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

30 Section 1. Section **10-9a-304** is amended to read:

31 **10-9a-304. State and federal property.**

32 (1) As used in this section, "property owned by the state" includes property owned as
33 school and institutional trust land as defined in Section [53C-1-103](#).

34 (2) Unless otherwise provided by law, nothing contained in this chapter may be
35 construed as giving a municipality jurisdiction over property owned by the state or the United
36 States.

37 (3) Subsection (2) applies to property owned by the state that is occupied or used by a
38 person under a permit or lease.

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

40 **17-27a-103. Definitions.**

41 As used in this chapter:

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

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

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

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

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

57 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
58 residential property if the sign is designed or intended to direct attention to a business, product,

59 or service that is not sold, offered, or existing on the property where the sign is located.

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

61 (i) an operating charter school;

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

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

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

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

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

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

75 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
76 (b) Utah Constitution Article I, Section 22.

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

80 (9) "Development activity" means:

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

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

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

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

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

(11) "Educational facility":

(a) means:

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

(ii) a structure or facility:

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

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

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

(b) does not include:

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

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

and

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

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

(13) "Flood plain" means land that:

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

Management Agency; or

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

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

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

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

124 (b) for a mountainous planning district, the land within the mountainous planning
125 district.

126 (16) "Geologic hazard" means:

127 (a) a surface fault rupture;

128 (b) shallow groundwater;

129 (c) liquefaction;

130 (d) a landslide;

131 (e) a debris flow;

132 (f) unstable soil;

133 (g) a rock fall; or

134 (h) any ot

135 (i) to life;

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

137 (iii) of substantial damage to real property.
138 (17) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
139 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
140 system.

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

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

143 (b) are substantially identical building plans that were previously submitted to and

144 reviewed and approved by the county; and

145 (c) describe a building that:

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

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

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

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

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

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

159 (a) recording a subdivision plat; or

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

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

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

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

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

168 (a) no later than one year after a county's acceptance of required landscaping; or

169 (b) no later than one year after a county's acceptance of required infrastructure, unless
170 the county:

171 (i) determines for good cause that a one-year period would be inadequate to protect the
172 public health, safety, and welfare; and

173 (ii) has substantial evidence, on record:

174 (A) of prior poor performance by the applicant; or

175 (B) that the area upon which the infrastructure will be constructed contains suspect soil
176 and the county has not otherwise required the applicant to mitigate the suspect soil.

177 (23) "Infrastructure improvement" means permanent infrastructure that an applicant
178 must install:

179 (a) pursuant to published installation and inspection specifications for public
180 improvements; and

181 (b) as a condition of:

182 (i) recording a subdivision plat; or

183 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily
184 project.

185 (24) "Internal lot restriction" means a platted note, platted demarcation, or platted
186 designation that:

187 (a) runs with the land; and

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

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

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

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

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

200 (28) "Land use authority" means:

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

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

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

207 (30) "Land use permit" means a permit issued by a land use authority.

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

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

213 (33) "Lot line adjustment" means the relocation of the property boundary line in a

214 subdivision between two adjoining lots with the consent of the owners of record.

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

218 (35) "Mountainous planning district" means an area~~:(a)]~~ designated by a county
219 legislative body in accordance with Section [17-27a-901](#)~~[, and]~~.

220 ~~[(b)] that is not otherwise exempt under Subsection [10-9a-304](#)(2)(b).]~~

221 (36) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
222 and expenses incurred in:

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

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

226 (37) "Noncomplying structure" means a structure that:

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

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

231 (38) "Nonconforming use" means a use of land that:

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

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

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

237 (39) "Official map" means a map drawn by county authorities and recorded in the
238 county recorder's office that:

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

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

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

245 (40) "Parcel boundary adjustment" means a recorded agreement between owners of
246 adjoining properties adjusting their mutual boundary if:

247 (a) no additional parcel is created; and

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

250 (41) "Person" means an individual, corporation, partnership, organization, association,
251 trust, governmental agency, or any other legal entity.

252 (42) "Plan for moderate income housing" means a written document adopted by a
253 county legislative body that includes:

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

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

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

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

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

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

270 (45) "Potential geologic hazard area" means an area that:

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

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

276 a designated geologic hazard area.

