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**PLANNING DISTRICTS AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brian S. King**

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

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**LONG TITLE**

**General Description:**

This bill authorizes the creation and governance of a mountainous planning district.

**Highlighted Provisions:**

This bill:

- ▶ prohibits the incorporation of an area within a mountainous planning district;
- ▶ excludes, with certain exceptions, any area located within a mountainous planning district from the land use jurisdiction of a municipality;
- ▶ defines terms;
- ▶ authorizes a county to establish a planning commission for a mountainous planning district;
- ▶ prohibits a county from establishing a township planning commission for a township that is located in whole or in part within a mountainous planning district;
- ▶ authorizes a county legislative body to modify the boundaries of an existing township to exclude an area within a mountainous planning district;
- ▶ amends other applicable provisions of Title 17, Chapter 27a, County Land Use, Development, and Management Act;
- ▶ authorizes a county to designate a mountainous planning district under certain circumstances; and
- ▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

- 33 **10-9a-304**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 34 **17-27a-102**, as last amended by Laws of Utah 2007, Chapter 363
- 35 **17-27a-103**, as last amended by Laws of Utah 2013, Chapters 309, 334, and 476
- 36 **17-27a-210**, as enacted by Laws of Utah 2005, Chapter 231
- 37 **17-27a-301**, as last amended by Laws of Utah 2011, Chapters 107 and 305
- 38 **17-27a-302**, as last amended by Laws of Utah 2012, Chapter 359
- 39 **17-27a-305**, as last amended by Laws of Utah 2013, Chapter 200
- 40 **17-27a-401**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 41 **17-27a-403**, as last amended by Laws of Utah 2012, Chapter 212
- 42 **17-27a-502**, as last amended by Laws of Utah 2013, Chapter 324
- 43 **17-27a-505.5**, as last amended by Laws of Utah 2012, Chapter 172
- 44 **17-27a-509.7**, as last amended by Laws of Utah 2012, Chapter 231
- 45 **17-27a-602**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 46 **17-27a-604**, as last amended by Laws of Utah 2011, Chapter 377
- 47 **17-27a-605**, as last amended by Laws of Utah 2012, Chapter 99

48 ENACTS:

- 49 **10-2-101.6**, Utah Code Annotated 1953
- 50 **17-27a-901**, Utah Code Annotated 1953



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

53 Section 1. Section **10-2-101.6** is enacted to read:

54 **10-2-101.6. Incorporation of an area within a mountainous planning district**  
55 **prohibited.**

56 An area located within a mountainous planning district, as defined in Section  
57 17-27a-103, may not incorporate in accordance with the provisions of this chapter.

58 Section 2. Section **10-9a-304** is amended to read:

59 **10-9a-304. State and federal property -- Mountainous planning district.**

60 (1) Unless otherwise provided by law, nothing contained in this chapter may be  
61 construed as giving a municipality jurisdiction over property owned by the state or the United  
62 States.

63 (2) (a) Except as provided in Subsection (2)(b), for purposes of this chapter, a  
64 municipality, a municipal planning commission, or a municipal land use authority does not  
65 have jurisdiction over property located within a mountainous planning district as defined in  
66 Section 17-27a-103.

67 (b) Subsection (2)(a) does not apply to a municipality that:

68 (i) (A) is wholly located within the boundaries of a mountainous planning district; and

69 (B) was incorporated in or before 1970;

70 (ii) is exercising its extraterritorial jurisdiction as authorized by Section 10-8-15; or

71 (iii) has been granted joint authority to regulate its watershed areas by a local health  
72 authority.

73 Section 3. Section **17-27a-102** is amended to read:

74 **17-27a-102. Purposes -- General land use authority.**

75 (1) (a) The purposes of this chapter are to provide for the health, safety, and welfare,  
76 and promote the prosperity, improve the morals, peace and good order, comfort, convenience,  
77 and aesthetics of each county and its present and future inhabitants and businesses, to protect  
78 the tax base, to secure economy in governmental expenditures, to foster the state's agricultural  
79 and other industries, to protect both urban and nonurban development, to protect and ensure  
80 access to sunlight for solar energy devices, to provide fundamental fairness in land use  
81 regulation, and to protect property values.

82 (b) To accomplish the purposes of this chapter, counties may enact all ordinances,  
83 resolutions, and rules and may enter into other forms of land use controls and development  
84 agreements that they consider necessary or appropriate for the use and development of land  
85 within the unincorporated area of the county or a designated mountainous planning district,  
86 including ordinances, resolutions, rules, restrictive covenants, easements, and development  
87 agreements governing uses, density, open spaces, structures, buildings, energy-efficiency, light  
88 and air, air quality, transportation and public or alternative transportation, infrastructure, street  
89 and building orientation and width requirements, public facilities, fundamental fairness in land

90 use regulation, considerations of surrounding land uses and the balance of the foregoing  
91 purposes with a landowner's private property interests, height and location of vegetation, trees,  
92 and landscaping, unless expressly prohibited by law.

93 (2) Each county shall comply with the mandatory provisions of this part before any  
94 agreement or contract to provide goods, services, or municipal-type services to any storage  
95 facility or transfer facility for high-level nuclear waste, or greater than class C radioactive  
96 waste, may be executed or implemented.

97 Section 4. Section **17-27a-103** is amended to read:

98 **17-27a-103. Definitions.**

99 As used in this chapter:

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

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

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

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

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

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

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

119 (i) an operating charter school;

120 (ii) a charter school applicant that has its application approved by a chartering entity in

121 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

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

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

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

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

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

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

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

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

138 (9) "Development activity" means:

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

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

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

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

148 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
149 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
150 802.

151 (11) "Educational facility":

152 (a) means:

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

156 (ii) a structure or facility:

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

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

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

161 (b) does not include:

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

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

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

167 (ii) a therapeutic school.

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

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

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

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

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

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

181 (a) the unincorporated land within the county[-]; or

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

183 district.

184 (16) "Geologic hazard" means:

185 (a) a surface fault rupture;

186 (b) shallow groundwater;

187 (c) liquefaction;

188 (d) a landslide;

189 (e) a debris flow;

190 (f) unstable soil;

191 (g) a rock fall; or

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

193 (i) to life;

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

195 (iii) of substantial damage to real property.

