

HB0349S01 compared with HB0349

~~deleted text~~ shows text that was in HB0349 but was deleted in HB0349S01.

inserted text shows text that was not in HB0349 but was inserted into HB0349S01.

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Representative Gage Froerer proposes the following substitute bill:

LOCAL LAND USE REVISIONS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the land development authority of a municipal or county land use authority and legislative body.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prescribes the method by which a property owner may:
 - execute a parcel boundary adjustment; and
 - execute a boundary line agreement;
- ▶ amends provisions governing the dedication of streets and other public places on a plat;
- ▶ amends provisions authorizing a municipal or county legislative body to vacate or

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amend a subdivision plat;

- ▶ amends provisions authorizing a land use authority to amend a plat;
- ▶ amends provisions authorizing a legislative body to adopt an ordinance or resolution to vacate certain streets, rights-of-way, or easements; and
- ▶ makes technical and conforming amendments.

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

10-9a-607, as last amended by Laws of Utah 2010, Chapter 381

10-9a-608, as last amended by Laws of Utah 2010, Chapters 269 and 381

10-9a-609, as last amended by Laws of Utah 2010, Chapter 381

10-9a-609.5, as last amended by Laws of Utah 2010, Chapter 381

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

17-27a-607, as last amended by Laws of Utah 2010, Chapter 381

17-27a-608, as last amended by Laws of Utah 2010, Chapters 269 and 381

17-27a-609, as last amended by Laws of Utah 2010, Chapter 381

17-27a-609.5, as last amended by Laws of Utah 2010, Chapter 381

ENACTS:

[10-9a-523, Utah Code Annotated 1953](#)

[10-9a-524, Utah Code Annotated 1953](#)

[17-27a-522, Utah Code Annotated 1953](#)

[17-27a-523, Utah Code Annotated 1953](#)

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

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

10-9a-103. Definitions.

As used in this chapter:

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

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

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

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

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

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

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

(i) an operating charter school;

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

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

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

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

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

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

(b) Utah Constitution Article I, Section 22.

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

(8) "Development activity" means:

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

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

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

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

(10) "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 (10)(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:

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

(B) used in support of the purposes of a building described in Subsection (10)(a)(i); or
(ii) a therapeutic school.

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

(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 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

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

(15) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

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

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

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(16) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(17) "Identical plans" means building plans submitted to a municipality that:

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

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

(c) describe a building that:

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

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

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

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

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

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

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

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

(i) recording a subdivision plat; or

(ii) beginning development activity; and

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

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

(ii) issue a permit for development activity.

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

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

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

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

(a) runs with the land; and

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

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

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

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

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

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

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

(27) "Local district" means an 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.

(28) (a) "Lot" means a lot, unit, area, building, tract, or other description of real estate that is identified on a recorded plat.

(b) "Lot" does not include a parcel.

~~[(28)]~~ (29) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

~~[(29)]~~ (30) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

~~[(30)]~~ (31) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

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

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

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~~[(31)]~~ (32) "Noncomplying structure" means a structure that:

- (a) legally existed before its current land use designation; and
- (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

~~[(32)]~~ (33) "Nonconforming use" means a use of land that:

- (a) legally existed before its current land use designation;
- (b) has been maintained continuously since the time the land use ordinance governing the land changed; and
- (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

~~[(33)]~~ (34) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

- (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
- (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
- (c) has been adopted as an element of the municipality's general plan.

(35) "Parcel" means a description of real estate that is not part of a recorded plat.

(36) "Parcel ~~line~~ boundary adjustment" means ~~an adjustment of a common boundary line between two or more parcels that are not part of a recorded plat~~ a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

- (a) no additional parcel is created; and
- (b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

~~[(34)]~~ (37) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(35)]~~ (38) "Plan for moderate income housing" means a written document adopted by a city legislative body that includes:

- (a) an estimate of the existing supply of moderate income housing located within the

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city;

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

(c) a survey of total residential land use;

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

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

~~[(36)]~~ (39) "Plat" or "final plat" means a map, plat, or other graphical representation of lands being laid out ~~[and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13]~~, subdivided, defined, or described for a subdivision, condominium, townhouse, planned unit development, or other land development purpose.

~~[(37)]~~ (40) "Potential geologic hazard area" means an area that:

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

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

~~[(38)]~~ (41) "Public agency" means:

(a) the federal government;

(b) the state;

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

(d) a charter school.

~~[(39)]~~ (42) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

~~[(40)]~~ (43) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

~~[(41)]~~ (44) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable

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development right.

~~[(42)]~~ (45) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

~~[(43)]~~ (46) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not include a health care facility as defined by Section 26-21-2.

~~[(44)]~~ (47) "Residential facility for persons with a disability" means a residence:

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

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

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

~~[(45)]~~ (48) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

~~[(46)]~~ (49) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

~~[(47)]~~ (50) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

~~[(48)]~~ (51) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

~~[(49)]~~ (52) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(50)]~~ (53) "State" includes any department, division, or agency of the state.