277 (46) "Public agency" means:

278 (a) the federal government;

279 (b) the state;

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

282 (d) a charter school.

283 (47) "Public hearing" means a hearing at which members of the public are provided a
284 reasonable opportunity to comment on the subject of the hearing.

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

287 (49) "Receiving zone" means an unincorporated area of a county that the county
288 designates, by ordinance, as an area in which an owner of land may receive a transferable
289 development right.

290 (50) "Record of survey map" means a map of a survey of land prepared in accordance
291 with Section 17-23-17.

292 (51) "Residential facility for persons with a disability" means a residence:

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

294 (b) (i) which is licensed or certified by the Department of Human Services under Title
295 62A, Chapter 2, Licensure of Programs and Facilities; or

296 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
297 21, Health Care Facility Licensing and Inspection Act.

298 (52) "Rules of order and procedure" means a set of rules that govern and prescribe in a
299 public meeting:

300 (a) parliamentary order and procedure;

301 (b) ethical behavior; and

302 (c) civil discourse.

303 (53) "Sanitary sewer authority" means the department, agency, or public entity with
304 responsibility to review and approve the feasibility of sanitary sewer services or onsite
305 wastewater systems.

306 (54) "Sending zone" means an unincorporated area of a county that the county

307 designates, by ordinance, as an area from which an owner of land may transfer a transferable
308 development right.

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

312 (56) "Specified public agency" means:

- 313 (a) the state;
- 314 (b) a school district; or
- 315 (c) a charter school.

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

318 (58) "State" includes any department, division, or agency of the state.

319 (59) "Street" means a public right-of-way, including a highway, avenue, boulevard,
320 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
321 way.

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

326 (b) "Subdivision" includes:

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

329 (ii) except as provided in Subsection (60)(c), divisions of land for residential and
330 nonresidential uses, including land used or to be used for commercial, agricultural, and
331 industrial purposes.

332 (c) "Subdivision" does not include:

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

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

336 (A) no new lot is created; and

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

- 369 (i) the owner of the facility; or
- 370 (ii) the primary service provider of the facility;
- 371 (b) that serves students who have a history of failing to function:
- 372 (i) at home;
- 373 (ii) in a public school; or
- 374 (iii) in a nonresidential private school; and
- 375 (c) that offers:
- 376 (i) room and board; and
- 377 (ii) an academic education integrated with:
- 378 (A) specialized structure and supervision; or
- 379 (B) services or treatment related to a disability, an emotional development, a
- 380 behavioral development, a familial development, or a social development.

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

384 (64) "Unincorporated" means the area outside of the incorporated area of a
385 municipality.

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

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

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

389 (i) a contract; or

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

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

393 Section 3. Section **17-27a-301** is amended to read:

394 **17-27a-301. Ordinance establishing planning commission required -- Exception --**
395 **Ordinance requirements -- Planning advisory area planning commission --**
396 **Compensation.**

397 (1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
398 establishing a countywide planning commission for the unincorporated areas of the county not
399 within a planning advisory area.

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

402 (i) municipalities;

403 (ii) planning advisory areas with their own planning commissions; and

404 (iii) mountainous planning districts.

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

414 [A] does not have jurisdiction over a municipality described in Subsection
415 ~~10-9a-304~~(2)(b); and]

416 [B) has jurisdiction subject to a local health department exercising its authority in
417 accordance with Title 26A, Chapter 1, Local Health Departments and a municipality exercising
418 the municipality's authority in accordance with Section 10-8-15.]

419 (iii) The ordinance shall require that:

420 (A) members of the planning commission represent areas located in the unincorporated
421 and incorporated county;

422 (B) members of the planning commission be registered voters who reside either in the
423 unincorporated or incorporated county;

424 (C) at least one member of the planning commission resides within the mountainous
425 planning district; and

426 (D) the county designate up to four seats on the planning commission, and fill each
427 vacancy in the designated seats in accordance with the procedure described in Subsection (7).