196 [~~18~~] (17) "Hookup fee" means a fee for the installation and inspection of any pipe,  
197 line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other  
198 utility system.

199 [~~19~~] (18) "Identical plans" means building plans submitted to a county that:

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

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

203 (c) describe a building that:

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

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

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

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

211 [~~20~~] (19) "Impact fee" means a payment of money imposed under Title 11, Chapter  
212 36a, Impact Fees Act.

213 [~~21~~] (20) "Improvement completion assurance" means a surety bond, letter of credit,

214 cash, or other security required by a county to guaranty the proper completion of landscaping or  
215 infrastructure that the land use authority has required as a condition precedent to:

- 216 (a) recording a subdivision plat; or
- 217 (b) beginning development activity.

218 ~~[(22)]~~ (21) "Improvement warranty" means an applicant's unconditional warranty that  
219 the accepted landscaping or infrastructure:

- 220 (a) complies with the county's written standards for design, materials, and  
221 workmanship; and
- 222 (b) will not fail in any material respect, as a result of poor workmanship or materials,  
223 within the improvement warranty period.

224 ~~[(23)]~~ (22) "Improvement warranty period" means a period:

- 225 (a) no later than one year after a county's acceptance of required landscaping; or
- 226 (b) no later than one year after a county's acceptance of required infrastructure, unless  
227 the county:

- 228 (i) determines for good cause that a one-year period would be inadequate to protect the  
229 public health, safety, and welfare; and
- 230 (ii) has substantial evidence, on record:
  - 231 (A) of prior poor performance by the applicant; or
  - 232 (B) that the area upon which the infrastructure will be constructed contains suspect soil  
233 and the county has not otherwise required the applicant to mitigate the suspect soil.

234 ~~[(17)]~~ (23) "Internal lot restriction" means a platted note, platted demarcation, or  
235 platted designation that:

- 236 (a) runs with the land; and
- 237 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on  
238 the plat; or
- 239 (ii) designates a development condition that is enclosed within the perimeter of a lot  
240 described on the plat.

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

244 (25) "Intrastate pipeline company" means a person or entity engaged in natural gas



245 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory  
246 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

247 (26) "Land use application" means an application required by a county's land use  
248 ordinance.

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

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

253 (29) "Land use permit" means a permit issued by a land use authority.

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

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

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

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

264 (34) "Mountainous planning district" means an area designated by a county legislative  
265 body in accordance with Section [17-27a-901](#).

266 [~~34~~] (35) "Nominal fee" means a fee that reasonably reimburses a county only for  
267 time spent and expenses incurred in:

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

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

271 [~~35~~] (36) "Noncomplying structure" means a structure that:

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

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

276 [~~36~~] (37) "Nonconforming use" means a use of land that:

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

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

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

282 [~~37~~] (38) "Official map" means a map drawn by county authorities and recorded in  
283 the county recorder's office that:

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

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

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

290 [~~38~~] (39) "Parcel boundary adjustment" means a recorded agreement between owners  
291 of adjoining properties adjusting their mutual boundary if:

292 (a) no additional parcel is created; and

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

295 [~~39~~] (40) "Person" means an individual, corporation, partnership, organization,  
296 association, trust, governmental agency, or any other legal entity.

297 [~~40~~] (41) "Plan for moderate income housing" means a written document adopted by  
298 a county legislative body that includes:

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

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

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

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

306 (e) a description of the county's program to encourage an adequate supply of moderate

307 income housing.

308 ~~[(41)]~~ (42) "Plat" means a map or other graphical representation of lands being laid out  
309 and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

310 ~~[(42)]~~ (43) "Potential geologic hazard area" means an area that:

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

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

317 ~~[(43)]~~ (44) "Public agency" means:

318 (a) the federal government;

319 (b) the state;

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

322 (d) a charter school.

323 ~~[(44)]~~ (45) "Public hearing" means a hearing at which members of the public are  
324 provided a reasonable opportunity to comment on the subject of the hearing.

325 ~~[(45)]~~ (46) "Public meeting" means a meeting that is required to be open to the public  
326 under Title 52, Chapter 4, Open and Public Meetings Act.

327 ~~[(46)]~~ (47) "Receiving zone" means an unincorporated area of a county that the county  
328 designates, by ordinance, as an area in which an owner of land may receive a transferable  
329 development right.

330 ~~[(47)]~~ (48) "Record of survey map" means a map of a survey of land prepared in  
331 accordance with Section 17-23-17.

332 ~~[(48)]~~ (49) "Residential facility for persons with a disability" means a residence:

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

334 (b) (i) which is licensed or certified by the Department of Human Services under Title  
335 62A, Chapter 2, Licensure of Programs and Facilities; or

336 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter  
337 21, Health Care Facility Licensing and Inspection Act.

338            [~~(49)~~] (50) "Rules of order and procedure" means a set of rules that govern and  
339 prescribe in a public meeting:

- 340            (a) parliamentary order and procedure;
- 341            (b) ethical behavior; and
- 342            (c) civil discourse.

343            [~~(50)~~] (51) "Sanitary sewer authority" means the department, agency, or public entity  
344 with responsibility to review and approve the feasibility of sanitary sewer services or onsite  
345 wastewater systems.

346            [~~(51)~~] (52) "Sending zone" means an unincorporated area of a county that the county  
347 designates, by ordinance, as an area from which an owner of land may transfer a transferable  
348 development right.

349            [~~(52)~~] (53) "Site plan" means a document or map that may be required by a county  
350 during a preliminary review preceding the issuance of a building permit to demonstrate that an  
351 owner's or developer's proposed development activity meets a land use requirement.

352            [~~(53)~~] (54) "Specified public agency" means:

- 353            (a) the state;
- 354            (b) a school district; or
- 355            (c) a charter school.

356            [~~(54)~~] (55) "Specified public utility" means an electrical corporation, gas corporation,  
357 or telephone corporation, as those terms are defined in Section [54-2-1](#).

358            [~~(55)~~] (56) "State" includes any department, division, or agency of the state.

359            [~~(56)~~] (57) "Street" means a public right-of-way, including a highway, avenue,  
360 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,  
361 or other way.

362            [~~(57)~~] (58) (a) "Subdivision" means any land that is divided, resubdivided or proposed  
363 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the  
364 purpose, whether immediate or future, for offer, sale, lease, or development either on the  
365 installment plan or upon any and all other plans, terms, and conditions.

