

**Local Land Use Modifications**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lincoln Fillmore**

House Sponsor: Calvin Roberts

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**LONG TITLE****General Description:**

This bill modifies provisions related to land use.

**Highlighted Provisions:**

This bill:

- defines terms;
- clarifies standards for county and municipal land use regulations and requirements;
- requires a county or municipal legislative body to make a decision on proposed land use regulation if the planning commission fails to make a timely recommendation;
- addresses exaction for water and a land use authority's review of a land use application;
- establishes requirements relating to development agreements;
- modifies the burden of proving that a land use authority's decision was arbitrary, capricious, or illegal;
- addresses requirements relating to an appeal or variance hearing;
- prohibits a legislative body from acting as an appeal authority;
- modifies the standard of review of a land use authority's decision to deny or approve a land use application;
- modifies appeal requirements; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-20-102**, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 15

**10-20-302**, as renumbered and amended by Laws of Utah 2025, First Special Session,

31 Chapter 15  
32 **10-20-501**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
33 Chapter 15  
34 **10-20-502**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
35 Chapter 15  
36 **10-20-806**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
37 Chapter 15  
38 **10-20-902**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
39 Chapter 15  
40 **10-20-910**, as enacted by Laws of Utah 2025, First Special Session, Chapter 15  
41 **10-20-911**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
42 Chapter 15  
43 **10-20-1001**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
44 Chapter 15  
45 **10-20-1101**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
46 Chapter 15  
47 **10-20-1106**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
48 Chapter 15  
49 **10-20-1107**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
50 Chapter 15  
51 **10-20-1109**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
52 Chapter 15  
53 **13-43-205**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15  
54 **17-79-102**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
55 Chapter 14  
56 **17-79-302**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
57 Chapter 14  
58 **17-79-501**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
59 Chapter 14  
60 **17-79-502**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
61 Chapter 14  
62 **17-79-706**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
63 Chapter 14  
64 **17-79-803**, as renumbered and amended by Laws of Utah 2025, First Special Session,

65 Chapter 14  
 66 **17-79-811**, as enacted by Laws of Utah 2025, First Special Session, Chapter 14  
 67 **17-79-812**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
 68 Chapter 14  
 69 **17-79-901**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
 70 Chapter 14  
 71 **17-79-1001**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
 72 Chapter 14  
 73 **17-79-1006**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
 74 Chapter 14  
 75 **17-79-1007**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
 76 Chapter 14  
 77 **17-79-1009**, as renumbered and amended by Laws of Utah 2025, First Special Session,  
 78 Chapter 14

79 ENACTS:

80 **10-20-912**, Utah Code Annotated 1953

81 **17-79-813**, Utah Code Annotated 1953

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

84 Section 1. Section **10-20-102** is amended to read:

85 **10-20-102 . Definitions.**

86 As used in this chapter:

- 87 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or  
 88 detached from a primary single-family dwelling and contained on one lot.
- 89 (2) "Adversely affected party" means a person other than a land use applicant who:  
 90 (a) owns real property adjoining the property that is the subject of a land use application  
 91 or land use decision; or  
 92 (b) will suffer a damage different in kind than, or an injury distinct from, that of the  
 93 general community as a result of the land use decision.
- 94 (3) "Affected entity" means a county, municipality, special district, special service district  
 95 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal  
 96 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,  
 97 specified public utility, property owner, property owners association, or the Department  
 98 of Transportation, if:

- 99 (a) the entity's services or facilities are likely to require expansion or significant  
100 modification because of an intended use of land;
- 101 (b) the entity has filed with the municipality a copy of the entity's general or long-range  
102 plan; or
- 103 (c) the entity has filed with the municipality a request for notice during the same  
104 calendar year and before the municipality provides notice to an affected entity in  
105 compliance with a requirement imposed under this chapter.
- 106 (4) "Affected owner" means the owner of real property that is:
- 107 (a) a single project; and
- 108 (b) the subject of a land use approval that:
- 109 (i) sponsors of a referendum timely challenged in accordance with Section 20A-7-601;  
110 and
- 111 [~~(e)~~] (ii) is determined to be legally referable under Section 20A-7-602.8.
- 112 (5) "Appeal authority" means the person, board, commission, agency, or other body  
113 designated by ordinance to decide an appeal of a decision of a land use application or a  
114 variance.
- 115 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or  
116 residential property if the sign is designed or intended to direct attention to a business,  
117 product, or service that is not sold, offered, or existing on the property where the sign is  
118 located.
- 119 (7)(a) "Boundary adjustment" means an agreement between adjoining property owners  
120 to relocate a common boundary that results in a conveyance of property between the  
121 adjoining lots, adjoining parcels, or adjoining lots and parcels.
- 122 (b) "Boundary adjustment" does not mean a modification of a lot or parcel boundary that:
- 123 (i) creates an additional lot or parcel; or  
124 (ii) is made by the Department of Transportation.
- 125 (8)(a) "Boundary establishment" means an agreement between adjoining property  
126 owners to clarify the location of an ambiguous, uncertain, or disputed common  
127 boundary.
- 128 (b) "Boundary establishment" does not mean a modification of a lot or parcel boundary  
129 that:
- 130 (i) creates an additional lot or parcel; or  
131 (ii) is made by the Department of Transportation.
- 132 (9) "Building code adoption cycle" means the period of time beginning the day on which a

133 specific edition of a construction code from a nationally recognized code authority is  
 134 adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day  
 135 before a new edition of a construction code is adopted and effective in Title 15A, State  
 136 Construction and Fire Codes Act.