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

429 (i) the number and terms of the members and, if the county chooses, alternate
430 members;

(ii) the mode of appointment;

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

(iv) the authority of the planning commission;

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

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

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

(3) (a) (i) If the county establishes a planning advisory area planning commission, the county legislative body shall enact an ordinance that defines:

(A) appointment procedures;

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

(C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the planning advisory area planning commission in a public meeting; and

(D) details relating to the organization and procedures of each planning advisory area planning commission.

(ii) Subsection (3)(a)(i)(C) does not affect the planning advisory area planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) The planning commission for each planning advisory area shall consist of seven members who shall be appointed by:

(i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or

(ii) in a county operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body.

(c) (i) Members shall serve four-year terms and until their successors are appointed and qualified.

(ii) Notwithstanding the provisions of Subsection (3)(c)(i), members of the first planning commissions shall be appointed so that, for each commission, the terms of at least one member and no more than two members expire each year.

462 (d) (i) Each member of a planning advisory area planning commission shall be a
463 registered voter residing within the planning advisory area.

464 (ii) Subsection (3)(d)(i) does not apply to a member described in Subsection (4)(a) if
465 that member was, prior to May 12, 2015, authorized to reside outside of the planning advisory
466 area.

467 (4) (a) A member of a planning commission who was elected to and served on a
468 planning commission on May 12, 2015, shall serve out the term to which the member was
469 elected.

470 (b) Upon the expiration of an elected term described in Subsection (4)(a), the vacant
471 seat shall be filled by appointment in accordance with this section.

477 (6) The legislative body may fix per diem compensation for the members of the
478 planning commission, based on necessary and reasonable expenses and on meetings actually
479 attended.

(7) (a) Subject to Subsection (7)(f), a county shall fill a vacancy in a planning commission seat described in Subsection (1)(c)(iii)(D) in accordance with this Subsection (7).

482 (b) If a county designates one or more planning commission seats under Subsection
483 (1)(c)(iii)(D), the county shall identify at least one and up to four cities that:

484 (i) (A) are adjacent to the mountainous planning district; and

485 (B) border the entrance to a canyon that is located within the boundaries of the
486 mountainous planning district and accessed by a paved road maintained by the county or the
487 state; or

488 (ii) exercise extraterritorial jurisdiction in accordance with Section 10-8-15.

489 (c) When there is a vacancy in a planning commission seat described in Subsection
490 (1)(c)(iii)(D), the county shall send a written request to one of the cities described in
491 Subsection (7)(b), on a rotating basis, if applicable, for a list of three individuals, who satisfy
492 the requirements described in Subsection (1)(c)(iii)(B), to fill the vacancy.

493 (d) The city shall respond to a written request described in Subsection (7)(c) within 60
494 days after the day on which the city receives the written request.

495 (e) After the county receives the city's list of three individuals, the county shall submit
496 one of the individuals on the list for appointment to the vacant planning commission seat in
497 accordance with county ordinance.

498 (f) The county shall fill the vacancy in accordance with the county's standard procedure
499 if the city fails to timely respond to the written request.

500 Section 4. Section **17-27a-304** is amended to read:

501 **17-27a-304. State and federal property.**

502 (1) As used in this section, "property owned by the state" includes property owned as
503 school and institutional trust land as defined in Section 53C-1-103.

504 (2) Unless otherwise provided by law, nothing contained in this chapter may be
505 construed as giving a county jurisdiction over property owned by the state or the United States.

506 (3) Subsection (2) applies to property owned by the state that is occupied or used by a
507 person under a permit or lease.

508 Section 5. Section **63I-2-210** is amended to read:

509 **63I-2-210. Repeal dates -- Title 10.**

510 (1) Subsection **10-2a-106**(2), the language that states ", including a township
511 incorporation procedure as defined in Section **10-2a-105**," is repealed July 1, 2016.

512 (2) Subsection **10-2a-410**(3)(d)(ii) is repealed January 1, 2017.

513 (3) Section **10-2a-105** is repealed July 1, 2016.

514 [(4) Subsection **10-9a-304**(2) is repealed June 1, 2016.]

514a **→ Section 6. Effective date.**

514b If approved by two-thirds of all the members elected to each house, this bill takes effect upon
514c approval by the governor, or the day following the constitutional time limit of Utah
514d Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
514e the date of veto override. ←

Legislative Review Note
Office of Legislative Research and General Counsel