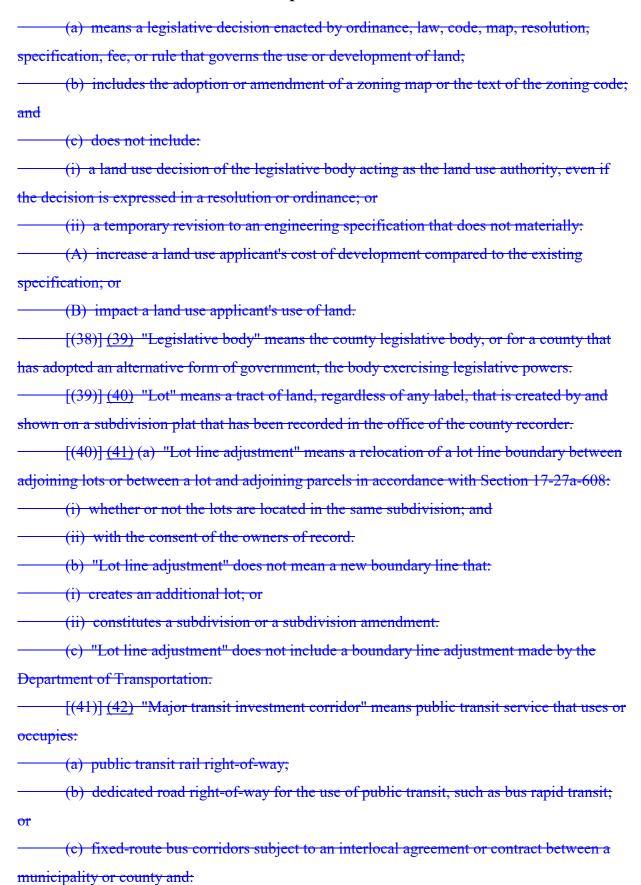
provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or (ii) a person uses or occupies with or without an authorized franchise or other agreement with the county. (12) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property. (13) "Development activity" means: (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities; (b) any change in use of a building or structure that creates additional demand and need for public facilities; or (c) any change in the use of land that creates additional demand and need for public facilities. (14) (a) "Development agreement" means a written agreement or amendment to a written agreement between a county and one or more parties that regulates or controls the use or development of a specific area of land. (b) "Development agreement" does not include an improvement completion assurance. (15) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment. (b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802. (16) "Educational facility": (a) means: (i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities; (ii) a structure or facility: (A) located on the same property as a building described in Subsection (16)(a)(i); and

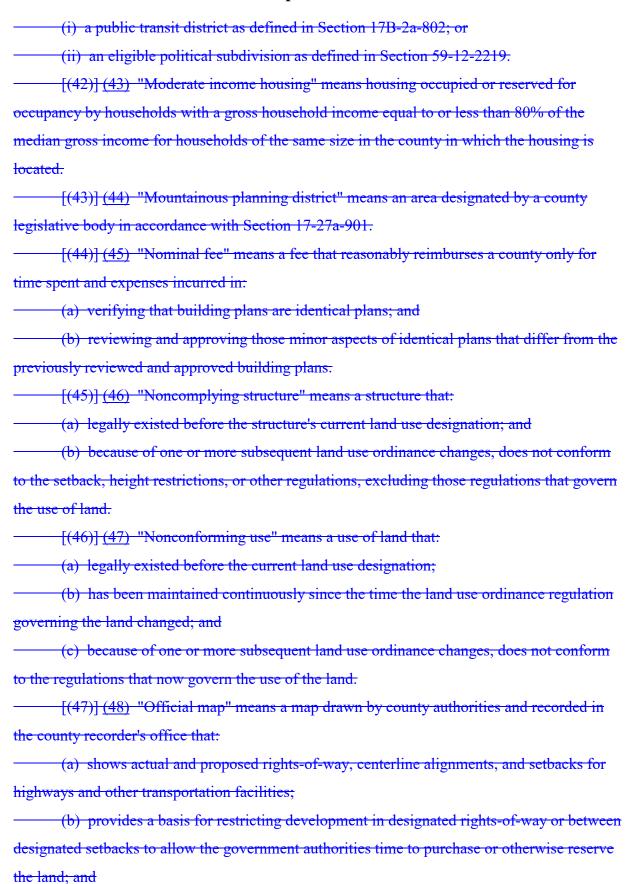
(B) used in support of the use of that building; and
(iii) a building to provide office and related space to a school district's administrative
personnel; and
(b) does not include:
(i) land or a structure, including land or a structure for inventory storage, equipment
storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
(A) not located on the same property as a building described in Subsection (16)(a)(i);
and
(B) used in support of the purposes of a building described in Subsection (16)(a)(i); or
(ii) a therapeutic school.
(17) "Fire authority" means the department, agency, or public entity with responsibility
to review and approve the feasibility of fire protection and suppression services for the subject
property.
(18) "Flood plain" means land that:
(a) is within the 100-year flood plain designated by the Federal Emergency
Management Agency; or
(b) has not been studied or designated by the Federal Emergency Management Agency
but presents a likelihood of experiencing chronic flooding or a catastrophic flood event becaus
the land has characteristics that are similar to those of a 100-year flood plain designated by the
Federal Emergency Management Agency.
(19) "Gas corporation" has the same meaning as defined in Section 54-2-1.
(20) "General plan" means a document that a county adopts that sets forth general
guidelines for proposed future development of:
(a) the unincorporated land within the county; or
(b) for a mountainous planning district, the land within the mountainous planning
district.
(21) "Geologic hazard" means:
(a) a surface fault rupture;
(b) shallow groundwater;
(c) liquefaction;
(d) a landslide;