~~[(51)]~~ (54) "Street" means a public right-of-way, including a highway, avenue,

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boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

~~[(52)]~~ (55) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

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

(ii) except as provided in Subsection ~~[(52)]~~ (55)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

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

(ii) a ~~[recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary]~~ parcel ~~line~~ boundary adjustment if:

(A) no new lot is created; and

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

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

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

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

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

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

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

(v) a bona fide division or partition of land by deed or other instrument where the land

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use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection [~~(52)~~] (55) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

[~~(53)~~] (56) "Therapeutic school" means a residential group living facility:

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

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

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

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

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

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

[~~(54)~~] (57) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~(55)~~] (58) "Unincorporated" means the area outside of the incorporated area of a city or town.

(59) "Vacate" means the process in which a legislative body takes formal action to:

(a) abdicate the public interest or the interest of a public utility within a recorded plat by eliminating the ability to describe real estate by reference to the plat or portion of the plat that is vacated; and

(b) relinquish a public use or claim.

(60) "Vacating plat" means a plat that:

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(a) shows and describes a public street that is being vacated;

(b) identifies and describes the ownership of each part or portion of the vacated street;

and

(c) is prepared by a surveyor.

~~[(56)]~~ (61) "Water interest" means any right to the beneficial use of water, including:

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

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

(i) a contract; or

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

~~[(57)]~~ (62) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section ~~{10-9a-607}~~10-9a-523 is ~~{amended}~~enacted to read:

10-9a-523. Parcel boundary adjustment.

(1) A property owner:

(a) may execute a parcel boundary adjustment by quitclaim deed; and

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

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

Section 3. Section 10-9a-524 is enacted to read:

10-9a-524. Boundary line agreement.

(1) As used in this section, "boundary line agreement" is an agreement described in Section 57-1-45.

(2) A property owner:

(a) may execute a boundary line agreement by quitclaim deed; and

(b) shall record a boundary line agreement in the office of the county recorder.

(3) A boundary line agreement is not subject to the review of a land use authority.

Section 4. Section 10-9a-607 is amended to read:

10-9a-607. Dedication of streets and other public places.

(1) A final plat that ~~[is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part,]~~ meets the requirements of Section 10-9a-604:

(a) operates, when recorded, as a dedication and granting of an easement or

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right-of-way of all streets and other public places; and

(b) vests the fee of a public easement or right-of-way of those parcels of land in the municipality for ~~[the public for the uses]~~ public use or an entity's use as specifically named or intended in the dedication language included on the final plat.

(2) The dedication established by this section does not impose liability upon the municipality for streets and other public places that are dedicated in this manner but are unimproved.

(3) (a) If a public easement or right-of-way is located in an area that is annexed, the easement or right-of-way shall vest in the annexing entity.

(b) A change of a vesting right described in Subsection (3)(a) does not affect a public utility or other facility, structure, monument, or other property that is owned or controlled by a municipality or a utility owner.

Section ~~33~~5. Section **10-9a-608** is amended to read:

10-9a-608. Vacating or amending a subdivision plat -- Legislative body --

Recording the amended plat.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision, condominium, or platted project, that has been laid out and platted as provided in this part, may file a written petition with:

(i) the land use authority ~~[to]~~, in accordance with Section 10-9a-609, to amend some or all of a plat; or

(ii) the legislative body, in accordance with this section, to have some or all of the plat vacated or amended.

(b) If a petition signed by each owner of interest of property located within the plat or a portion of a plat is filed under Subsection (1)(a)(i) to vacate all of a plat or a portion of a plat, the ~~[land use authority]~~ legislative body shall:

(i) prepare a vacating plat; and

(ii) except as provided in Subsection (2), hold a public hearing within 45 days after the day on which the petition is filed ~~[if]~~.

~~[(i) any owner within the plat notifies the municipality of the owner's objection in writing within 10 days of mailed notification; or]~~

~~[(ii) a public hearing is required because all of the owners in the subdivision have not~~

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~~signed the revised plat.]~~

~~[(2) Unless a local ordinance provides otherwise, the public hearing requirement of Subsection (1)(b) does not apply and a land use authority may consider at a public meeting an owner's petition to vacate or amend a subdivision plat if:]~~

~~[(a) the petition seeks to:]~~

~~[(i) join two or more of the petitioner fee owner's contiguous lots;]~~

~~[(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;]~~

~~[(iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join in the petition, regardless of whether the lots or parcels are located in the same subdivision;]~~

~~[(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or]~~

~~[(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:]~~

~~[(A) owned by the petitioner; or]~~

~~[(B) designated as a common area; and]~~

~~[(b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.]~~

(c) The legislative body:

(i) may, in accordance with Section 10-9a-609.5, approve the plat vacation if no owner of interest of property located within the plat or a portion of the plat objects to the vacation at the public hearing; and

(ii) may not approve the plat vacation if an owner of interest of property located within the plat or a portion of the plat objects to the vacation at the public hearing.

