

**LOCAL GOVERNMENT AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen E. Sandstrom**

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

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**LONG TITLE**

**General Description:**

This bill amends the definition of "educational facility."

**Highlighted Provisions:**

This bill:

- ▶ amends the definition of "educational facility"; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-9a-103**, as last amended by Laws of Utah 2009, Chapters 163, 181, and 286

**17-27a-103**, as last amended by Laws of Utah 2009, Chapters 163, 181, and 286

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

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

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

As used in this chapter:

- (1) "Affected entity" means a county, municipality, local district, special service



28 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal  
29 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified  
30 public utility, a property owner, a property owners association, or the Utah Department of  
31 Transportation, if:

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

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

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

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

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

45 (4) "Charter school" includes:

46 (a) an operating charter school;

47 (b) a charter school applicant that has its application approved by a chartering entity in  
48 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

49 (c) an entity who is working on behalf of a charter school or approved charter applicant  
50 to develop or construct a charter school building.

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

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

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

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

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

62 (8) "Development activity" means:

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

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

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

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

72 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
 73 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
 74 802.

75 (10) "Educational facility"~~[(a)]~~ means:

76 ~~[(i)]~~ (a) a school district's or a charter school's building at which pupils assemble to  
 77 receive instruction in a program for any combination of grades from preschool through grade  
 78 12, including kindergarten and a program for children with disabilities;

79 ~~[(ii)]~~ (b) a structure or facility:

80 ~~[(A)]~~ (i) located on the same property as a building described in Subsection  
 81 (10)(a)~~[(i)]~~; and

82 ~~[(B)]~~ (ii) used in support of the use of that building; ~~[and]~~

83 ~~[(iii)]~~ (c) a building to provide office and related space to a school district's  
 84 administrative personnel; and

85 ~~[(b) does not include land or a structure, including land or a structure for inventory  
 86 storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or  
 87 other use in support of providing instruction to pupils, that is:]~~

88 ~~[(i) not located on the same property as a building described in Subsection (10)(a)(i);  
 89 and]~~

90 ~~[(ii) used in support of the purposes of a building described in Subsection (10)(a)(i).]~~

91 (d) any other building, structure, or land owned or leased by a school district or a  
92 charter school.

93 (11) "Elderly person" means a person who is 60 years old or older, who desires or  
94 needs to live with other elderly persons in a group setting, but who is capable of living  
95 independently.

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

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

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

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

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

108 (15) "Geologic hazard" means:

109 (a) a surface fault rupture;

110 (b) shallow groundwater;

111 (c) liquefaction;

112 (d) a landslide;

113 (e) a debris flow;

114 (f) unstable soil;

115 (g) a rock fall; or

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

117 (i) to life;

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

119 (iii) of substantial damage to real property.

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

121 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other  
122 utility system.

123 (17) "Identical plans" means building plans submitted to a municipality that are  
124 substantially identical to building plans that were previously submitted to and reviewed and  
125 approved by the municipality and describe a building that is:

126 (a) located on land zoned the same as the land on which the building described in the  
127 previously approved plans is located; and

128 (b) subject to the same geological and meteorological conditions and the same law as  
129 the building described in the previously approved plans.

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

132 (19) "Improvement assurance" means a surety bond, letter of credit, cash, or other  
133 security:

134 (a) to guaranty the proper completion of an improvement;

135 (b) that is required as a condition precedent to:

136 (i) recording a subdivision plat; or

137 (ii) beginning development activity; and

138 (c) that is offered to a land use authority to induce the land use authority, before actual  
139 construction of required improvements, to:

140 (i) consent to the recording of a subdivision plat; or

141 (ii) issue a permit for development activity.

142 (20) "Improvement assurance warranty" means a promise that the materials and  
143 workmanship of improvements:

144 (a) comport with standards that the municipality has officially adopted; and

145 (b) will not fail in any material respect within a warranty period.

146 (21) "Land use application" means an application required by a municipality's land use  
147 ordinance.