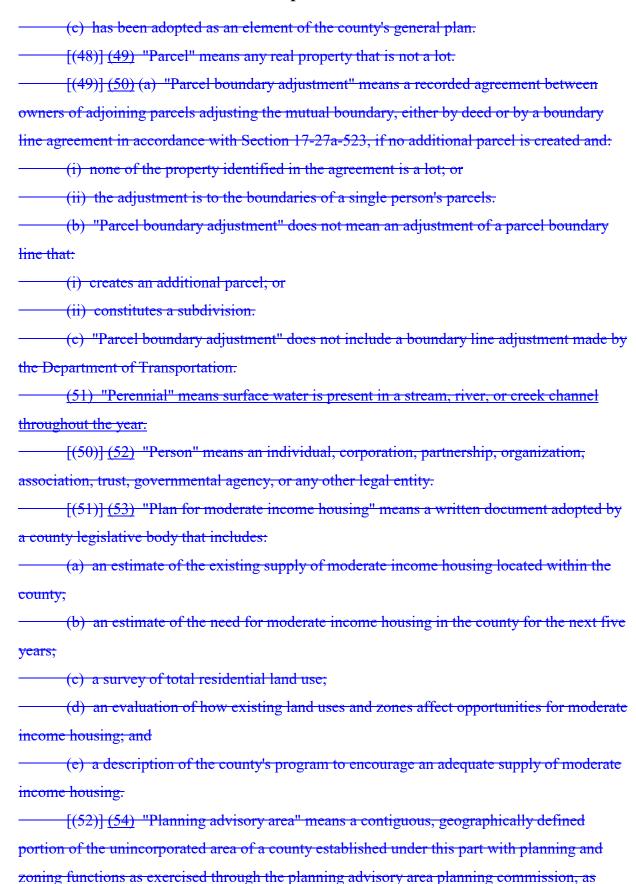


applicant's installed and accepted landscaping or infrastructure improvement: (a) complies with the county's written standards for design, materials, and workmanship; and (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period. (27) "Improvement warranty period" means a period: (a) no later than one year after a county's acceptance of required landscaping; or (b) no later than one year after a county's acceptance of required infrastructure, unless the county: (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and (ii) has substantial evidence, on record: (A) of prior poor performance by the applicant; or (B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil. (28) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that: (a) is required for human consumption; and (b) an applicant must install: (i) in accordance with published installation and inspection specifications for public improvements; and (ii) as a condition of: (A) recording a subdivision plat; (B) obtaining a building permit; or (C) developing a commercial, industrial, mixed use, condominium, or multifamily project. (29) "Intermittent" means surface water is present in a river, stream, or creek channel for a portion of the year, but excludes flows resulting only from ephemeral rain events, such as in arroyos. [(29)] (30) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

