

# UTAH LEGISLATIVE UPDATE

## 2012 Land Use Related Bills

### Adopted Bills

- **HB273 – Municipal and County Development Standards**
  - Approved plats or development applications cannot be required to use development standards that are changed during the application and review process or after approval of the development.
  - A 30 day mailed notice is required before adopted development standards can be changed.
  - Notice is required only to those who request it.
- **HB302 – Land Use Penalties**
  - The local entity must provide notice to owner or agent of a land use ordinance violation.
  - The municipality must provide a reasonable opportunity to allow the violation to be corrected.
  - Must identify penalty that will ensue if the violation is not corrected by a certain date.
- **HB249 – Single Family Zone Designation**
  - Purpose is to clarify that the local land use authority decides what constitutes a single-family unit.
  - The bill was intended to allow flexibility to local jurisdictions for things like accessory dwelling units.
- **SB118 – Transferable Development Rights**
  - Authorizes TDR schemes in state code and refines some definitions.
  - Requires a locally adopted ordinance be in place and that sending and receiving zones be designated prior to authorizing the transfer of development rights.
- **HB502 – Incorporation Amendments**
  - Makes the following changes to the incorporation provisions:
    - 1) Eliminates role of township planning commission in review of incorporation petitions
    - 2) Changes how a consultant is chosen for the feasibility study and clarifies what issues should be addressed within the study.
    - 3) Petition signers must include 10 percent of registered voters.
    - 4) 5% revenue rule is now advisory.
- **SB165 – Redevelopment Agency Amendments**
  - Allows project areas to overlap.
  - Makes a number of technical changes.
- **SB174 – Land Use Authority Amendments**
  - Applies only in unincorporated county
  - Eliminates the requirement for agricultural land division to meet minimum zoning standards.
  - The owner must record a statement that the parcel can only be used for agriculture until zoning changes.
  - If the use changes to something other than agriculture, the parcel must be brought into compliance with current zoning requirements.

## Failed Bills

- **HB288 – Impact Fee Amendments**
  - Introduces the concept of “level of service”
  - Clarifies that all providers of services are subject to impact fee rules, even private servers
  - Clarifies the rules on determining impact fees
  - Clarifies the ability of fees to be reviewed by the property rights ombudsman
- **HB429 – Property Rights Modifications**
  - This was intended to restore a limited ability for local governments to use eminent domain for trails
- **SB46 – Agriculture Sustainability Act**
  - Allows for creation of an Ag Preservation Selection and Funding Commission
  - Allows counties to hold agriculture conservation easements
  - Requires counties to map prime and critical agriculture land and areas with easements
  - Prohibits use of eminent domain in agriculture preservation areas
- **HB87/SB136 – Billboard Amendments**
  - Established an arbitration process for billboards similar to the ombudsman process
  - Allowed for the collection of attorney’s fees
  - Allowed for conversion of any existing billboard to electronic
  - Required following all state eminent domain rules, including the statement of public purpose
  - Provided for ways to remove obstructions to billboards
  - Redefined visible and readable

## Other Bills of Interest

- HB216 – Political Subdivision Residential Rental Amendments
- HB320 – Utility Facility Siting
- HB511 – Eminent Domain of Federal Land
- SB163 – Local Government Real Property Amendments

## Legal Update

- SB16 – Ballot Proposition Amendments
  - This bill sought to make State Code language consistent with recent court rulings on ballot propositions for:
    - Budget issues; and
    - Land Use Ordinances.
  - Current language in the code prohibited voters from initiating a land use ordinance or changes to a land use ordinance. It also prohibits voters from putting a land use ordinance on the ballot for referendum.
  - The following case law specifically stated that the above was unconstitutional:
    - Sevier Power Company v. Sevier County
    - Carter v. Lehi City
  - SB16 was adopted but the language prohibiting the initiation or referendum of land use ordinances remained in the code despite being ruled unconstitutional. The assumption was that citizens would not consult case law but would rely on State Code before proposing and initiative and referendum on a land use ordinance.