366            (b) "Subdivision" includes:

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

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

372 (c) "Subdivision" does not include:

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

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

376 (A) no new lot is created; and

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

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

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

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

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

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

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

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

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

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

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

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

396 (vii) a parcel boundary adjustment.

397 (d) The joining of a subdivided parcel of property to another parcel of property that has  
398 not been subdivided does not constitute a subdivision under this Subsection [~~(57)~~] (58) as to  
399 the unsubdivided parcel of property or subject the unsubdivided parcel to the county's

400 subdivision ordinance.

401 ~~[(58)]~~ (59) "Suspect soil" means soil that has:

402 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
403 3% swell potential;

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

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

407 ~~[(59)]~~ (60) "Therapeutic school" means a residential group living facility:

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

409 (i) the owner of the facility; or

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

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

412 (i) at home;

413 (ii) in a public school; or

414 (iii) in a nonresidential private school; and

415 (c) that offers:

416 (i) room and board; and

417 (ii) an academic education integrated with:

418 (A) specialized structure and supervision; or

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

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

421 ~~[(60)]~~ (61) "Township" means a contiguous, geographically defined portion of the  
422 unincorporated area of a county, established under this part or reconstituted or reinstated under  
423 Section [17-27a-306](#), with planning and zoning functions as exercised through the township  
424 planning commission, as provided in this chapter, but with no legal or political identity  
425 separate from the county and no taxing authority, except that "township" means a former  
426 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

427 ~~[(61)]~~ (62) "Transferable development right" means a right to develop and use land that  
428 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer  
429 land use rights from a designated sending zone to a designated receiving zone.

430 ~~[(62)]~~ (63) "Unincorporated" means the area outside of the incorporated area of a

431 municipality.

432 [~~(63)~~] (64) "Water interest" means any right to the beneficial use of water, including:

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

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

435 (i) a contract; or

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

437 [~~(64)~~] (65) "Zoning map" means a map, adopted as part of a land use ordinance, that  
438 depicts land use zones, overlays, or districts.

439 Section 5. Section 17-27a-210 is amended to read:

440 **17-27a-210. Notice to county when a private institution of higher education is**  
441 **constructing student housing.**

442 (1) Each private institution of higher education that intends to construct student  
443 housing on property owned by the institution shall provide written notice of the intended  
444 construction, as provided in Subsection (2), before any funds are committed to the  
445 construction, if any of the proposed student housing buildings is within 300 feet of privately  
446 owned residential property.

447 (2) Each notice under Subsection (1) shall be provided to the legislative body and, if  
448 applicable, the mayor of:

449 (a) the county in whose unincorporated area or the mountainous planning district area  
450 the privately owned residential property is located; or

451 (b) the municipality in whose boundaries the privately owned residential property is  
452 located.

453 (3) At the request of a county or municipality that is entitled to notice under this  
454 section, the institution and the legislative body of the affected county or municipality shall  
455 jointly hold a public hearing to provide information to the public and receive input from the  
456 public about the proposed construction.

457 Section 6. Section 17-27a-301 is amended to read:

458 **17-27a-301. Ordinance establishing planning commission required -- Exception --**  
459 **Ordinance requirements -- Township planning commission -- Compensation.**

460 (1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance  
461 establishing a countywide planning commission for the unincorporated areas of the county not

462 within a township.

463 (b) Subsection (1)(a) does not apply if all of the county is included within any  
464 combination of:

465 (i) municipalities; [~~and~~]

466 (ii) townships with their own planning commissions[-]; and

467 (iii) mountainous planning districts.

468 (c) (i) Notwithstanding Subsection (1)(a), and except as provided in Subsection  
469 (1)(c)(ii), a county that designates a mountainous planning district shall enact an ordinance,  
470 subject to Subsection (1)(c)(ii), establishing a planning commission that has jurisdiction over  
471 the entire mountainous planning district, including areas of the mountainous planning district  
472 that are also located within a municipality or township or are unincorporated.

473 (ii) A planning commission described in Subsection (1)(c)(i):

474 (A) does not have jurisdiction over a municipality described in Subsection  
475 10-9a-304(2)(b); and

476 (B) has jurisdiction subject to a local health department exercising its authority in  
477 accordance with Title 26A, Chapter 1, Local Health Departments.

478 (iii) The ordinance shall require that the members of the planning commission represent  
479 areas located in the unincorporated and incorporated county.

480 (2) (a) The ordinance described in Subsection (1)(a) or (1)(c) shall define:

481 (i) the number and terms of the members and, if the county chooses, alternate  
482 members;

483 (ii) the mode of appointment;

484 (iii) the procedures for filling vacancies and removal from office;

485 (iv) the authority of the planning commission;

486 (v) subject to Subsection (2)(b), the rules of order and procedure for use by the  
487 planning commission in a public meeting; and

488 (vi) other details relating to the organization and procedures of the planning  
489 commission.

490 (b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with  
491 Title 52, Chapter 4, Open and Public Meetings Act.

492 (3) (a) (i) If the county establishes a township planning commission, the county



493 legislative body shall enact an ordinance that defines:

494 (A) appointment procedures;

495 (B) procedures for filling vacancies and removing members from office;

496 (C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the

497 township planning commission in a public meeting; and

498 (D) details relating to the organization and procedures of each township planning

499 commission.

500 (ii) Subsection (3)(a)(i)(C) does not affect the township planning commission's duty to

501 comply with Title 52, Chapter 4, Open and Public Meetings Act.

502 (iii) A county may not establish a township planning commission for a township that is

503 located in whole or in part within a mountainous planning district.

504 (iv) Notwithstanding Section [17-27a-306](#), a county legislative body may adopt a

505 resolution that modifies the boundaries of an existing township to exclude from that township

506 any area included or to be included within the boundaries of a mountainous planning district.

507 (b) The planning commission for each township shall consist of seven members who,

508 except as provided in Subsection (4), shall be appointed by:

509 (i) in a county operating under a form of government in which the executive and

510 legislative functions of the governing body are separated, the county executive with the advice

511 and consent of the county legislative body; or

512 (ii) in a county operating under a form of government in which the executive and

513 legislative functions of the governing body are not separated, the county legislative body.