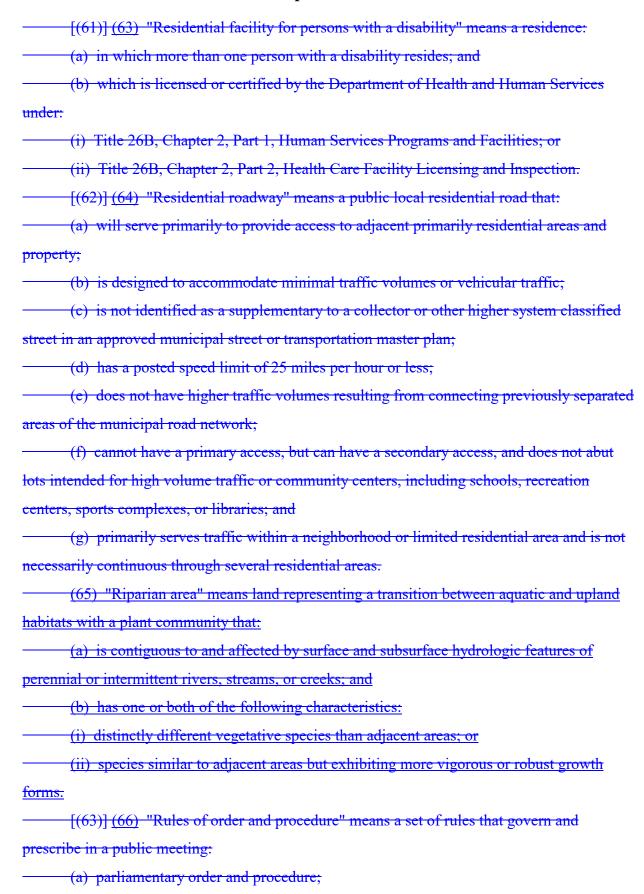


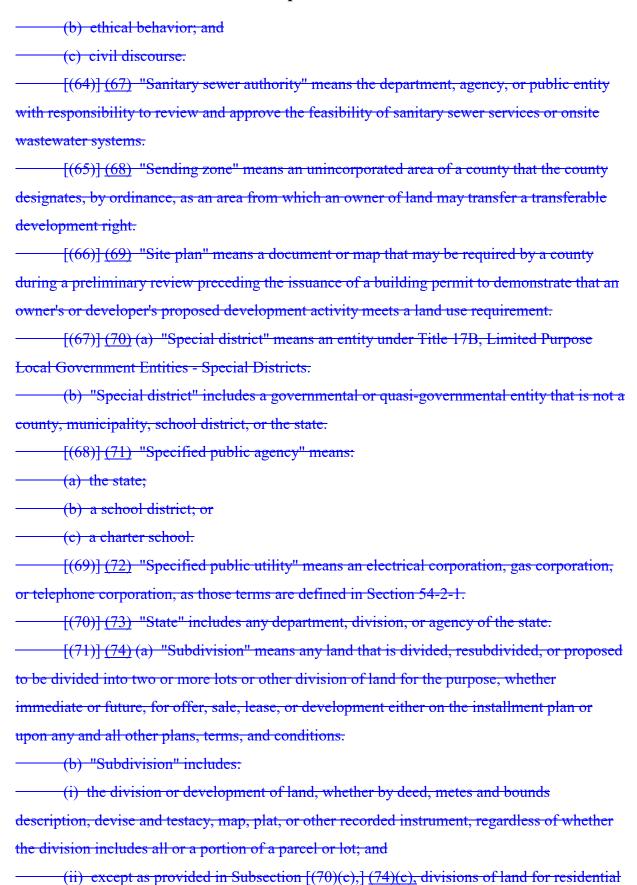




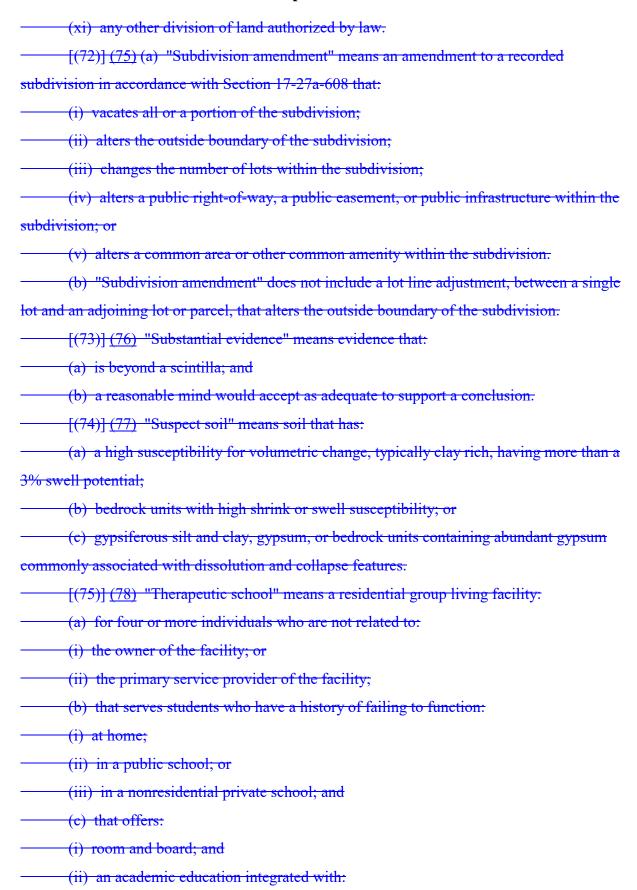


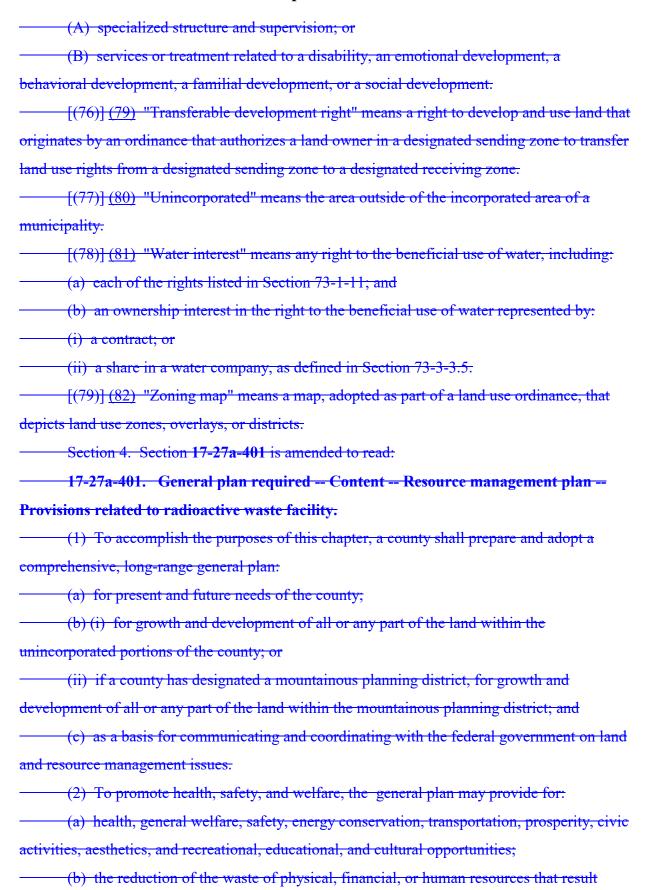
provided in this chapter, but with no legal or political identity separate from the county and no taxing authority. [(53)] (55) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13. [(54)] (56) "Potential geologic hazard area" means an area that: (a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area. [(55)] (57) "Public agency" means: (a) the federal government; (b) the state; (c) a county, municipality, school district, special district, special service district, or other political subdivision of the state; or (d) a charter school. [(56)] (58) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing. [(57)] (59) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act. [(58)] (60) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way. [(59)] (61) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right. [(60)] (62) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.



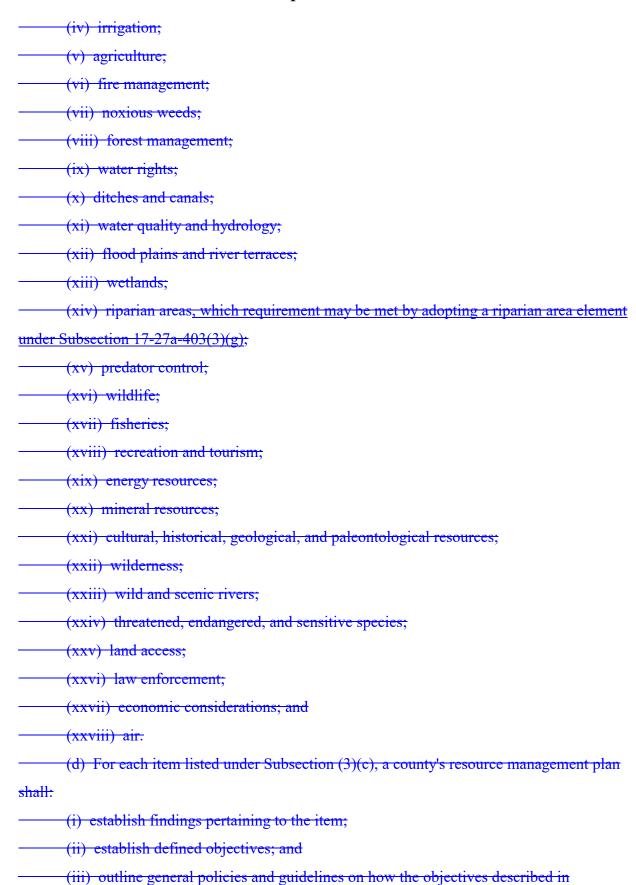


and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes. (c) "Subdivision" does not include: (i) a bona fide division or partition of agricultural land for agricultural purposes; (ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 17-27a-523 if no new lot is created; (iii) a recorded document, executed by the owner of record: (A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or (B) joining a lot to a parcel; (iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels: (A) an electrical transmission line or a substation; (B) a natural gas pipeline or a regulation station; or (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility; (v) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 17-27a-523 and 17-27a-608 if: (A) no new dwelling lot or housing unit will result from the adjustment; and (B) the adjustment will not violate any applicable land use ordinance; (vi) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division: (A) is in anticipation of future land use approvals on the parcel or parcels; (B) does not confer any land use approvals; and (C) has not been approved by the land use authority; (vii) a parcel boundary adjustment; (viii) a lot line adjustment; (ix) a road, street, or highway dedication plat; (x) a deed or easement for a road, street, or highway purpose; or