(2) If a petition signed by each owner of interest is filed in accordance with Subsection (1)(a) to amend all or a portion of a plat, the legislative body may, at a public meeting, approve the amendment subject to Subsection (3).

(3) (a) If a proposed amendment included in a petition is an amendment that would affect an easement held by a public utility company, and the easement is the only affected public interest, the legislative body shall:

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(i) send notice to the affected public utility at least 30 days prior to the public meeting;
and

(ii) if the public utility does not respond within 15 days after the day on which the notice in Subsection (3)(a)(i) is sent, and no later than 15 days before the public meeting, send a second notice.

(b) A notice required under Subsection (3)(a) shall:

(i) identify the easement identified in the proposed amendment in the petition;

(ii) request that the public utility provide the legislative body with a written release or notice of disinterest; and

(iii) provide a deadline for the public utility to submit the written release or notice to the legislative body that is no sooner than 30 days after the day on which the first notice is sent.

(c) If the affected public utility does not provide a written release or notice of disinterest to the legislative body within 30 days of receiving the first notice described in Subsection (3)(a)(i), the legislative body:

(i) may approve the amendment if there is no utility infrastructure located within a lot or easement identified in the petition; and

(ii) may not approve the amendment if there is utility infrastructure located within a lot or easement identified in the petition.

(d) The legislative body may approve an amendment described in Subsection (3)(c)(i) without a plat.

(e) The legislative body may not approve an amendment to a plat or a portion of a plat that affects a public interest other than an interest described in Subsection (3)(a), unless:

(i) the legislative body holds a public hearing prior to or concurrent with final plat approval; and

(ii) no member of the public objects to the amendment approval at the public hearing.

(4) The legislative body shall by ordinance or resolution vacate prior to or concurrent with adoption of a final amended plat each lot and each public or private interest that is amended in accordance with Subsection (2).

~~[(3)]~~ (5) Each request to vacate or amend a plat that contains a request to vacate or amend a public street, right-of-way, or easement is also subject to Section 10-9a-609.5.

~~[(4)]~~ (6) (a) Each petition to vacate or amend an entire plat or a portion of a plat shall

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include:

~~[(a)]~~ (i) the name and address of each owner of record of the land contained in:

(A) the entire plat; or ~~[on]~~

(B) that portion of the plat described in the petition; ~~[and]~~

~~[(b)]~~ (ii) the signature of each owner ~~[described in Subsection (4)(a)]~~ who consents to the petition~~[-]; and~~

(iii) the seal and signature of the surveyor who prepared the description included in the petition.

(b) A description prepared for purposes described in Subsection (6)(a)(iii) is exempt from the requirements of Section 17-23-17.

~~[(5)(a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).]~~

~~[(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.]~~

~~[(c) If an exchange of title is approved under Subsection (5)(b).]~~

~~[(i) a notice of approval shall be recorded in the office of the county recorder which:]~~

~~[(A) is executed by each owner included in the exchange and by the land use authority;]~~

~~[(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and]~~

~~[(C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and]~~

~~[(ii) a document of conveyance shall be recorded in the office of the county recorder.]~~

~~[(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.]~~

~~[(6)]~~ (7) (a) The name of a recorded subdivision may be changed by recording an ~~[amended plat]~~ ordinance or resolution making that change, as provided in this section ~~[and]~~.

(b) A changed name is subject to Subsection ~~[(6)(c)]~~ (8).

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~~[(b) The surveyor preparing the amended plat shall certify that the surveyor:]~~

~~[(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;]~~

~~[(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and]~~

~~[(iii) has placed monuments as represented on the plat.]~~

~~[(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.]~~

(8) (a) Except as provided in Subsection (8)(b), the county recorder shall approve the name of an amended plat.

(b) A county recorder may not approve the name of an amended plat, unless the name:

(i) identifies the plat being amended; and

(ii) contains a designation so that the amendment may be uniquely identified from another plat of record.

(c) The county recorder may make a marginal note on the original dedication plat being amended in accordance with Subsection (8)(a) to identify the new name and the ordinance or resolution enacting the change of name.

~~[(d)]~~ (9) Except as provided in Subsection [(6)] (7)(a), the recording of [a] an ordinance, resolution, declaration, or other document that purports to change the name of a recorded plat is void.

(10) A person may not submit an amended plat to the county recorder for recording, unless the plat is signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.

(11) A management committee, as defined in Section 57-8-3, may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.

(12) A plat may be corrected in accordance with Section 57-3-106 if the correction does not substantially or materially change the certifications, dedications, or approvals as originally intended.

Section ~~{4}~~6. Section **10-9a-609** is amended to read:

10-9a-609. Amending a plat -- Land use authority -- Recording the amended plat.

