

BOUNDARY ADJUSTMENT AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to the adjustment of a property boundary.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits a property owner to execute a parcel boundary adjustment; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-103, as last amended by Laws of Utah 2012, Chapter 231

17-27a-103, as last amended by Laws of Utah 2012, Chapter 231

ENACTS:

10-9a-523, Utah Code Annotated 1953

17-27a-522, Utah Code Annotated 1953

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



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

29 **10-9a-103. Definitions.**

30 As used in this chapter:

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

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

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

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

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

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

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

50 (i) an operating charter school;

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

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

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

56 (5) "Conditional use" means a land use that, because of its unique characteristics or
57 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be
58 compatible in some areas or may be compatible only if certain conditions are required that

59 mitigate or eliminate the detrimental impacts.

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

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

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

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

67 (8) "Development activity" means:

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

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

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

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

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

80 (10) "Educational facility":

81 (a) means:

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

85 (ii) a structure or facility:

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

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

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

90 (b) does not include:

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

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

94 and

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

96 (ii) a therapeutic school.

97 (11) "Elderly person" means a person who is 60 years old or older, who desires or

98 needs to live with other elderly persons in a group setting, but who is capable of living

99 independently.

100 (12) "Fire authority" means the department, agency, or public entity with responsibility

101 to review and approve the feasibility of fire protection and suppression services for the subject

102 property.

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

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

105 Management Agency; or

106 (b) has not been studied or designated by the Federal Emergency Management Agency

107 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because

108 the land has characteristics that are similar to those of a 100-year flood plain designated by the

109 Federal Emergency Management Agency.

110 (14) "General plan" means a document that a municipality adopts that sets forth general

111 guidelines for proposed future development of the land within the municipality.

112 (15) "Geologic hazard" means:

113 (a) a surface fault rupture;

114 (b) shallow groundwater;

115 (c) liquefaction;

116 (d) a landslide;

117 (e) a debris flow;

118 (f) unstable soil;

119 (g) a rock fall; or

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

- 121 (i) to life;
- 122 (ii) of substantial loss of real property; or
- 123 (iii) of substantial damage to real property.
- 124 (16) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 125 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
- 126 utility system.
- 127 (17) "Identical plans" means building plans submitted to a municipality that:
- 128 (a) are clearly marked as "identical plans";
- 129 (b) are substantially identical to building plans that were previously submitted to and
- 130 reviewed and approved by the municipality; and
- 131 (c) describe a building that:
- 132 (i) is located on land zoned the same as the land on which the building described in the
- 133 previously approved plans is located;
- 134 (ii) is subject to the same geological and meteorological conditions and the same law
- 135 as the building described in the previously approved plans;
- 136 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 137 and approved by the municipality; and
- 138 (iv) does not require any additional engineering or analysis.
- 139 (18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
- 140 Impact Fees Act.
- 141 (19) "Improvement assurance" means a surety bond, letter of credit, cash, or other
- 142 security:
- 143 (a) to guaranty the proper completion of an improvement;
- 144 (b) that is required as a condition precedent to:
- 145 (i) recording a subdivision plat; or
- 146 (ii) beginning development activity; and
- 147 (c) that is offered to a land use authority to induce the land use authority, before actual
- 148 construction of required improvements, to:
- 149 (i) consent to the recording of a subdivision plat; or
- 150 (ii) issue a permit for development activity.
- 151 (20) "Improvement assurance warranty" means a promise that the materials and

152 workmanship of improvements:

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

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

155 (21) "Internal lot restriction" means a platted note, platted demarcation, or platted

156 designation that:

157 (a) runs with the land; and

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

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

162 (22) "Land use application" means an application required by a municipality's land use
163 ordinance.

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

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

168 (25) "Land use permit" means a permit issued by a land use authority.

169 (26) "Legislative body" means the municipal council.

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

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

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

178 (30) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
179 spent and expenses incurred in:

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

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

183 (31) "Noncomplying structure" means a structure that:

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

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

188 (32) "Nonconforming use" means a use of land that:

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

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

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

194 (33) "Official map" means a map drawn by municipal authorities and recorded in a
195 county recorder's office that:

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

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

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

202 (34) "Parcel boundary adjustment" means a recorded agreement between owners of
203 adjoining properties adjusting their mutual boundary if:

204 (a) no additional parcel is created; and

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

207 [~~34~~] (35) "Person" means an individual, corporation, partnership, organization,
208 association, trust, governmental agency, or any other legal entity.

209 [~~35~~] (36) "Plan for moderate income housing" means a written document adopted by
210 a city legislative body that includes:

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

213 (b) an estimate of the need for moderate income housing in the city for the next five

214 years as revised biennially;

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

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

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

220 [~~36~~] (37) "Plat" means a map or other graphical representation of lands being laid out
221 and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

222 [~~37~~] (38) "Potential geologic hazard area" means an area that:

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

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

229 [~~38~~] (39) "Public agency" means:

230 (a) the federal government;

231 (b) the state;

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

234 (d) a charter school.