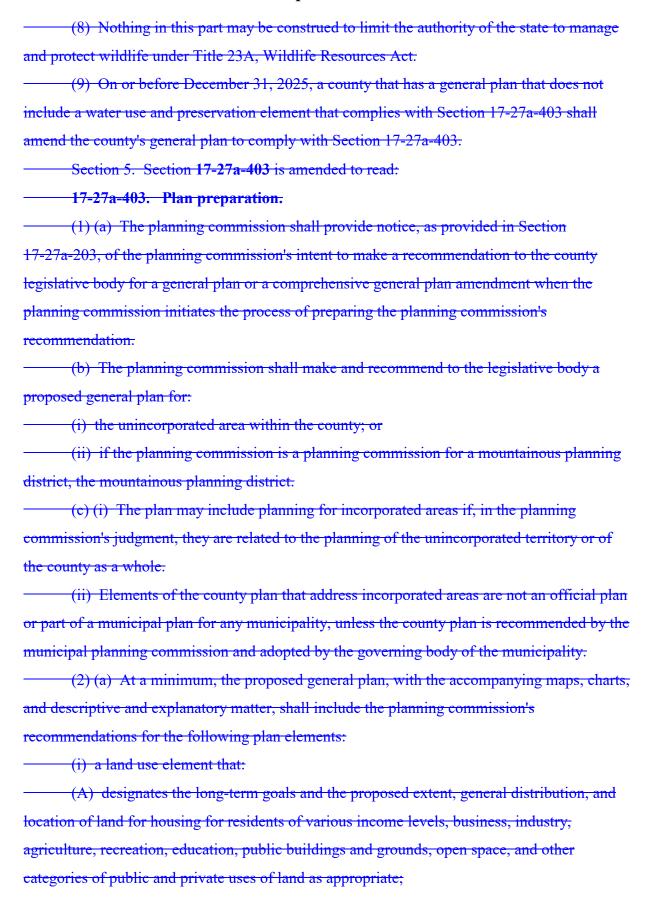


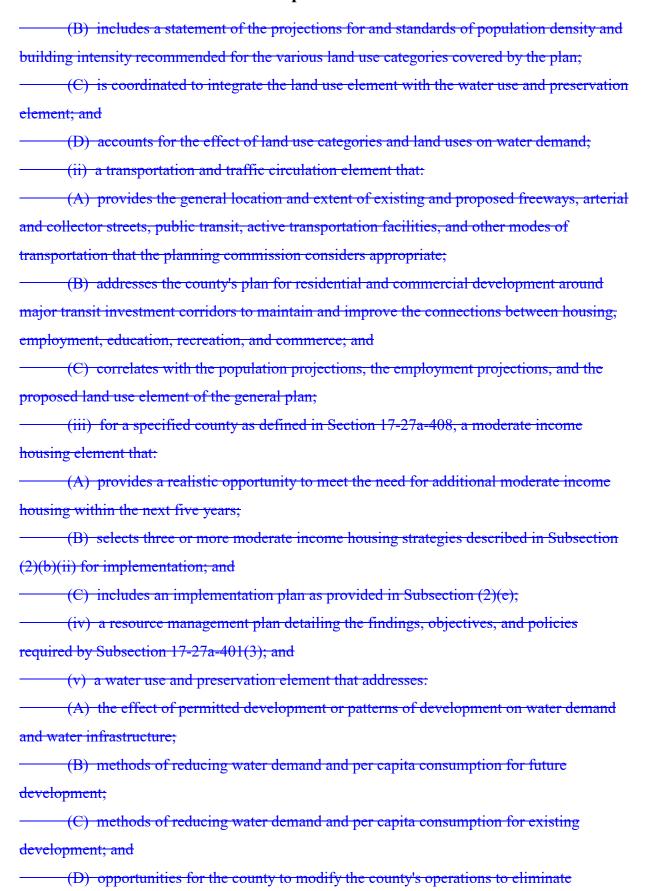


from either excessive congestion or excessive scattering of population; (c) the efficient and economical use, conservation, and production of the supply of: (i) food and water; and (ii) drainage, sanitary, and other facilities and resources; (d) the use of energy conservation and solar and renewable energy resources; (e) the protection of urban development; (f) the protection and promotion of air quality; (g) historic preservation; (h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and (i) an official map. (3) (a) (i) The general plan of a specified county, as defined in Section 17-27a-408, shall include a moderate income housing element that meets the requirements of Subsection 17-27a-403(2)(a)(iii). (ii) (A) This Subsection (3)(a)(ii) applies to a county that does not qualify as a specified county as of January 1, 2023. (B) As of January 1, if a county described in Subsection (3)(a)(ii)(A) changes from one class to another or grows in population to qualify as a specified county as defined in Section 17-27a-408, the county shall amend the county's general plan to comply with Subsection (3)(a)(i) on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county. (iii) A county described in Subsection (3)(a)(ii)(B) shall send a copy of the county's amended general plan to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member. (b) The general plan shall contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county. (c) The resource management plan described in Subsection (3)(b) shall address: (i) mining; (ii) land use; (iii) livestock and grazing;