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(1) ~~[The] If authorized by the legislative body, the land use authority may approve the [vacation or] amendment of a plat by signing an amended plat [showing the vacation or amendment if], unless the land use authority finds that~~ ~~[(a) there is good cause for the vacation or amendment; and (b) no public]~~ the amendment amends, changes, or alters a street, right-of-way, or public utility easement [has been vacated or amended].

(2) The land use authority shall ensure that the amended plat ~~[showing the vacation or amendment]~~ prepared by a surveyor is recorded in the office of the county recorder in which the land is located.

~~[(3) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.]~~

(3) (a) Unless a local ordinance provides otherwise, and subject to Subsection (3)(b), a land use authority shall consider an owner's petition to amend a plat or a portion of a plat if the petition seeks to:

(i) join two or more petitioning fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots;

(iii) adjust an internal lot restriction or easement on a lot owned by a petitioning fee owner; or

(iv) alter a plat in a manner that does not change existing boundaries or other attributes of a lot within the subdivision if:

(A) the lot is not owned by the petitioner;

(B) the alteration is not designated as a common area; and

(C) in accordance with an applicable local ordinance, each adjacent property owner has received notice of the proposed alteration.

(b) The land use authority may not approve an amendment proposed in a petition if:

(i) the subdivision will result in a violation of a land use ordinance or development condition;

(ii) the amendment requires the alteration or vacation of a public street or public easement; or

(iii) the land use authority has not complied with the requirements of Subsection (4).

(c) If a land use authority approves a petition, the land use authority shall submit to the

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legislative body a proposed ordinance or resolution to vacate prior to or concurrent with approval of an amended plat each lot or easement involved in an adjustment described in Subsection (3)(a).

(d) The land use authority shall ensure that the amended plat prepared by the surveyor is recorded in the office of the county recorder in which the land is located.

(4) (a) If a proposed amendment included in a petition is an amendment that would affect an easement held by a public utility company, the land use authority shall:

(i) send notice to the affected public utility at least 30 days prior to taking action on the petition; and

(ii) if the public utility does not respond within 15 days after the day on which the notice in Subsection (4)(a)(i) is sent, and no later than 15 days before taking final action, send a second notice.

(b) A notice required under Subsection (4)(a) shall:

(i) identify the easement identified in the proposed amendment in the petition;

(ii) request that the public utility provide the land use authority with a written release or notice of disinterest; and

(iii) provide a deadline for the public utility to submit the written release or notice to the land use authority that is no sooner than 30 days after the day on which the first notice is sent.

(c) If the affected public utility does not provide a written release or notice of disinterest to the land use authority within 30 days of receiving the first notice described in Subsection (4)(a)(i), the land use authority:

(i) may approve the amendment and propose to the legislative body an ordinance or resolution to vacate prior to or concurrent with approval of an amended plat each lot or easement described in a petition described in Subsection (3)(a) if there is no utility infrastructure located within a lot or easement identified in the petition; and

(ii) may not approve the amendment or propose to the legislative body an ordinance or resolution to vacate if there is utility infrastructure located within a lot or easement identified in the petition.

(5) (a) The owners of record of adjacent parcels may exchange title to portions of those parcels if the exchange of title is:

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(i) approved by the land use authority in accordance with Subsection (5)(b); and

(ii) an exchange described in Subsection 17-27a-103(59)(c).

(b) The land use authority shall approve an exchange of title in accordance with this Subsection (5) if the exchange of title will not result in a violation of a land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) the land use authority shall affix a notice of approval to the face of a plat prepared in accordance with Section 17-23-17 showing the exchange of title and file the notice in the office of the county surveyor; and

(ii) each owner of record shall, concurrent with the filing of the record of survey plat required in accordance with Subsection (5)(c)(i), record a deed of conveyance of title reflecting the approved change in the office of the county recorder of each affected county.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required to record a document conveying title to real property.

~~[(4)]~~ (6) An amended plat may not be submitted to the county recorder for recording unless it is signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.

~~[(5)]~~ (7) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.

~~[(6)]~~ (8) A plat may be corrected as provided in Section 57-3-106 if the correction does not substantially or materially change the certifications, dedications, or approvals as originally intended.

Section ~~57~~7. Section **10-9a-609.5** is amended to read:

10-9a-609.5. Vacating a street, right-of-way, or easement.

(1) A petition to vacate some or all of a public street, right-of-way, or easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street, right-of-way, or easement; or

(ii) accessed exclusively by or within 300 feet of the public street, right-of-way, or easement; and

(b) the signature of each owner under Subsection (1)(a) who consents to the vacation.

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(2) If a petition is submitted containing a request to vacate some or all of a street, right-of-way, or easement, the legislative body shall hold a public hearing in accordance with Section 10-9a-208 and determine whether:

- (a) good cause exists for the vacation; and
- (b) the public interest or any person will be materially injured by the proposed vacation.