235 [~~39~~] (40) "Public hearing" means a hearing at which members of the public are
236 provided a reasonable opportunity to comment on the subject of the hearing.

237 [~~40~~] (41) "Public meeting" means a meeting that is required to be open to the public
238 under Title 52, Chapter 4, Open and Public Meetings Act.

239 [~~41~~] (42) "Receiving zone" means an area of a municipality that the municipality
240 designates, by ordinance, as an area in which an owner of land may receive a transferable
241 development right.

242 [~~42~~] (43) "Record of survey map" means a map of a survey of land prepared in
243 accordance with Section 17-23-17.

244 [~~43~~] (44) "Residential facility for elderly persons" means a single-family or

245 multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not
246 include a health care facility as defined by Section 26-21-2.

247 ~~[(44)]~~ (45) "Residential facility for persons with a disability" means a residence:

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

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

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

253 ~~[(45)]~~ (46) "Rules of order and procedure" means a set of rules that govern and
254 prescribe in a public meeting:

255 (a) parliamentary order and procedure;

256 (b) ethical behavior; and

257 (c) civil discourse.

258 ~~[(46)]~~ (47) "Sanitary sewer authority" means the department, agency, or public entity
259 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
260 wastewater systems.

261 ~~[(47)]~~ (48) "Sending zone" means an area of a municipality that the municipality
262 designates, by ordinance, as an area from which an owner of land may transfer a transferable
263 development right.

264 ~~[(48)]~~ (49) "Specified public agency" means:

265 (a) the state;

266 (b) a school district; or

267 (c) a charter school.

268 ~~[(49)]~~ (50) "Specified public utility" means an electrical corporation, gas corporation,
269 or telephone corporation, as those terms are defined in Section 54-2-1.

270 ~~[(50)]~~ (51) "State" includes any department, division, or agency of the state.

271 ~~[(51)]~~ (52) "Street" means a public right-of-way, including a highway, avenue,
272 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
273 or other way.

274 ~~[(52)]~~ (53) (a) "Subdivision" means any land that is divided, resubdivided or proposed
275 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the

276 purpose, whether immediate or future, for offer, sale, lease, or development either on the
277 installment plan or upon any and all other plans, terms, and conditions.

278 (b) "Subdivision" includes:

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

281 (ii) except as provided in Subsection [~~52~~] (53)(c), divisions of land for residential and
282 nonresidential uses, including land used or to be used for commercial, agricultural, and
283 industrial purposes.

284 (c) "Subdivision" does not include:

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

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

291 (A) no new lot is created; and

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

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

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

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

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

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

301 (B) the adjustment will not violate any applicable land use ordinance; ~~or~~

302 (v) a bona fide division or partition of land by deed or other instrument where the land
303 use authority expressly approves in writing the division in anticipation of further land use
304 approvals on the parcel or parcels~~[-]; or~~

305 (vi) a parcel boundary adjustment.

306 (d) The joining of a subdivided parcel of property to another parcel of property that has

307 not been subdivided does not constitute a subdivision under this Subsection [~~(52)~~] (53) as to
308 the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
309 subdivision ordinance.

310 [~~(53)~~] (54) "Therapeutic school" means a residential group living facility:

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

312 (i) the owner of the facility; or

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

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

315 (i) at home;

316 (ii) in a public school; or

317 (iii) in a nonresidential private school; and

318 (c) that offers:

319 (i) room and board; and

320 (ii) an academic education integrated with:

321 (A) specialized structure and supervision; or

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

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

324 [~~(54)~~] (55) "Transferable development right" means a right to develop and use land that
325 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
326 land use rights from a designated sending zone to a designated receiving zone.

327 [~~(55)~~] (56) "Unincorporated" means the area outside of the incorporated area of a city
328 or town.

329 [~~(56)~~] (57) "Water interest" means any right to the beneficial use of water, including:

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

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

332 (i) a contract; or

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

334 [~~(57)~~] (58) "Zoning map" means a map, adopted as part of a land use ordinance, that
335 depicts land use zones, overlays, or districts.

336 Section 2. Section **10-9a-523** is enacted to read:

337 **10-9a-523. Parcel boundary adjustment.**

338 (1) A property owner:
339 (a) may execute a parcel boundary adjustment by quick claim deed or a boundary
340 agreement; and

341 (b) shall record a parcel boundary adjustment in the office of the county recorder.

342 (2) A parcel boundary adjustment is not subject to the review of a land use authority.

343 Section 3. Section **17-27a-103** is amended to read:

344 **17-27a-103. Definitions.**

345 As used in this chapter:

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

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

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

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

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

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

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

365 (i) an operating charter school;

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

368 (iii) an entity who is working on behalf of a charter school or approved charter

369 applicant to develop or construct a charter school building.