148 (22) "Land use authority" means a person, board, commission, agency, or other body  
149 designated by the local legislative body to act upon a land use application.

150 (23) "Land use ordinance" means a planning, zoning, development, or subdivision  
151 ordinance of the municipality, but does not include the general plan.

152 (24) "Land use permit" means a permit issued by a land use authority.

153 (25) "Legislative body" means the municipal council.

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

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

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

162 (29) "Nominal fee" means a fee that reasonably reimburses a municipality only for time  
163 spent and expenses incurred in:

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

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

167 (30) "Noncomplying structure" means a structure that:

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

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

172 (31) "Nonconforming use" means a use of land that:

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

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

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

178 (32) "Official map" means a map drawn by municipal authorities and recorded in a  
179 county recorder's office that:

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

182 (b) provides a basis for restricting development in designated rights-of-way or between

183 designated setbacks to allow the government authorities time to purchase or otherwise reserve  
184 the land; and

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

186 (33) "Person" means an individual, corporation, partnership, organization, association,  
187 trust, governmental agency, or any other legal entity.

188 (34) "Plan for moderate income housing" means a written document adopted by a city  
189 legislative body that includes:

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

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

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

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

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

199 (35) "Plat" means a map or other graphical representation of lands being laid out and  
200 prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

201 (36) "Potential geologic hazard area" means an area that:

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

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

208 (37) "Public agency" means:

209 (a) the federal government;

210 (b) the state;

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

213 (d) a charter school.

214 (38) "Public hearing" means a hearing at which members of the public are provided a  
215 reasonable opportunity to comment on the subject of the hearing.

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

218 (40) "Record of survey map" means a map of a survey of land prepared in accordance  
219 with Section 17-23-17.

220 (41) "Receiving zone" means an area of a municipality that the municipality's land use  
221 authority designates as an area in which an owner of land may receive transferrable  
222 development rights.

223 (42) "Residential facility for elderly persons" means a single-family or multiple-family  
224 dwelling unit that meets the requirements of Section 10-9a-516, but does not include a health  
225 care facility as defined by Section 26-21-2.

226 (43) "Residential facility for persons with a disability" means a residence:

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

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

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

232 (44) "Sanitary sewer authority" means the department, agency, or public entity with  
233 responsibility to review and approve the feasibility of sanitary sewer services or onsite  
234 wastewater systems.

235 (45) "Sending zone" means an area of a municipality that the municipality's land use  
236 authority designates as an area from which an owner of land may transfer transferrable  
237 development rights to an owner of land in a receiving zone.

238 (46) "Specified public agency" means:

239 (a) the state;

240 (b) a school district; or

241 (c) a charter school.

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

244 (48) "State" includes any department, division, or agency of the state.



245 (49) "Street" means a public right-of-way, including a highway, avenue, boulevard,  
246 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other  
247 way.

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

252 (b) "Subdivision" includes:

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

255 (ii) except as provided in Subsection (50)(c), divisions of land for residential and  
256 nonresidential uses, including land used or to be used for commercial, agricultural, and  
257 industrial purposes.

258 (c) "Subdivision" does not include:

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

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

265 (A) no new lot is created; and

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

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

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

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

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

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

275 (B) the adjustment will not violate any applicable land use ordinance.

276 (d) The joining of a subdivided parcel of property to another parcel of property that has  
277 not been subdivided does not constitute a subdivision under this Subsection (50) as to the  
278 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's  
279 subdivision ordinance.

280 (51) "Transferrable development right" means the entitlement to develop land within a  
281 sending zone that would vest according to the municipality's existing land use ordinances on  
282 the date that a completed land use application is filed seeking the approval of development  
283 activity on the land.

284 (52) "Unincorporated" means the area outside of the incorporated area of a city or  
285 town.

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

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

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

289 (i) a contract; or

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

291 (54) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts  
292 land use zones, overlays, or districts.

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

294 **17-27a-103. Definitions.**

295 As used in this chapter:

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

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

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

305 (c) the entity has filed with the county a request for notice during the same calendar  
306 year and before the county provides notice to an affected entity in compliance with a

307 requirement imposed under this chapter.