514 (c) (i) Members shall serve four-year terms and until their successors are appointed or,

515 as provided in Subsection (4), elected and qualified.

516 (ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in

517 Subsection (4), members of the first planning commissions shall be appointed so that, for each

518 commission, the terms of at least one member and no more than two members expire each

519 year.

520 (d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township

521 planning commission shall be a registered voter residing within the township.

522 (ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission

523 of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established

524 under Subsection [17-27a-306\(1\)\(k\)\(i\)](#) may be an appointed member who is a registered voter  
525 residing outside the township if that member:

526 (I) is an owner of real property located within the township; and

527 (II) resides within the county in which the township is located.

528 (B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township  
529 planning commission from a list of three persons submitted by the county legislative body.

530 (II) If the township planning commission has not notified the county legislative body of  
531 its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning  
532 commission's receipt of the list, the county legislative body may appoint one of the three  
533 persons on the list or a registered voter residing within the township as a member of the  
534 township planning commission.

535 (4) (a) The legislative body of each county in which a township reconstituted under  
536 Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection  
537 [17-27a-306\(1\)\(e\)\(i\)](#) is located shall on or before January 1, 2012, enact an ordinance that  
538 provides for the election of at least three members of the planning commission of that  
539 township.

540 (b) (i) Beginning with the 2012 general election, the election of planning commission  
541 members under Subsection (4)(a) shall coincide with the election of other county officers  
542 during even-numbered years.

543 (ii) Approximately half the elected planning commission members shall be elected  
544 every four years during elections held on even-numbered years, and the remaining elected  
545 members shall be elected every four years on alternating even-numbered years.

546 (c) If no person files a declaration of candidacy in accordance with Section [20A-9-202](#)  
547 for an open township planning commission member position:

548 (i) the position may be appointed in accordance with Subsection (3)(b); and

549 (ii) a person appointed under Subsection (4)(c)(i) may not serve for a period of time  
550 that exceeds the elected term for which there was no candidate.

551 (5) (a) A legislative body described in Subsection (4)(a) shall on or before January 1,  
552 2012, enact an ordinance that:

553 (i) designates the seats to be elected; and

554 (ii) subject to Subsection (6)(b), appoints a member of the planning and zoning board

555 of the former township, established under Laws of Utah 1996, Chapter 308, as a member of the  
556 planning commission of the reconstituted or reinstated township.

557 (b) A member appointed under Subsection (5)(a) is considered an elected member.

558 (6) (a) Except as provided in Subsection (6)(b), the term of each member appointed  
559 under Subsection (5)(a) shall continue until the time that the member's term as an elected  
560 member of the former township planning and zoning board would have expired.

561 (b) (i) Notwithstanding Subsection (6)(a), the county legislative body may adjust the  
562 terms of the members appointed under Subsection (5)(a) so that the terms of those members  
563 coincide with the schedule under Subsection (4)(b) for elected members.

564 (ii) Subject to Subsection (6)(b)(iii), the legislative body of a county in which a  
565 township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established  
566 under Subsection 17-27a-306(1)(e)(i) is located may enact an ordinance allowing each  
567 appointed member of the planning and zoning board of the former township, established under  
568 Laws of Utah 1996, Chapter 308, to continue to hold office as a member of the planning  
569 commission of the reconstituted or reinstated township until the time that the member's term as  
570 a member of the former township's planning and zoning board would have expired.

571 (iii) If a planning commission of a township reconstituted under Laws of Utah 1997,  
572 Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(e)(i) has more than  
573 one appointed member who resides outside the township, the legislative body of the county in  
574 which that township is located shall, within 15 days of the effective date of this Subsection  
575 (6)(b)(iii), dismiss all but one of the appointed members who reside outside the township, and a  
576 new member shall be appointed under Subsection (3)(b) to fill the position of each dismissed  
577 member.

578 (7) (a) Except as provided in Subsection (7)(b), upon the appointment or election of all  
579 members of a township planning commission, each township planning commission under this  
580 section shall begin to exercise the powers and perform the duties provided in Section  
581 17-27a-302 with respect to all matters then pending that previously had been under the  
582 jurisdiction of the countywide planning commission or township planning and zoning board.

583 (b) Notwithstanding Subsection (7)(a), if the members of a former township planning  
584 and zoning board continue to hold office as members of the planning commission of the  
585 township planning district under an ordinance enacted under Subsection (5)(a), the township

586 planning commission shall immediately begin to exercise the powers and perform the duties  
587 provided in Section 17-27a-302 with respect to all matters then pending that had previously  
588 been under the jurisdiction of the township planning and zoning board.

589 (8) The legislative body may fix per diem compensation for the members of the  
590 planning commission, based on necessary and reasonable expenses and on meetings actually  
591 attended.

592 Section 7. Section 17-27a-302 is amended to read:

593 **17-27a-302. Planning commission powers and duties.**

594 (1) Each countywide [~~or~~], township, or mountainous planning district planning  
595 commission shall, with respect to the unincorporated area of the county, [~~or~~] the township, or  
596 the mountainous planning district, make a recommendation to the county legislative body for:

597 (a) a general plan and amendments to the general plan;  
598 (b) land use ordinances, zoning maps, official maps, and amendments;  
599 (c) an appropriate delegation of power to at least one designated land use authority to  
600 hear and act on a land use application;

601 (d) an appropriate delegation of power to at least one appeal authority to hear and act  
602 on an appeal from a decision of the land use authority; and

603 (e) application processes that:

604 (i) may include a designation of routine land use matters that, upon application and  
605 proper notice, will receive informal streamlined review and action if the application is  
606 uncontested; and

607 (ii) shall protect the right of each:

608 (A) applicant and third party to require formal consideration of any application by a  
609 land use authority;

610 (B) applicant, adversely affected party, or county officer or employee to appeal a land  
611 use authority's decision to a separate appeal authority; and

612 (C) participant to be heard in each public hearing on a contested application.

613 (2) The planning commission of a township under this part may recommend to the  
614 legislative body of the county in which the township is located that the legislative body file a  
615 protest to a proposed annexation of an area located within the township, as provided in  
616 Subsection 10-2-407(1)(b).