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

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

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

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

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

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

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

384 (9) "Development activity" means:

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

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

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

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

394 (b) "Disability" does not include current illegal use of, or addiction to, any federally
395 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
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397 (11) "Educational facility":

398 (a) means:

399 (i) a school district's building at which pupils assemble to receive instruction in a

400 program for any combination of grades from preschool through grade 12, including
401 kindergarten and a program for children with disabilities;

402 (ii) a structure or facility:

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

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

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

407 (b) does not include:

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

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

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

413 (ii) a therapeutic school.

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

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

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

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

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

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

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

430 (17) "Geologic hazard" means:

- 431 (a) a surface fault rupture;
- 432 (b) shallow groundwater;
- 433 (c) liquefaction;
- 434 (d) a landslide;
- 435 (e) a debris flow;
- 436 (f) unstable soil;
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- 438 (h) any other geologic condition that presents a risk:
- 439 (i) to life;
- 440 (ii) of substantial loss of real property; or
- 441 (iii) of substantial damage to real property.
- 442 (18) "Internal lot restriction" means a platted note, platted demarcation, or platted
- 443 designation that:
 - 444 (a) runs with the land; and
 - 445 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
 - 446 the plat; or
 - 447 (ii) designates a development condition that is enclosed within the perimeter of a lot
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- 449 (19) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 450 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
- 451 system.
- 452 (20) "Identical plans" means building plans submitted to a county that:
 - 453 (a) are clearly marked as "identical plans";
 - 454 (b) are substantially identical building plans that were previously submitted to and
 - 455 reviewed and approved by the county; and
 - 456 (c) describe a building that:
 - 457 (i) is located on land zoned the same as the land on which the building described in the
 - 458 previously approved plans is located;
 - 459 (ii) is subject to the same geological and meteorological conditions and the same law
 - 460 as the building described in the previously approved plans;
 - 461 (iii) has a floor plan identical to the building plan previously submitted to and reviewed

462 and approved by the county; and

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

464 (21) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
465 Impact Fees Act.

466 (22) "Improvement assurance" means a surety bond, letter of credit, cash, or other
467 security:

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

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

470 (i) recording a subdivision plat; or

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

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

475 (ii) issue a permit for development activity.

476 (23) "Improvement assurance warranty" means a promise that the materials and
477 workmanship of improvements:

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

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

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

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

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

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

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

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

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

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

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

503 (34) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
504 and expenses incurred in:

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

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

508 (35) "Noncomplying structure" means a structure that:

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

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

513 (36) "Nonconforming use" means a use of land that:

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

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

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

519 (37) "Official map" means a map drawn by county authorities and recorded in the
520 county recorder's office that:

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

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

524 designated setbacks to allow the government authorities time to purchase or otherwise reserve
525 the land; and

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

527 (38) "Parcel boundary adjustment" means a recorded agreement between owners of
528 adjoining properties adjusting their mutual boundary if:

529 (a) no additional parcel is created; and

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

532 [~~38~~] (39) "Person" means an individual, corporation, partnership, organization,
533 association, trust, governmental agency, or any other legal entity.

534 [~~39~~] (40) "Plan for moderate income housing" means a written document adopted by
535 a county legislative body that includes:

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

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

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

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

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

545 [~~40~~] (41) "Plat" means a map or other graphical representation of lands being laid out
546 and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

547 [~~41~~] (42) "Potential geologic hazard area" means an area that:

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

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

554 [~~42~~] (43) "Public agency" means:

- 555 (a) the federal government;
- 556 (b) the state;
- 557 (c) a county, municipality, school district, local district, special service district, or other
- 558 political subdivision of the state; or
- 559 (d) a charter school.

560 [~~(43)~~] (44) "Public hearing" means a hearing at which members of the public are

561 provided a reasonable opportunity to comment on the subject of the hearing.

562 [~~(44)~~] (45) "Public meeting" means a meeting that is required to be open to the public

563 under Title 52, Chapter 4, Open and Public Meetings Act.

564 [~~(45)~~] (46) "Receiving zone" means an unincorporated area of a county that the county

565 designates, by ordinance, as an area in which an owner of land may receive a transferable

566 development right.

567 [~~(46)~~] (47) "Record of survey map" means a map of a survey of land prepared in

568 accordance with Section 17-23-17.

569 [~~(47)~~] (48) "Residential facility for elderly persons" means a single-family or

570 multiple-family dwelling unit that meets the requirements of Section 17-27a-515, but does not

571 include a health care facility as defined by Section 26-21-2.