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

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

314 (4) "Charter school" includes:

315 (a) an operating charter school;

316 (b) a charter school applicant that has its application approved by a chartering entity in  
317 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

318 (c) an entity who is working on behalf of a charter school or approved charter applicant  
319 to develop or construct a charter school building.

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

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

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

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

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

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

333 (9) "Development activity" means:

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

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

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

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

343 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
344 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
345 802.

346 (11) "Educational facility"~~[-(a)]~~ means:

347 ~~[(i)]~~ (a) a school district's or a charter school's building at which pupils assemble to  
348 receive instruction in a program for any combination of grades from preschool through grade  
349 12, including kindergarten and a program for children with disabilities;

350 ~~[(ii)]~~ (b) a structure or facility:

351 ~~[(A)]~~ (i) located on the same property as a building described in Subsection

352 (11)(a)~~[(i)]~~; and

353 ~~[(B)]~~ (ii) used in support of the use of that building; ~~[and]~~

354 ~~[(iii)]~~ (c) a building to provide office and related space to a school district's  
355 administrative personnel; and

356 ~~[(b) does not include land or a structure, including land or a structure for inventory  
357 storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or  
358 other use in support of providing instruction to pupils, that is:]~~

359 ~~[(i) not located on the same property as a building described in Subsection (11)(a)(i);  
360 and]~~

361 ~~[(ii) used in support of the purposes of a building described in Subsection (11)(a)(i).]~~

362 (d) any other building, structure, or land owned or leased by a school district or a  
363 charter school.

364 (12) "Elderly person" means a person who is 60 years old or older, who desires or  
365 needs to live with other elderly persons in a group setting, but who is capable of living  
366 independently.

367 (13) "Fire authority" means the department, agency, or public entity with responsibility  
368 to review and approve the feasibility of fire protection and suppression services for the subject

369 property.

370 (14) "Flood plain" means land that:

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

372 Management Agency; or

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

377 (15) "Gas corporation" has the same meaning as defined in Section 54-2-1.

378 (16) "General plan" means a document that a county adopts that sets forth general  
379 guidelines for proposed future development of the unincorporated land within the county.

380 (17) "Geologic hazard" means:

381 (a) a surface fault rupture;

382 (b) shallow groundwater;

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

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392 (18) "Hookup fee" means a fee for the installation and inspection of any pipe, line,  
393 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility  
394 system.

395 (19) "Identical plans" means building plans submitted to a county that are substantially  
396 identical building plans that were previously submitted to and reviewed and approved by the  
397 county and describe a building that is:

398 (a) located on land zoned the same as the land on which the building described in the  
399 previously approved plans is located; and

400 (b) subject to the same geological and meteorological conditions and the same law as  
401 the building described in the previously approved plans.

402 (20) "Impact fee" means a payment of money imposed under Title 11, Chapter 36,  
403 Impact Fees Act.

404 (21) "Improvement assurance" means a surety bond, letter of credit, cash, or other  
405 security:

406 (a) to guaranty the proper completion of an improvement;

407 (b) that is required as a condition precedent to:

408 (i) recording a subdivision plat; or

409 (ii) beginning development activity; and

410 (c) that is offered to a land use authority to induce the land use authority, before actual  
411 construction of required improvements, to:

412 (i) consent to the recording of a subdivision plat; or

413 (ii) issue a permit for development activity.

414 (22) "Improvement assurance warranty" means a promise that the materials and  
415 workmanship of improvements:

416 (a) comport with standards that the county has officially adopted; and

417 (b) will not fail in any material respect within a warranty period.

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

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

424 (25) "Land use application" means an application required by a county's land use  
425 ordinance.

426 (26) "Land use authority" means a person, board, commission, agency, or other body  
427 designated by the local legislative body to act upon a land use application.