(3) The legislative body may adopt an ordinance or resolution granting a petition to vacate some or all of a public street, right-of-way, or easement if the legislative body finds that:

- (a) good cause exists for the vacation; and
- (b) neither the public interest nor any person will be materially injured by the vacation.

(4) If the legislative body adopts an ordinance or resolution vacating some or all of a public street, right-of-way, or easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

- (a) a plat [~~reflecting the vacation~~], if required in accordance with Section 10-9a-609; or
- (b) an ordinance or resolution described in Subsection (3).

(5) The action of the legislative body vacating some or all of a street, right-of-way, or easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the [~~effective date of the recorded plat,~~] date of recording in accordance with Subsection (4) as a revocation of the acceptance of and the relinquishment of the municipality's fee or other property interest in the vacated street, right-of-way, or easement; and

- (b) may not be construed to impair:
 - (i) any right-of-way or easement of any lot owner; or
 - (ii) the franchise rights of any public utility.

Section ~~6~~8. Section **17-27a-103** is amended to read:

17-27a-103. Definitions.

As used in this chapter:

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

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Transportation, if:

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

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

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

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

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

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

(i) an operating charter school;

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

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

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

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

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

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

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

(b) Utah Constitution Article I, Section 22.

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

(9) "Development activity" means:

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

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

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

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

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

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

(13) "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.

(14) "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 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

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

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

(17) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

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

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

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

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designation that:

(a) runs with the land; and

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

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

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

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

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

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

(c) describe a building that:

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

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

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

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

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

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

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

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

(i) recording a subdivision plat; or

(ii) beginning development activity; and

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

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

(ii) issue a permit for development activity.

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

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

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

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

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

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

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

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

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

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

(31) "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.

(32) (a) "Lot" means a lot, unit, area, building, tract, or other description of real estate that is identified on a recorded plat.

(b) "Lot" does not include a parcel.

~~(32)~~ (33) "Lot line adjustment" means the relocation of the property boundary line in a recorded subdivision between two or more adjoining lots with the consent of the owners of record.

~~(33)~~ (34) "Moderate income housing" means housing occupied or reserved for

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occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

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

- (a) verifying that building plans are identical plans; and
- (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

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

- (a) legally existed before its current land use designation; and
- (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

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

- (a) legally existed before its current land use designation;
- (b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and
- (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

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

- (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
- (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
- (c) has been adopted as an element of the county's general plan.

(39) "Parcel" means a description of real estate that is not part of a recorded plat.

(40) "Parcel ~~line~~ boundary adjustment" means ~~an adjustment of a common boundary line between two or more parcels that are not part of a recorded plat~~ a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

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(a) no additional parcel is created; and

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

~~[(38)]~~ (41) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(39)]~~ (42) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

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

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

(c) a survey of total residential land use;

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

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

~~[(40)]~~ (43) "Plat" or "final plat" means a map, plat, 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]~~, subdivided, defined, or described for a subdivision, condominium, townhouse, planned unit development, or other land development purpose.

~~[(41)]~~ (44) "Potential geologic hazard area" means an area that:

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

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

~~[(42)]~~ (45) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other

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political subdivision of the state; or

(d) a charter school.

~~[(43)]~~ (46) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

~~[(44)]~~ (47) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

~~[(45)]~~ (48) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

~~[(46)]~~ (49) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

~~[(47)]~~ (50) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Section 17-27a-515, but does not include a health care facility as defined by Section 26-21-2.

~~[(48)]~~ (51) "Residential facility for persons with a disability" means a residence:

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

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

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

~~[(49)]~~ (52) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

~~[(50)]~~ (53) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

~~[(51)]~~ (54) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

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~~[(52)]~~ (55) "Specified public agency" means:

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

~~[(53)]~~ (56) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(54)]~~ (57) "State" includes any department, division, or agency of the state.

~~[(55)]~~ (58) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

~~[(56)]~~ (59) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

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

(ii) except as provided in Subsection ~~[(56)]~~ (59)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

~~[(i) a bona fide division or partition of agricultural land for agricultural purposes;]~~

~~[(ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:]~~

(i) a parcel ~~{line}~~ boundary adjustment if:

(A) no new lot is created; and

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

~~[(iii)]~~ (ii) a recorded document, executed by the owner of record:

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

(B) joining a subdivided parcel of property to another parcel of property that has not

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been subdivided, if the joinder does not violate applicable land use ordinances;

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

(A) an electrical transmission line or a substation;

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

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

~~[(v)]~~ (iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

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

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

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

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection ~~[(56)]~~ (59) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

~~[(57)]~~ (60) "Therapeutic school" means a residential group living facility:

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

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

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

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

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

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

~~[(58)]~~ (61) "Township" means a contiguous, geographically defined portion of the unincorporated area of a county, established under this part or reconstituted or reinstated under Section 17-27a-306, with planning and zoning functions as exercised through the township planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority, except that "township" means a former township under Laws of Utah 1996, Chapter 308, where the context so indicates.