617 Section 8. Section 17-27a-305 is amended to read:

618 **17-27a-305. Other entities required to conform to county's land use ordinances --**  
619 **Exceptions -- School districts and charter schools -- Submission of development plan and**  
620 **schedule.**

621 (1) (a) Each county, municipality, school district, charter school, local district, special  
622 service district, and political subdivision of the state shall conform to any applicable land use  
623 ordinance of any county when installing, constructing, operating, or otherwise using any area,  
624 land, or building situated within a mountainous planning district or the unincorporated portion  
625 of the county, as applicable.

626 (b) In addition to any other remedies provided by law, when a county's land use  
627 ordinance is violated or about to be violated by another political subdivision, that county may  
628 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to  
629 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

630 (2) (a) Except as provided in Subsection (3), a school district or charter school is  
631 subject to a county's land use ordinances.

632 (b) (i) Notwithstanding Subsection (3), a county may:

633 (A) subject a charter school to standards within each zone pertaining to setback, height,  
634 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction  
635 staging; and

636 (B) impose regulations upon the location of a project that are necessary to avoid  
637 unreasonable risks to health or safety, as provided in Subsection (3)(f).

638 (ii) The standards to which a county may subject a charter school under Subsection  
639 (2)(b)(i) shall be objective standards only and may not be subjective.

640 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may  
641 deny or withhold approval of a charter school's land use application is the charter school's  
642 failure to comply with a standard imposed under Subsection (2)(b)(i).

643 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an  
644 obligation to comply with a requirement of an applicable building or safety code to which it is  
645 otherwise obligated to comply.

646 (3) A county may not:

647 (a) impose requirements for landscaping, fencing, aesthetic considerations,

648 construction methods or materials, additional building inspections, county building codes,  
649 building use for educational purposes, or the placement or use of temporary classroom facilities  
650 on school property;

651 (b) except as otherwise provided in this section, require a school district or charter  
652 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a  
653 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school  
654 children and not located on or contiguous to school property, unless the roadway or sidewalk is  
655 required to connect an otherwise isolated school site to an existing roadway;

656 (c) require a district or charter school to pay fees not authorized by this section;

657 (d) provide for inspection of school construction or assess a fee or other charges for  
658 inspection, unless the school district or charter school is unable to provide for inspection by an  
659 inspector, other than the project architect or contractor, who is qualified under criteria  
660 established by the state superintendent;

661 (e) require a school district or charter school to pay any impact fee for an improvement  
662 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

663 (f) impose regulations upon the location of an educational facility except as necessary  
664 to avoid unreasonable risks to health or safety; or

665 (g) for a land use or a structure owned or operated by a school district or charter school  
666 that is not an educational facility but is used in support of providing instruction to pupils,  
667 impose a regulation that:

668 (i) is not imposed on a similar land use or structure in the zone in which the land use or  
669 structure is approved; or

670 (ii) uses the tax exempt status of the school district or charter school as criteria for  
671 prohibiting or regulating the land use or location of the structure.

672 (4) Subject to Section [53A-20-108](#), a school district or charter school shall coordinate  
673 the siting of a new school with the county in which the school is to be located, to:

674 (a) avoid or mitigate existing and potential traffic hazards, including consideration of  
675 the impacts between the new school and future highways; and

676 (b) maximize school, student, and site safety.

677 (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

678 (a) provide a walk-through of school construction at no cost and at a time convenient to

679 the district or charter school; and

680 (b) provide recommendations based upon the walk-through.

681 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

682 (i) a county building inspector;

683 (ii) (A) for a school district, a school district building inspector from that school  
684 district; or

685 (B) for a charter school, a school district building inspector from the school district in  
686 which the charter school is located; or

687 (iii) an independent, certified building inspector who is:

688 (A) not an employee of the contractor;

689 (B) approved by:

690 (I) a county building inspector; or

691 (II) (Aa) for a school district, a school district building inspector from that school  
692 district; or

693 (Bb) for a charter school, a school district building inspector from the school district in  
694 which the charter school is located; and

695 (C) licensed to perform the inspection that the inspector is requested to perform.

696 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

697 (c) If a school district or charter school uses a school district or independent building  
698 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to  
699 the state superintendent of public instruction and county building official, on a monthly basis  
700 during construction of the school building, a copy of each inspection certificate regarding the  
701 school building.

702 (7) (a) A charter school shall be considered a permitted use in all zoning districts  
703 within a county.

704 (b) Each land use application for any approval required for a charter school, including  
705 an application for a building permit, shall be processed on a first priority basis.

706 (c) Parking requirements for a charter school may not exceed the minimum parking  
707 requirements for schools or other institutional public uses throughout the county.

708 (d) If a county has designated zones for a sexually oriented business, or a business  
709 which sells alcohol, a charter school may be prohibited from a location which would otherwise

710 defeat the purpose for the zone unless the charter school provides a waiver.

711 (e) (i) A school district or a charter school may seek a certificate authorizing permanent  
712 occupancy of a school building from:

713 (A) the state superintendent of public instruction, as provided in Subsection  
714 53A-20-104(3), if the school district or charter school used an independent building inspector  
715 for inspection of the school building; or

716 (B) a county official with authority to issue the certificate, if the school district or  
717 charter school used a county building inspector for inspection of the school building.

718 (ii) A school district may issue its own certificate authorizing permanent occupancy of  
719 a school building if it used its own building inspector for inspection of the school building,  
720 subject to the notification requirement of Subsection 53A-20-104(3)(a)(ii).

721 (iii) A charter school may seek a certificate authorizing permanent occupancy of a  
722 school building from a school district official with authority to issue the certificate, if the  
723 charter school used a school district building inspector for inspection of the school building.

724 (iv) A certificate authorizing permanent occupancy issued by the state superintendent  
725 of public instruction under Subsection 53A-20-104(3) or a school district official with authority  
726 to issue the certificate shall be considered to satisfy any county requirement for an inspection or  
727 a certificate of occupancy.

728 (8) (a) A specified public agency intending to develop its land shall submit to the land  
729 use authority a development plan and schedule:

730 (i) as early as practicable in the development process, but no later than the  
731 commencement of construction; and

732 (ii) with sufficient detail to enable the land use authority to assess:

733 (A) the specified public agency's compliance with applicable land use ordinances;

734 (B) the demand for public facilities listed in Subsections 11-36a-102(16)(a), (b), (c),  
735 (d), (e), and (g) caused by the development;

736 (C) the amount of any applicable fee described in Section 17-27a-509;

737 (D) any credit against an impact fee; and

738 (E) the potential for waiving an impact fee.