572 [~~(48)~~] (49) "Residential facility for persons with a disability" means a residence:

- 573 (a) in which more than one person with a disability resides; and
- 574 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
- 575 Chapter 2, Licensure of Programs and Facilities; or
- 576 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
- 577 Health Care Facility Licensing and Inspection Act.

578 [~~(49)~~] (50) "Rules of order and procedure" means a set of rules that govern and

579 prescribe in a public meeting:

- 580 (a) parliamentary order and procedure;
- 581 (b) ethical behavior; and
- 582 (c) civil discourse.

583 [~~(50)~~] (51) "Sanitary sewer authority" means the department, agency, or public entity

584 with responsibility to review and approve the feasibility of sanitary sewer services or onsite

585 wastewater systems.

586 [~~(51)~~] (52) "Sending zone" means an unincorporated area of a county that the county
587 designates, by ordinance, as an area from which an owner of land may transfer a transferable
588 development right.

589 [~~(52)~~] (53) "Specified public agency" means:

- 590 (a) the state;
- 591 (b) a school district; or
- 592 (c) a charter school.

593 [~~(53)~~] (54) "Specified public utility" means an electrical corporation, gas corporation,
594 or telephone corporation, as those terms are defined in Section 54-2-1.

595 [~~(54)~~] (55) "State" includes any department, division, or agency of the state.

596 [~~(55)~~] (56) "Street" means a public right-of-way, including a highway, avenue,
597 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
598 or other way.

599 [~~(56)~~] (57) (a) "Subdivision" means any land that is divided, resubdivided or proposed
600 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
601 purpose, whether immediate or future, for offer, sale, lease, or development either on the
602 installment plan or upon any and all other plans, terms, and conditions.

603 (b) "Subdivision" includes:

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

606 (ii) except as provided in Subsection [~~(56)~~] (57)(c), divisions of land for residential and
607 nonresidential uses, including land used or to be used for commercial, agricultural, and
608 industrial purposes.

609 (c) "Subdivision" does not include:

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

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

613 (A) no new lot is created; and

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

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

616 (A) revising the legal description of more than one contiguous unsubdivided parcel of

617 property into one legal description encompassing all such parcels of property; or

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

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

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

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

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

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

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

629 (B) the adjustment will not violate any applicable land use ordinance; ~~or~~

630 (vi) a bona fide division or partition of land by deed or other instrument where the land
631 use authority expressly approves in writing the division in anticipation of further land use
632 approvals on the parcel or parcels~~[-]; or~~

633 (vii) a parcel boundary adjustment.

634 (d) The joining of a subdivided parcel of property to another parcel of property that has
635 not been subdivided does not constitute a subdivision under this Subsection ~~[(56)]~~ (57) as to
636 the unsubdivided parcel of property or subject the unsubdivided parcel to the county's
637 subdivision ordinance.

638 ~~[(57)]~~ (58) "Therapeutic school" means a residential group living facility:

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

640 (i) the owner of the facility; or

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

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

643 (i) at home;

644 (ii) in a public school; or

645 (iii) in a nonresidential private school; and

646 (c) that offers:

647 (i) room and board; and

648 (ii) an academic education integrated with:
 649 (A) specialized structure and supervision; or
 650 (B) services or treatment related to a disability, an emotional development, a
 651 behavioral development, a familial development, or a social development.

652 [~~58~~] (59) "Township" means a contiguous, geographically defined portion of the
 653 unincorporated area of a county, established under this part or reconstituted or reinstated under
 654 Section 17-27a-306, with planning and zoning functions as exercised through the township
 655 planning commission, as provided in this chapter, but with no legal or political identity
 656 separate from the county and no taxing authority, except that "township" means a former
 657 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

658 [~~59~~] (60) "Transferable development right" means a right to develop and use land that
 659 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
 660 land use rights from a designated sending zone to a designated receiving zone.

661 [~~60~~] (61) "Unincorporated" means the area outside of the incorporated area of a
 662 municipality.

663 [~~61~~] (62) "Water interest" means any right to the beneficial use of water, including:

- 664 (a) each of the rights listed in Section 73-1-11; and
- 665 (b) an ownership interest in the right to the beneficial use of water represented by:
 - 666 (i) a contract; or
 - 667 (ii) a share in a water company, as defined in Section 73-3-3.5.

668 [~~62~~] (63) "Zoning map" means a map, adopted as part of a land use ordinance, that
 669 depicts land use zones, overlays, or districts.

670 Section 4. Section **17-27a-522** is enacted to read:

671 **17-27a-522. Parcel boundary adjustment.**

672 (1) A property owner:

673 (a) may execute a parcel boundary adjustment by quick claim deed or a boundary
 674 agreement; and

675 (b) shall record a parcel boundary adjustment in the office of the county recorder.

676 (2) A parcel boundary adjustment is not subject to the review of a land use authority.

Legislative Review Note
as of 2-11-13 9:44 AM

Office of Legislative Research and General Counsel