~~[(59)]~~ (62) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

~~[(60)]~~ (63) "Unincorporated" means the area outside of the incorporated area of a municipality.

(64) "Vacate" means the process in which a legislative body takes formal action to:

(a) abdicate the public interest or the interest of a public utility within a recorded plat by eliminating the ability to describe real estate by reference to the plat or portion of the plat that is vacated; and

(b) relinquish a public use or claim.

(65) "Vacating plat" means a plat that:

(a) shows and describes a public street that is being vacated;

(b) identifies and describes the ownership of each part or portion of the vacated street;

and

(c) is prepared by a surveyor.

~~[(61)]~~ (66) "Water interest" means any right to the beneficial use of water, including:

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

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

(i) a contract; or

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

~~[(62)]~~ (67) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section ~~{7}~~9. Section ~~{17-27a-607}~~17-27a-522 is ~~{amended}~~enacted to read:

17-27a-522. Parcel boundary adjustment.

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(1) A property owner:

(a) may execute a parcel boundary adjustment by quitclaim deed; and

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

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

Section 10. Section 17-27a-523 is enacted to read:

17-27a-523. Boundary line agreement.

(1) As used in this section, "boundary line agreement" is an agreement described in Section 57-1-45.

(2) A property owner:

(a) may execute a boundary line agreement by quitclaim deed; and

(b) shall record a boundary line agreement in the office of the county recorder.

(3) A boundary line agreement is not subject to the review of a land use authority.

Section 11. Section 17-27a-607 is amended to read:

17-27a-607. Dedication of streets and other public places.

(1) A final plat that [~~is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part,~~] meets the requirements of Section 17-27a-604:

(a) operates, when recorded, as a dedication and granting of an easement or right-of-way of all streets and other public places~~;~~ and

(b) vests the fee of a public easement or right-of-way on those parcels of land in the county for [~~the public for the uses~~] public use or an entity's use as specifically named or intended in the dedication language included on the final plat.

(2) The dedication established by this section does not impose liability upon the county for streets and other public places that are dedicated in this manner but are unimproved.

(3) (a) If a public easement or right-of-way is located in an area that is annexed, the easement or right-of-way shall vest in the annexing entity.

(b) A change of a vesting right described in Subsection (3)(a) does not affect a public utility or other facility, structure, monument, or other property that is owned or controlled by a county or a utility owner.

Section ~~{8}~~12. Section 17-27a-608 is amended to read:

17-27a-608. Vacating or amending a subdivision plat -- Legislative body --

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Recording the amended plat.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision, condominium, or platted project, that has been laid out and platted as provided in this part, may file a written petition with:

(i) the land use authority, in accordance with Section 17-27a-609, to amend some or all of a plat; or

(ii) the legislative body, in accordance with this section, to have some or all of the plat vacated or amended.

(b) If a petition signed by each owner of interest of property located within the plat or a portion of a plat is filed under Subsection (1)(a)(i) to vacate all of a plat or a portion of a plat, the ~~[land use authority]~~ legislative body shall:

(i) prepare a vacating plat; and

(ii) except as provided in Subsection (2), hold a public hearing within 45 days after the day on which the petition is filed [if:].

~~[(i) any owner within the plat notifies the county of the owner's objection in writing within 10 days of mailed notification; or]~~

~~[(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.]~~

~~[(2) Unless a local ordinance provides otherwise, the public hearing requirement of Subsection (1)(b) does not apply and a land use authority may consider at a public meeting an owner's petition to vacate or amend a subdivision plat if:]~~

~~[(a) the petition seeks to:]~~

~~[(i) join two or more of the petitioning fee owner's contiguous lots;]~~

~~[(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;]~~

~~[(iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join the petition, regardless of whether the lots or parcels are located in the same subdivision;]~~

~~[(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or]~~

~~[(v) alter the plat in a manner that does not change existing boundaries or other~~

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~~attributes of lots within the subdivision that are not:]~~

~~[(A) owned by the petitioner; or]~~

~~[(B) designated as a common area; and]~~

~~[(b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.]~~

(c) The legislative body:

(i) may, in accordance with Section 17-27a-609.5, approve the plat vacation if no owner of interest of property located within the plat or a portion of the plat objects to the vacation at the public hearing; and

(ii) may not approve the plat vacation if an owner of interest of property located within the plat or a portion of the plat objects to the vacation at the public hearing.

(2) If a petition signed by each owner of interest is filed in accordance with Subsection (1)(a) to amend all or a portion of a plat, the legislative body may, at a public meeting, approve the amendment subject to Subsection (3).

(3) (a) If a proposed amendment included in a petition is an amendment that would affect an easement held by a public utility company, and the easement is the only affected public interest, the legislative body shall:

(i) send notice to the affected public utility at least 30 days prior to the public meeting; and

(ii) if the public utility does not respond within 15 days after the day on which the notice in Subsection (3)(a)(i) is sent, and no later than 15 days before the public meeting, send a second notice.