739 (b) The land use authority shall respond to a specified public agency's submission  
740 under Subsection (8)(a) with reasonable promptness in order to allow the specified public



741 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the  
742 process of preparing the budget for the development.

743 (9) Nothing in this section may be construed to:

744 (a) modify or supersede Section 17-27a-304; or

745 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that  
746 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing  
747 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of  
748 1990, 42 U.S.C. 12102, or any other provision of federal law.

749 Section 9. Section 17-27a-401 is amended to read:

750 **17-27a-401. General plan required -- Content -- Provisions related to radioactive**  
751 **waste facility.**

752 (1) In order to accomplish the purposes of this chapter, each county shall prepare and  
753 adopt a comprehensive, long-range general plan for:

754 (a) present and future needs of the county; and

755 (b) (i) growth and development of all or any part of the land within the unincorporated  
756 portions of the county[:]; or

757 (ii) if a county has designated a mountainous planning district, growth and  
758 development of all or any part of the land within the mountainous planning district.

759 (2) The plan may provide for:

760 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic  
761 activities, aesthetics, and recreational, educational, and cultural opportunities;

762 (b) the reduction of the waste of physical, financial, or human resources that result  
763 from either excessive congestion or excessive scattering of population;

764 (c) the efficient and economical use, conservation, and production of the supply of:

765 (i) food and water; and

766 (ii) drainage, sanitary, and other facilities and resources;

767 (d) the use of energy conservation and solar and renewable energy resources;

768 (e) the protection of urban development;

769 (f) the protection or promotion of moderate income housing;

770 (g) the protection and promotion of air quality;

771 (h) historic preservation;

772 (i) identifying future uses of land that are likely to require an expansion or significant  
773 modification of services or facilities provided by each affected entity; and

774 (j) an official map.

775 (3) (a) The plan shall include specific provisions related to any areas within, or  
776 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a  
777 county, which are proposed for the siting of a storage facility or transfer facility for the  
778 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as  
779 these wastes are defined in Section 19-3-303. The provisions shall address the effects of the  
780 proposed site upon the health and general welfare of citizens of the state, and shall provide:

781 (i) the information identified in Section 19-3-305;

782 (ii) information supported by credible studies that demonstrates that the provisions of  
783 Subsection 19-3-307(2) have been satisfied; and

784 (iii) specific measures to mitigate the effects of high-level nuclear waste and greater  
785 than class C radioactive waste and guarantee the health and safety of the citizens of the state.

786 (b) A county may, in lieu of complying with Subsection (3)(a), adopt an ordinance  
787 indicating that all proposals for the siting of a storage facility or transfer facility for the  
788 placement of high-level nuclear waste or greater than class C radioactive waste wholly or  
789 partially within the county are rejected.

790 (c) A county may adopt the ordinance listed in Subsection (3)(b) at any time.

791 (d) The county shall send a certified copy of the ordinance under Subsection (3)(b) to  
792 the executive director of the Department of Environmental Quality by certified mail within 30  
793 days of enactment.

794 (e) If a county repeals an ordinance adopted pursuant to Subsection (3)(b) the county  
795 shall:

796 (i) comply with Subsection (3)(a) as soon as reasonably possible; and

797 (ii) send a certified copy of the repeal to the executive director of the Department of  
798 Environmental Quality by certified mail within 30 days after the repeal.

799 (4) The plan may define the county's local customs, local culture, and the components  
800 necessary for the county's economic stability.

801 (5) Subject to Subsection 17-27a-403(2), the county may determine the  
802 comprehensiveness, extent, and format of the general plan.

803 Section 10. Section **17-27a-403** is amended to read:

804 **17-27a-403. Plan preparation.**

805 (1) (a) The planning commission shall provide notice, as provided in Section  
806 **17-27a-203**, of its intent to make a recommendation to the county legislative body for a general  
807 plan or a comprehensive general plan amendment when the planning commission initiates the  
808 process of preparing its recommendation.

809 (b) The planning commission shall make and recommend to the legislative body a  
810 proposed general plan for:

811 (i) the unincorporated area within the county[-]; or

812 (ii) a planning commission for a mountainous planning district, the mountainous  
813 planning district.

814 (c) (i) The plan may include planning for incorporated areas if, in the planning  
815 commission's judgment, they are related to the planning of the unincorporated territory or of  
816 the county as a whole.

817 (ii) Elements of the county plan that address incorporated areas are not an official plan  
818 or part of a municipal plan for any municipality, unless it is recommended by the municipal  
819 planning commission and adopted by the governing body of the municipality.

820 (iii) Subsection (1)(c)(ii) does not apply to a plan for a mountainous planning district.

821 (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts,  
822 and descriptive and explanatory matter, shall include the planning commission's  
823 recommendations for the following plan elements:

824 (i) a land use element that:

825 (A) designates the long-term goals and the proposed extent, general distribution, and  
826 location of land for housing, business, industry, agriculture, recreation, education, public  
827 buildings and grounds, open space, and other categories of public and private uses of land as  
828 appropriate; and

829 (B) may include a statement of the projections for and standards of population density  
830 and building intensity recommended for the various land use categories covered by the plan;

831 (ii) a transportation and traffic circulation element consisting of the general location  
832 and extent of existing and proposed freeways, arterial and collector streets, mass transit, and  
833 any other modes of transportation that the planning commission considers appropriate, all

834 correlated with the population projections and the proposed land use element of the general  
835 plan; and

836 (iii) an estimate of the need for the development of additional moderate income  
837 housing within the unincorporated area of the county or the mountainous planning district, and  
838 a plan to provide a realistic opportunity to meet estimated needs for additional moderate  
839 income housing if long-term projections for land use and development occur.