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

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

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

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

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

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

441 (33) "Nominal fee" means a fee that reasonably reimburses a county only for time spent  
442 and expenses incurred in:

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

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

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

451 (35) "Nonconforming use" means a use of land that:

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

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

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

457 (36) "Official map" means a map drawn by county authorities and recorded in the  
458 county recorder's office that:

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

461 (b) provides a basis for restricting development in designated rights-of-way or between

462 designated setbacks to allow the government authorities time to purchase or otherwise reserve  
463 the land; and

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

465 (37) "Person" means an individual, corporation, partnership, organization, association,  
466 trust, governmental agency, or any other legal entity.

467 (38) "Plan for moderate income housing" means a written document adopted by a  
468 county legislative body that includes:

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

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

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

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

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

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

480 (40) "Potential geologic hazard area" means an area that:

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

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

487 (41) "Public agency" means:

488 (a) the federal government;

489 (b) the state;

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

492 (d) a charter school.



493 (42) "Public hearing" means a hearing at which members of the public are provided a  
494 reasonable opportunity to comment on the subject of the hearing.

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

497 (44) "Receiving zone" means an unincorporated area of a county that the county's land  
498 use authority designates as an area in which an owner of land may receive transferrable  
499 development rights.

500 (45) "Record of survey map" means a map of a survey of land prepared in accordance  
501 with Section 17-23-17.

502 (46) "Residential facility for elderly persons" means a single-family or multiple-family  
503 dwelling unit that meets the requirements of Section 17-27a-515, but does not include a health  
504 care facility as defined by Section 26-21-2.

505 (47) "Residential facility for persons with a disability" means a residence:

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

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

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

511 (48) "Sanitary sewer authority" means the department, agency, or public entity with  
512 responsibility to review and approve the feasibility of sanitary sewer services or onsite  
513 wastewater systems.

514 (49) "Sending zone" means an unincorporated area of a county that the county's land  
515 use authority designates as an area from which an owner of land may transfer transferrable  
516 development rights to an owner of land in a receiving zone.

517 (50) "Specified public agency" means:

518 (a) the state;

519 (b) a school district; or

520 (c) a charter school.

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

523 (52) "State" includes any department, division, or agency of the state.

524 (53) "Street" means a public right-of-way, including a highway, avenue, boulevard,  
525 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other  
526 way.

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

531 (b) "Subdivision" includes:

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

534 (ii) except as provided in Subsection (54)(c), divisions of land for residential and  
535 nonresidential uses, including land used or to be used for commercial, agricultural, and  
536 industrial purposes.

537 (c) "Subdivision" does not include:

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

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

541 (A) no new lot is created; and

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

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

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

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

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

550 (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas  
551 corporation, interstate pipeline company, or intrastate pipeline company; or

552 (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other  
553 utility service regeneration, transformation, retransmission, or amplification facility; or

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

555 their mutual boundary if:

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

557 (B) the adjustment will not violate any applicable land use ordinance.

558 (d) The joining of a subdivided parcel of property to another parcel of property that has  
559 not been subdivided does not constitute a subdivision under this Subsection (54) as to the  
560 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision  
561 ordinance.

562 (55) "Township" means a contiguous, geographically defined portion of the  
563 unincorporated area of a county, established under this part or reconstituted or reinstated under  
564 Section 17-27a-306, with planning and zoning functions as exercised through the township  
565 planning commission, as provided in this chapter, but with no legal or political identity  
566 separate from the county and no taxing authority, except that "township" means a former  
567 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

568 (56) "Transferrable development right" means the entitlement to develop land within a  
569 sending zone that would vest according to the county's existing land use ordinances on the date  
570 that a completed land use application is filed seeking the approval of development activity on  
571 the land.

572 (57) "Unincorporated" means the area outside of the incorporated area of a  
573 municipality.

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

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

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

577 (i) a contract; or

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

579 (59) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts  
580 land use zones, overlays, or districts.

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**Legislative Review Note**  
as of 2-1-10 8:21 AM

**Office of Legislative Research and General Counsel**

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**H.B. 282 - Local Government Amendments**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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