(b) A notice required under Subsection (3)(a) shall:

(i) identify the easement identified in the proposed amendment in the petition;

(ii) request that the public utility provide the legislative body with a written release or notice of disinterest; and

(iii) provide a deadline for the public utility to submit the written release or notice to the legislative body that is no sooner than 30 days after the day on which the first notice is sent.

(c) If the affected public utility does not provide a written release or notice of disinterest to the legislative body within 30 days of receiving the first notice described in Subsection (3)(a)(i), the legislative body:

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(i) may approve the amendment if there is no utility infrastructure located within a lot or easement identified in the petition; and

(ii) may not approve the amendment if there is utility infrastructure located within a lot or easement identified in the petition.

(d) The legislative body may approve an amendment described in Subsection (3)(c)(i) without a plat.

(e) The legislative body may not approve an amendment to a plat or a portion of a plat that affects a public interest other than an interest described in Subsection (3)(a), unless:

(i) the legislative body holds a public hearing prior to or concurrent with final plat approval; and

(ii) no member of the public objects to the amendment approval at the public hearing.

(4) The legislative body shall by ordinance or resolution vacate prior to or concurrent with adoption of a final amended plat each lot and each public or private interest that is amended in accordance with Subsection (2).

~~[(3)]~~ (5) Each request to vacate or amend a plat that contains a request to vacate or amend a public street, right-of-way, or easement is also subject to Section 17-27a-609.5.

~~[(4)]~~ (6) (a) Each petition to vacate or amend an entire plat or a portion of a plat shall include:

~~[(a)]~~ (i) the name and address of each owner of record of the land contained in:

~~[(+)]~~ (A) the entire plat; or

~~[(+)]~~ (B) that portion of the ~~[plan]~~ plat described in the petition; ~~[and]~~

~~[(b)]~~ (ii) the signature of each owner who consents to the petition~~[-]; and~~

(iii) the seal and signature of the surveyor who prepared the description included in the petition.

(b) A description prepared for purposes described in Subsection (6)(a)(iii) is exempt from the requirements of Section 17-23-17.

~~[(5) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).]~~

~~[(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if~~

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~~the exchange of title will not result in a violation of any land use ordinance.]~~

~~[(c) If an exchange of title is approved under Subsection (5)(b):]~~

~~[(i) a notice of approval shall be recorded in the office of the county recorder which:]~~

~~[(A) is executed by each owner included in the exchange and by the land use authority:]~~

~~[(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and]~~

~~[(C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and]~~

~~[(ii) a document of conveyance of title reflecting the approved change shall be recorded in the office of the county recorder.]~~

~~[(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required to record a document conveying title to real property.]~~

~~[(6)] (7) (a) The name of a recorded subdivision may be changed by recording an [amended plat] ordinance or resolution making that change, as provided in this section [and].~~

~~(b) A changed name is subject to Subsection [(6)(c)] (8).~~

~~[(b) The surveyor preparing the amended plat shall certify that the surveyor:]~~

~~[(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;]~~

~~[(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and]~~

~~[(iii) has placed monuments as represented on the plat.]~~

~~[(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.]~~

(8) (a) Except as provided in Subsection (8)(b), the county recorder shall approve the name of an amended plat.

(b) A county recorder may not approve the name of an amended plat, unless the name:

(i) identifies the plat being amended; and

(ii) contains a designation so that the amendment may be uniquely identified from

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another plat of record.

(c) The county recorder may make a marginal note on the original dedication plat being amended in accordance with Subsection (8)(a) to identify the new name and the ordinance or resolution enacting the change of name.

~~[(d)]~~ (9) Except as provided in Subsection ~~[(6)]~~ (7)(a), the recording of ~~[a]~~ an ordinance, resolution, declaration, or other document that purports to change the name of a recorded plat is void.

(10) A person may not submit an amended plat to the county recorder for recording, unless the plat is signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.

(11) A management committee, as defined in Section 57-8-3, may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.

(12) A plat may be corrected in accordance with Section 57-3-106 if the correction does not substantially or materially change the certifications, dedications, or approvals as originally intended.

Section ~~9~~ 13. Section **17-27a-609** is amended to read:

17-27a-609. Amending a plat -- Land use authority -- Recording the amended plat.

(1) ~~[The]~~ If authorized by the legislative body, the land use authority may approve the [vacation or] amendment of a plat by signing an amended plat [showing the vacation or amendment if], unless the land use authority finds that: ~~(a) there is good cause for the vacation or amendment; and (b) no public~~ the amendment amends, changes, or alters a street, right-of-way, or public utility easement [has been vacated or amended].

(2) The land use authority shall ensure that the amended plat ~~[showing the vacation or amendment]~~ prepared by a surveyor is recorded in the office of the county recorder in which the land is located.