840 (b) In drafting the moderate income housing element, the planning commission:

841 (i) shall consider the Legislature's determination that counties should facilitate a  
842 reasonable opportunity for a variety of housing, including moderate income housing:

843 (A) to meet the needs of people desiring to live there; and

844 (B) to allow persons with moderate incomes to benefit from and fully participate in all  
845 aspects of neighborhood and community life; and

846 (ii) may include an analysis of why the recommended means, techniques, or  
847 combination of means and techniques provide a realistic opportunity for the development of  
848 moderate income housing within the planning horizon, which means or techniques may include  
849 a recommendation to:

850 (A) rezone for densities necessary to assure the production of moderate income  
851 housing;

852 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the  
853 construction of moderate income housing;

854 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate  
855 income housing;

856 (D) consider general fund subsidies to waive construction related fees that are  
857 otherwise generally imposed by the county;

858 (E) consider utilization of state or federal funds or tax incentives to promote the  
859 construction of moderate income housing;

860 (F) consider utilization of programs offered by the Utah Housing Corporation within  
861 that agency's funding capacity; and

862 (G) consider utilization of affordable housing programs administered by the  
863 Department of Workforce Services.

864 (c) In drafting the land use element, the planning commission shall:

- 865 (i) identify and consider each agriculture protection area within the unincorporated area  
866 of the county or mountainous planning district; and
- 867 (ii) avoid proposing a use of land within an agriculture protection area that is  
868 inconsistent with or detrimental to the use of the land for agriculture.
- 869 (3) The proposed general plan may include:
- 870 (a) an environmental element that addresses:
- 871 (i) the protection, conservation, development, and use of natural resources, including  
872 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,  
873 and other natural resources; and
- 874 (ii) the reclamation of land, flood control, prevention and control of the pollution of  
875 streams and other waters, regulation of the use of land on hillsides, stream channels and other  
876 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,  
877 protection of watersheds and wetlands, and the mapping of known geologic hazards;
- 878 (b) a public services and facilities element showing general plans for sewage, water,  
879 waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them,  
880 police and fire protection, and other public services;
- 881 (c) a rehabilitation, redevelopment, and conservation element consisting of plans and  
882 programs for:
- 883 (i) historic preservation;
- 884 (ii) the diminution or elimination of blight; and
- 885 (iii) redevelopment of land, including housing sites, business and industrial sites, and  
886 public building sites;
- 887 (d) an economic element composed of appropriate studies and forecasts, as well as an  
888 economic development plan, which may include review of existing and projected county  
889 revenue and expenditures, revenue sources, identification of basic and secondary industry,  
890 primary and secondary market areas, employment, and retail sales activity;
- 891 (e) recommendations for implementing all or any portion of the general plan, including  
892 the use of land use ordinances, capital improvement plans, community development and  
893 promotion, and any other appropriate action;
- 894 (f) provisions addressing any of the matters listed in Subsection [17-27a-401\(2\)](#); and  
895 (g) any other element the county considers appropriate.

896 Section 11. Section **17-27a-502** is amended to read:

897 **17-27a-502. Preparation and adoption of land use ordinance or zoning map.**

898 (1) The planning commission shall:

899 (a) provide notice as required by Subsection **17-27a-205(1)(a)** and, if applicable,

900 Subsection **17-27a-205(4)**;

901 (b) hold a public hearing on a proposed land use ordinance or zoning map;

902 (c) if applicable, consider each written objection filed in accordance with Subsection  
903 **17-27a-205(4)** prior to the public hearing; and

904 (d) (i) prepare and recommend to the legislative body a proposed land use ordinance or  
905 ordinances and zoning map that represent the planning commission's recommendation for  
906 regulating the use and development of land within:

907 (A) all or any part of the unincorporated area of the county; [~~and~~] or

908 (B) for a mountainous planning district, all or any part of the area in the mountainous  
909 planning district; and

910 (ii) forward to the legislative body all objections filed in accordance with Subsection  
911 **17-27a-205(4)**.

912 (2) The county legislative body shall consider each proposed land use ordinance and  
913 zoning map recommended to it by the planning commission, and, after providing notice as  
914 required by Subsection **17-27a-205(1)(b)** and holding a public meeting, the legislative body  
915 may adopt or reject the proposed ordinance or map either as proposed by the planning  
916 commission or after making any revision the county legislative body considers appropriate.

917 Section 12. Section **17-27a-505.5** is amended to read:

918 **17-27a-505.5. Limit on single family designation.**

919 (1) As used in this section, "single-family limit" means the number of unrelated  
920 individuals allowed to occupy each residential unit that is recognized by a land use authority in  
921 a zone permitting occupancy by a single family.

922 (2) A county may not adopt a single-family limit that is less than:

923 (a) three, if the county has within its unincorporated area:

924 (i) a state university; [~~or~~]

925 (ii) a private university with a student population of at least 20,000; or

926 (iii) a mountainous planning district; or

927 (b) four, for each other county.

928 Section 13. Section **17-27a-509.7** is amended to read:

929 **17-27a-509.7. Transferable development rights.**

930 (1) A county may adopt an ordinance:

931 (a) designating sending zones and receiving zones within the unincorporated area of  
932 the county; and

933 (b) allowing the transfer of a transferable development right from a sending zone to a  
934 receiving zone.

935 (2) A county may not allow the use of a transferable development right:

936 (a) unless the county adopts an ordinance described in Subsection (1)[-]; or

937 (b) in a mountainous planning district, if one is established.

938 Section 14. Section **17-27a-602** is amended to read:

939 **17-27a-602. Planning commission preparation and recommendation of**  
940 **subdivision ordinance -- Adoption or rejection by legislative body.**

941 (1) The planning commission shall:

942 (a) prepare and recommend a proposed ordinance to the legislative body that regulates  
943 the subdivision of land;

944 (b) prepare and recommend or consider and recommend a proposed ordinance that  
945 amends the regulation of the subdivision of the unincorporated land in the county, or, in the  
946 case of a mountainous planning district, the mountainous planning district;

947 (c) provide notice consistent with Section **17-27a-205**; and

948 (d) hold a public hearing on the proposed ordinance before making its final  
949 recommendation to the legislative body.

950 (2) The county legislative body may adopt or reject the ordinance either as proposed by  
951 the planning commission or after making any revision the county legislative body considers  
952 appropriate.

953 Section 15. Section **17-27a-604** is amended to read:

954 **17-27a-604. Subdivision plat approval procedure -- Effect of not complying.**

955 (1) A person may not submit a subdivision plat to the county recorder's office for  
956 recording unless:

957 (a) the person has complied with the requirements of Subsection **17-27a-603(4)(a)**;

- 958 (b) the plat has been approved by:
- 959 (i) the land use authority of the:
- 960 (A) county in whose unincorporated area the land described in the plat is located; ~~and~~
- 961 or
- 962 (B) mountainous planning district in whose area the land described in the plat is
- 963 located;
- 964 (ii) other officers that the county designates in its ordinance; and
- 965 (c) all approvals described in Subsection (1)(b) are entered in writing on the plat by
- 966 designated officers.