Subsection (3)(d)(ii) are to be accomplished. (4) (a) (i) The general plan shall include specific provisions related to an area within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303. (ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide: (A) the information identified in Section 19-3-305; (B) information supported by credible studies that demonstrates that Subsection 19-3-307(2) has been satisfied; and (C) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state. (b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected. (c) A county may adopt the ordinance listed in Subsection (4)(b) at any time. (d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment. (e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall: (i) comply with Subsection (4)(a) as soon as reasonably possible; and (ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal. (5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability. (6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan. (7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan.





practices or conditions that waste water. (b) In drafting the moderate income housing element, the planning commission: (i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing: (A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and (B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and (ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, including a recommendation to implement three or more of the following moderate income housing strategies: (A) rezone for densities necessary to facilitate the production of moderate income housing; (B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing; (C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing; (D) identify and utilize county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county for the construction or rehabilitation of moderate income housing; (E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones; (F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones, commercial centers, or employment centers; (G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors; (II) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living

facilities; (I) amend land use regulations to allow for single room occupancy developments; (J) implement zoning incentives for moderate income units in new developments; (K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund; (L) reduce, waive, or eliminate impact fees related to moderate income housing; (M) demonstrate creation of, or participation in, a community land trust program for moderate income housing; (N) implement a mortgage assistance program for employees of the county, an employer that provides contracted services for the county, or any other public employer that operates within the county; (O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing; (P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing; (Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act; (R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530; (S) create a program to transfer development rights for moderate income housing; (T) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing; (U) develop a moderate income housing project for residents who are disabled or 55 years old or older;

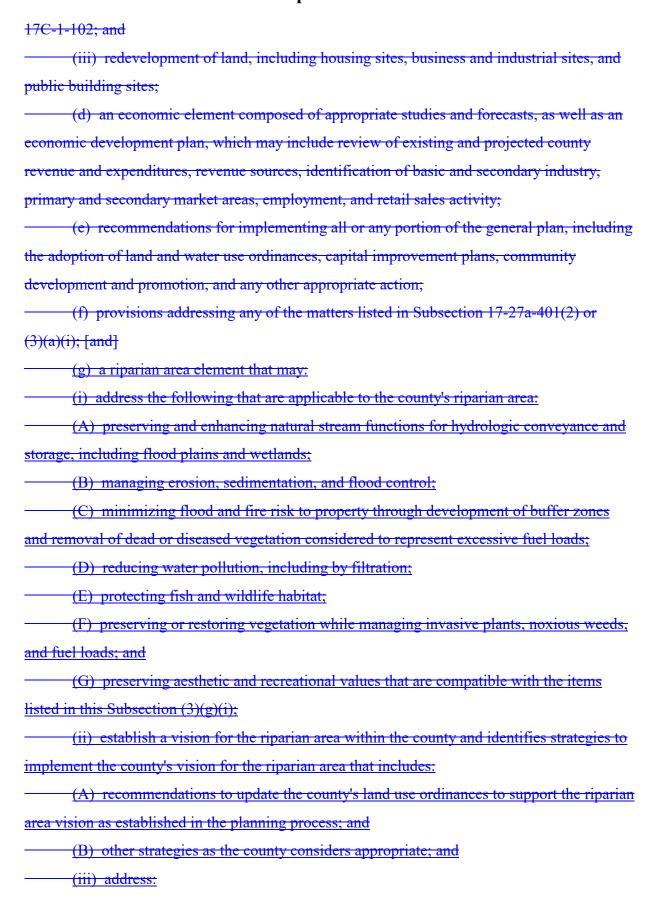
(V) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and (W) demonstrate implementation of any other program or strategy to address the housing needs of residents of the county who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing. (iii) If a specified county, as defined in Section 17-27a-408, has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified county shall include as part of the specified county's recommended strategies under Subsection (2)(b)(ii) a recommendation to implement the strategy described in Subsection (2)(b)(ii)(Q). (iv) The planning commission shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(ii). (c) In drafting the land use element, the planning commission shall: (i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district; (ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and (iii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1. (d) In drafting the transportation and traffic circulation element, the planning commission shall: (i) (A) consider and coordinate with the regional transportation plan developed by the county's region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or (B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by municipalities