~~[(3) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.]~~

(3) (a) Unless a local ordinance provides otherwise, and subject to Subsection (3)(b), a land use authority shall consider an owner's petition to amend a plat or a portion of a plat if the

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petition seeks to:

(i) join two or more petitioning fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots;

(iii) adjust an internal lot restriction or easement on a lot owned by a petitioning fee

owner; or

(iv) alter a plat in a manner that does not change existing boundaries or other attributes of a lot within the subdivision if:

(A) the lot is not owned by the petitioner;

(B) the alteration is not designated as a common area; and

(C) in accordance with an applicable local ordinance, each adjacent property owner has received notice of the proposed alteration.

(b) The land use authority may not approve an amendment proposed in a petition if:

(i) the subdivision will result in a violation of a land use ordinance or development condition;

(ii) the amendment requires the alteration or vacation of a public street or public easement; or

(iii) the land use authority has not complied with the requirements of Subsection (4).

(c) If a land use authority approves a petition, the land use authority shall submit to the legislative body a proposed ordinance or resolution to vacate prior to or concurrent with approval of an amended plat each lot or easement involved in an adjustment described in Subsection (3)(a).

(d) The land use authority shall ensure that the amended plat prepared by the surveyor is recorded in the office of the county recorder in which the land is located.

(4) (a) If a proposed amendment included in a petition is an amendment that would affect an easement held by a public utility company, the land use authority shall:

(i) send notice to the affected public utility at least 30 days prior to taking action on the petition; and

(ii) if the public utility does not respond within 15 days after the day on which the notice in Subsection (4)(a)(i) is sent, and no later than 15 days before taking final action, send a second notice.

(b) A notice required under Subsection (4)(a) shall:

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(i) identify the easement identified in the proposed amendment in the petition;

(ii) request that the public utility provide the land use authority with a written release or notice of disinterest; and

(iii) provide a deadline for the public utility to submit the written release or notice to the land use authority that is no sooner than 30 days after the day on which the first notice is sent.

(c) If the affected public utility does not provide a written release or notice of disinterest to the land use authority within 30 days of receiving the first notice described in Subsection (4)(a)(i), the land use authority:

(i) may approve the amendment and propose to the legislative body an ordinance or resolution to vacate prior to or concurrent with approval of an amended plat each lot or easement described in a petition described in Subsection (3)(a) if there is no utility infrastructure located within a lot or easement identified in the petition; and

(ii) may not approve the amendment or propose to the legislative body an ordinance or resolution to vacate if there is utility infrastructure located within a lot or easement identified in the petition.

(5) (a) The owners of record of adjacent parcels may exchange title to portions of those parcels if the exchange of title is:

(i) approved by the land use authority in accordance with Subsection (5)(b); and

(ii) an exchange described in Subsection 17-27a-103(59)(c).

(b) The land use authority shall approve an exchange of title in accordance with this Subsection (5) if the exchange of title will not result in a violation of a land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) the land use authority shall affix a notice of approval to the face of a plat prepared in accordance with Section 17-23-17 showing the exchange of title and file the notice in the office of the county surveyor; and

(ii) each owner of record shall, concurrent with the filing of the record of survey plat required in accordance with Subsection (5)(c)(i), record a deed of conveyance of title reflecting the approved change in the office of the county recorder of each affected county.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required to record a document conveying title to

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real property.

~~[(4)]~~ (6) An amended plat may not be submitted to the county recorder for recording unless it is signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.

~~[(5)]~~ (7) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.

~~[(6)]~~ (8) A plat may be corrected as provided in Section 57-3-106 if the correction does not substantially or materially change the certifications, dedications, or approvals as originally intended.

Section ~~110~~ 14. Section **17-27a-609.5** is amended to read:

17-27a-609.5. Vacating a street, right-of-way, or easement.

(1) A petition to vacate some or all of a public street, right-of-way, or easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street, right-of-way, or easement; or

(ii) accessed exclusively by or within 300 feet of the public street, right-of-way, or easement; and

(b) the signature of each owner under Subsection (1)(a) who consents to the vacation.

(2) If a petition is submitted containing a request to vacate some or all of a street, right-of-way, or easement, the legislative body shall hold a public hearing in accordance with Section 17-27a-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

(3) The legislative body may adopt an ordinance or resolution granting a petition to vacate some or all of a public street, right-of-way, or easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

(4) If the legislative body adopts an ordinance or resolution vacating some or all of a public street, right-of-way, or easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

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(a) a plat [~~reflecting the vacation~~], if required in accordance with Section 17-27a-608;

or

(b) an ordinance or resolution described in Subsection (3).

(5) The action of the legislative body vacating some or all of a street, right-of-way, or easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the [~~effective date of the recorded plat;~~] date of recording in accordance with Subsection (4) as a revocation of the acceptance of and the relinquishment of the county's fee or other property interest in the vacated street, right-of-way, or easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any lot owner; or

(ii) the franchise rights of any public utility.

†

Legislative Review Note

~~as of 2-19-13 10:22 AM~~

~~Office of Legislative Research and General Counsel~~