967 (2) An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if

968 the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a,

969 Community Association Act.

970 (3) A plat recorded without the signatures required under this section is void.

971 (4) A transfer of land pursuant to a void plat is voidable.

972 Section 16. Section **17-27a-605** is amended to read:

973 **17-27a-605. Exemptions from plat requirement.**

974 (1) Notwithstanding Sections [17-27a-603](#) and [17-27a-604](#), the land use authority may

975 approve the subdivision of unincorporated land or mountainous planning district land into 10

976 lots or less without a plat, by certifying in writing that:

- 977 (a) the county has provided notice as required by ordinance; and
- 978 (b) the proposed subdivision:
  - 979 (i) is not traversed by the mapped lines of a proposed street as shown in the general
  - 980 plan and does not require the dedication of any land for street or other public purposes;
  - 981 (ii) has been approved by the culinary water authority and the sanitary sewer authority;
  - 982 (iii) is located in a zoned area; and
  - 983 (iv) conforms to all applicable land use ordinances or has properly received a variance
  - 984 from the requirements of an otherwise conflicting and applicable land use ordinance.

985 (2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural

986 land is exempt from the plat requirements of Section [17-27a-603](#) if:

- 987 (i) the lot or parcel:
- 988 (A) qualifies as land in agricultural use under Section [59-2-502](#); and



989 (B) is not used and will not be used for any nonagricultural purpose; and  
990 (ii) the new owner of record completes, signs, and records with the county recorder a  
991 notice:

992 (A) describing the parcel by legal description; and

993 (B) stating that the lot or parcel is created for agricultural purposes as defined in  
994 Section 59-2-502 and will remain so until a future zoning change permits other uses.

995 (b) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural  
996 purpose, the county shall require the lot or parcel to comply with the requirements of Section  
997 17-27a-603 and all applicable land use ordinance requirements.

998 (3) (a) Except as provided in Subsection (4), a document recorded in the county  
999 recorder's office that divides property by a metes and bounds description does not create an  
1000 approved subdivision allowed by this part unless the land use authority's certificate of written  
1001 approval required by Subsection (1) is attached to the document.

1002 (b) The absence of the certificate or written approval required by Subsection (1) does  
1003 not:

1004 (i) prohibit the county recorder from recording a document; or

1005 (ii) affect the validity of a recorded document.

1006 (c) A document which does not meet the requirements of Subsection (1) may be  
1007 corrected by the recording of an affidavit to which the required certificate or written approval is  
1008 attached in accordance with Section 57-3-106.

1009 (4) (a) As used in this Subsection (4):

1010 (i) "Divided land" means land that:

1011 (A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and

1012 (B) has been divided by a minor subdivision.

1013 (ii) "Land to be divided" means land that is proposed to be divided by a minor  
1014 subdivision.

1015 (iii) "Minor subdivision" means a division of at least 100 contiguous acres of  
1016 agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that,  
1017 after the division, is separate from the remainder of the original 100 or more contiguous acres  
1018 of agricultural land.

1019 (iv) "Minor subdivision lot" means a lot created by a minor subdivision.

1020 (b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least 100  
1021 contiguous acres of agricultural land may make a minor subdivision by submitting for  
1022 recording in the office of the recorder of the county in which the land to be divided is located:

1023 (i) a recordable deed containing the legal description of the minor subdivision lot; and

1024 (ii) a notice:

1025 (A) indicating that the owner of the land to be divided is making a minor subdivision;

1026 (B) referring specifically to this section as the authority for making the minor  
1027 subdivision; and

1028 (C) containing the legal description of:

1029 (I) the land to be divided; and

1030 (II) the minor subdivision lot.

1031 (c) A minor subdivision lot:

1032 (i) may not be less than one acre in size;

1033 (ii) may not be within 1,000 feet of another minor subdivision lot; and

1034 (iii) is not subject to the subdivision ordinance of the county in which the minor  
1035 subdivision lot is located.

1036 (d) Land to be divided by a minor subdivision may not include divided land.

1037 (e) A county:

1038 (i) may not deny a building permit to an owner of a minor subdivision lot based on:

1039 (A) the lot's status as a minor subdivision lot; or

1040 (B) the absence of standards described in Subsection (4)(e)(ii); and

1041 (ii) may, in connection with the issuance of a building permit, subject a minor

1042 subdivision lot to reasonable health, safety, and access standards that the county has established  
1043 and made public.

1044 Section 17. Section 17-27a-901 is enacted to read:

1045 **Part 9. Mountainous Planning District**

1046 **17-27a-901. Mountainous planning district.**

1047 (1) (a) The legislative body of a county of the first class may adopt a resolution  
1048 designating an area located within the county as a mountainous planning district if the  
1049 legislative body determines that:

1050 (i) the area is primarily used for recreational purposes, including canyons, foothills, ski

1051 resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas;  
1052 (ii) the area is used by residents of the county who live inside and outside the limits of  
1053 cities and towns; and  
1054 (iii) the total resident population in the proposed mountainous planning district is equal  
1055 to or less than 5% of the population of the county.  
1056 (b) A mountainous planning district may include within its boundaries a town or a city,  
1057 whether in whole or in part.  
1058 (c) The population figure under Subsection (1)(a)(iii) shall be derived from a  
1059 population estimate by the Utah Population Estimates Committee.  
1060 (2) If the legislative body of a county adopts a resolution described in Subsection  
1061 (1)(a), the county shall also adopt a resolution dissolving or changing the boundaries of a  
1062 township planning commission, if one exists, of a township located, in whole or in part, within  
1063 the mountainous planning district.  
1064 (3) If an unincorporated area of the county is located within a mountainous planning  
1065 district, the area:  
1066 (a) may be annexed by a municipality; and  
1067 (b) may not incorporate as a municipality under Title 10, Chapter 2, Incorporation,  
1068 Classification, Boundaries, Consolidation, and Dissolution of Municipalities.

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**Legislative Review Note**  
as of 2-24-14 11:39 AM

**Office of Legislative Research and General Counsel**