located within the county under Section 10-9a-403.1. (e) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the county for implementation. (ii) The timeline described in Subsection (2)(e)(i) shall: (A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and (B) provide flexibility for the county to make adjustments as needed. (f) In drafting the water use and preservation element, the planning commission: (i) shall consider applicable regional water conservation goals recommended by the **Division of Water Resources**; (ii) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and water use and preservation element may affect the Great Salt Lake; (iii) shall notify the community water systems serving drinking water within the unincorporated portion of the county and request feedback from the community water systems about how implementation of the land use element and water use and preservation element may affect: (A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and (B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans; (iv) shall consider the potential opportunities and benefits of planning for regionalization of public water systems; (v) shall consult with the Department of Agriculture and Food for information and technical resources regarding the potential benefits of agriculture conservation easements and potential implementation of agriculture water optimization projects that would support regional water conservation goals; (vi) shall notify an irrigation or canal company located in the county so that the



(A) commercial, industrial, or institutional development;
(B) common interest community, as defined in Section 57-25-102; or
(C) multifamily housing project.
(3) The proposed general plan may include:
(a) an environmental element that addresses:
(i) to the extent not covered by the county's resource management plan, the protection
conservation, development, and use of natural resources, including the quality of:
——————————————————————————————————————
(B) forests;
——————————————————————————————————————
(D) rivers;
(E) groundwater and other waters;
(F) harbors;
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(J) other natural resources; and
(ii) (A) the reclamation of land, flood control, prevention and control of the pollution
of streams and other waters;
(B) the regulation of the use of land on hillsides, stream channels and other
environmentally sensitive areas;
(C) the prevention, control, and correction of the erosion of soils;
(D) the preservation and enhancement of watersheds and wetlands; and
(E) the mapping of known geologic hazards;
(b) a public services and facilities element showing general plans for sewage, water,
waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,
police and fire protection, and other public services;
(c) a rehabilitation, redevelopment, and conservation element consisting of plans and
programs for:
(i) historic preservation;
(ii) the diminution or elimination of a development impediment as defined in Section



- (A) situations identified in Subsection (3)(g)(i) that warrant the implementation of innovative or established zoning and preservation tools to regulate development to achieve riparian area protections; (B) situations that consider the ecological function and integrity of features that cut across a riparian area adjacent to flowing water, including a stream, bank, wetland, flood plain, or upland; (C) situations calling for the protection of native riparian plants, including identification and management of invasive species in accordance with state and federal law; (D) situations calling for the protection of culturally significant landforms, historical flood plains, or other important features close to rivers, streams, and wetlands; (E) what constitutes best practices for the use of herbicides, pesticides, and fertilizer in accordance, where relevant, with applicable state and federal law for management of recognized listed species; (F) situations calling for specific permits, analysis, or requests for minor exceptions or reasonable use exceptions if no feasible alternative exists; (G) what circumstances necessitate an applicant with a proposed project in a riparian area to submit a resource inventory and impact analysis for the riparian area; (II) whether to allow use of heavy equipment for construction of amenities or for removal of debris; (I) situations calling for the maintenance of trees that pose a safety risk from treefall, fire, or flow conveyance during flooding, or calling for removal of diseased trees; (J) situations calling for the maintenance or installation of irrigation and flood control devices; (K) how to account for activities approved by the United States Army Corps of Engineers or state engineer; (L) best practices in allowing public utility work; (M) the need to coordinate and cooperate with watershed councils, other governmental agencies, and jurisdictions to facilitate compatible regulation and protection of a riparian area and recognize the riparian and hydrologic functions that are regional in nature and that cross jurisdictional boundaries;
 - (N) strategies to avoid, minimize, or mitigate negative impacts affecting a riparian

area;

- (O) tools available for the management of a riparian area, such as tools published by the Division of Water Resources from federal, state, or local government agencies, including interlocal entities, and assistance provided under Section 73-10-36;
- (P) a repository with publicly accessible geographic data layers compiled by the Utah Geological Survey pursuant to Section 73-10-36 to facilitate delineation of riparian areas;
- (Q) the need for a process through which a landowner may modify riparian requirements to respond to unforeseen circumstances or to allow innovative development techniques that meet or exceed adopted standards; and
 - (R) property rights and appropriate compensation or benefits for property owners; and
- (iv) provide for management of the riparian area as part of the regulation of environmentally sensitive areas under this Subsection (3); and
 - [(g)] (h) any other element the county considers appropriate.
- (4) Notwithstanding Subsection (3)(g)(iii)(K), Subsection (3)(g) may not be interpreted to override, substitute, or modify a water right within the state or the role and authority of the state engineer.
- Section 6. Section 63I-1-273 is amended to read:
- **†** 63I-1-273. Repeal dates: Title 73.
- (1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.
- (2) Subsection {73-10-36} <u>73-10-39</u>({3} <u>2</u>), creating a position related to riparian {area elements in general plans} areas, is repealed July 1, 2029.
- [(2)] (3) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1, 2028.
- [(3)] (4) Section 73-18-3.5, which authorizes the Division of Outdoor Recreation to appoint an advisory council that includes in the advisory council's duties advising on boating policies, is repealed July 1, 2024.
- [(4)] (5) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:
 - (a) Subsection 73-1-4(2)(e)(xi) is repealed;
 - (b) Subsection 73-10-4(1)(h) is repealed; and

- (c) Title 73, Chapter 31, Water Banking Act, is repealed.
- [(5)] (6) Sections 73-32-302 and 73-32-303, related to the Great Salt Lake Advisory Council, are repealed July 1, 2027.

Section $\frac{7}{2}$. Section $\frac{73-10-36}{73-10-39}$ is $\frac{10-39}{10-39}$ in $\frac{10-39}{10-39}$

\(\frac{73-10-36}{73-10-39}\).\(\frac{\text{Division to provide technical assistance in local government}}{\text{planning -- Other divisions to provide expertise and knowledge -- Riparian map.}}

- Riparian areas efforts.
 - (1) As used in this section:
 - (a) "Division" means the Division of Water Resources.
- (b) "General plan":
- (i) for a municipality, means the same as that term is defined in Section 10-9a-103; and
 - (ii) for a county, means the same as that term is defined in Section 17-27a-103.
- <u>(c)</u>
- (b) "Local government" means a county or { a} municipality, as defined in Section 10-1-104.
- (\fd\c) "Watershed council" means a council created under Chapter 10g, Part 3,
 Watershed Councils Act.
- (2) (a) The division shall provide technical assistance to a local government to support the local government's adoption of a water use and preservation element or riparian area element in a general plan.
- [(3)] (b) When consulted by a local government for information and technical resources regarding regional water conservation goals under Subsection 10-9a-403(2)(f)(vi) or 17-27a-403(2)(f)(ii), the division may seek input from the appropriate watershed council or councils.
- (c) The division shall publish on a public website tools described in Subsection 10-9a-403(3)(g)(iii)(O) or 17-27a-403(3)(g)(iii)(O).}
 - ({3}) (a}2) The Department of Natural Resources shall create a position that:
- (\{\fi\}a) \{\text{works}\}\{\text{coordinates}\}\{\text{with the division}\}\{\text{the Division of Forestry}\}\{\text{Fire, and State}\}\{\text{Lands}\}\{\text{and the Utah Geological Survey to provide expertise}\{\text{and}\}\{\text{specialized knowledge}\{\text{to}}\}\{\text{local governments}\}\{\text{, and education and outreach efforts}\}\{\text{with regard to the management and}\}\{\text{improvement of riparian areas}\}\{\text{and}\}\{\text{and}\}\}

- (ii) coordinates with the division in providing technical assistance to a
- (b) provides assistance to local governments who request assistance with regard to the management and improvement of riparian areas;
- (c) supports initiatives under Title 79, Chapter 2, Part 6, Watershed Restoration Initiative, that benefit riparian areas;
 - (d) assists with projects related to tributaries to sovereign lands;
 - (e) facilitates efforts to create more resilience in riparian areas; and
- (f) seeks discussions on the management and improvement of riparian areas with the appropriate watershed council or councils.
- (3) The division shall publish on a public website tools available for the management or improvement of a riparian area, such as tools published by federal, state, or local government {related to a riparian area element in a general plan.
- (b) agencies, including interlocal entities, and examples of local government efforts to manage or improve riparian areas.
- (4) By no later than July 1, 2025, the Utah Geological Survey shall make publicly accessible a compilation of geographic data layers that facilitate delineation of riparian areas within the state.
- { (4) (a) The division shall offer and manage a program, known as the "Healthy Water Ways," to recognize local governments that adopt a riparian area vision:
 - (i) as part of land use regulations;
- (ii) in a general plan that substantially meets the recommendations found in Subsection 10-9a-403(3)(g) or Subsection 17-27a-403(3)(g); or
- (iii) in a master plan that substantially meets the recommendations found in Subsection 10-9a-403(3)(g) or Subsection 17-27a-403(3)(g).
- (b) As part of the Healthy Water Ways program, the division may issue other awards recognizing accomplishments of local governments in relation to riparian areas.
- (c) The Healthy Water Ways program shall award recognition to one or more local governments described in Subsection (4)(a) at least annually.
- (d) A local government may apply for recognition under the Healthy Water Ways
 program by filing an application with the individual who holds the position described in
 Subsection (3). The individual receiving the application shall assist the division in determining

which local governments should be recognized each year.

(e) After determining award recipients under this Subsection (4), the division may coordinate with associations for local governments in the distribution of those awards.

 $\frac{1}{3}$ Section $\frac{8}{3}$. Effective date.

This bill takes effect on May 1, 2024.