137 [(9)] (10)(a) "Charter school" means:

- 138 (i) an operating charter school;
- 139 (ii) a charter school applicant that a charter school authorizer approves in accordance  
 140 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
- 141 (iii) an entity that is working on behalf of a charter school or approved charter  
 142 applicant to develop or construct a charter school building.

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

144 [~~(10) "Building code adoption cycle" means the period of time beginning the day on which~~  
 145 ~~a specific edition of a construction code from a nationally recognized code authority is~~  
 146 ~~adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day~~  
 147 ~~before a new edition of a construction code is adopted and effective in Title 15A, State~~  
 148 ~~Construction and Fire Codes Act.]~~

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

153 (12) "Constitutional taking" means a governmental action that results in a taking of private  
 154 property [~~so that~~] where compensation to the property owner[~~of the property~~] is required  
 155 by the:

- 156 (a) Fifth or Fourteenth Amendment [øf] to the Constitution of the United States; or
- 157 (b) Utah Constitution, Article I, Section 22.

158 (13) "Conveyance document" means an instrument that:

- 159 (a) meets the definition of "document" in Section 57-1-1; and
- 160 (b) meets the requirements of Section 57-1-45.5.

161 (14) "Conveyance of property" means the transfer of ownership of any portion of real  
 162 property from one person to another person.

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

166 (16) "Department of Transportation" means the entity created in Section 72-1-201.

- 167 (17) "Development activity" means:
- 168 (a) any construction or expansion of a building, structure, or use that creates additional
- 169 demand and need for public facilities;
- 170 (b) any change in use of a building or structure that creates additional demand and need
- 171 for public facilities; or
- 172 (c) any change in the use of land that creates additional demand and need for public
- 173 facilities.
- 174 (18)(a) "Development agreement" means a written agreement or amendment to a written
- 175 agreement between a municipality and one or more parties that regulates or controls
- 176 the use or development of a specific area of land.
- 177 (b) "Development agreement" does not include an improvement completion assurance.
- 178 (19)(a) "Disability" means a physical or mental impairment that substantially limits one
- 179 or more of a person's major life activities, including a person having a record of such
- 180 an impairment or being regarded as having such an impairment.
- 181 (b) "Disability" does not include current illegal use of, or addiction to, any federally
- 182 controlled substance, as defined in the Controlled Substances Act, 21 U.S.C. Sec. 802.
- 183 (20) "Document" means the same as that term is defined in Section 57-1-1.
- 184 (21) "Educational facility":
- 185 (a) means:
- 186 (i) a school district's building at which pupils assemble to receive instruction in a
- 187 program for any combination of grades from preschool through grade 12,
- 188 including kindergarten and a program for children with disabilities;
- 189 (ii) a structure or facility:
- 190 (A) located on the same property as a building described in Subsection (21)(a)(i);
- 191 and
- 192 (B) used in support of the use of that building; and
- 193 (iii) a building to provide office and related space to a school district's administrative
- 194 personnel; and
- 195 (b) does not include:
- 196 (i) land or a structure, including land or a structure for inventory storage, equipment
- 197 storage, food processing or preparing, vehicle storage or maintenance, or similar
- 198 use that is:
- 199 (A) not located on the same property as a building described in Subsection
- 200 (21)(a)(i); and

- 201 (B) used in support of the purposes of a building described in Subsection (21)(a)(i);  
202 or  
203 (ii) a therapeutic school.
- 204 (22) "Establishment document" means an instrument that:  
205 (a) meets the definition of "document" in Section 57-1-1; and  
206 (b) meets the requirements of Section 57-1-45.
- 207 [~~(23) "Full boundary adjustment" means a boundary adjustment that is not a simple~~  
208 ~~boundary adjustment.~~]
- 209 [(24)] (23) "Fire authority" means the department, agency, or public entity with  
210 responsibility to review and approve the feasibility of fire protection and suppression  
211 services for the subject property.
- 212 [(25)] (24) "Flood plain" means land that:  
213 (a) is within the 100-year flood plain designated by the Federal Emergency Management  
214 Agency; or  
215 (b) has not been studied or designated by the Federal Emergency Management Agency  
216 but presents a likelihood of experiencing chronic flooding or a catastrophic flood  
217 event because the land has characteristics that are similar to those of a 100-year flood  
218 plain designated by the Federal Emergency Management Agency.
- 219 (25) "Full boundary adjustment" means a boundary adjustment that is not a simple  
220 boundary adjustment.
- 221 (26) "General plan" means a document that a municipality adopts that sets forth general  
222 guidelines for proposed future development of the land within the municipality.
- 223 (27) "Geologic hazard" means:  
224 (a) a surface fault rupture;  
225 (b) shallow groundwater;  
226 (c) liquefaction;  
227 (d) a landslide;  
228 (e) a debris flow;  
229 (f) unstable soil;  
230 (g) a rock fall; or  
231 (h) any other geologic condition that presents a risk:  
232 (i) to life;  
233 (ii) of substantial loss of real property; or  
234 (iii) of substantial damage to real property.

- 235 (28) "Historic preservation authority" means a person, board, commission, or other body  
236 designated by a legislative body to:
- 237 (a) recommend land use regulations to preserve local historic districts or areas; and  
238 (b) administer local historic preservation land use regulations within a local historic  
239 district or area.
- 240 (29) "Home-based microschool" means the same as that term is defined in Section  
241 53G-6-201.
- 242 (30) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter,  
243 or appurtenance that connects to a municipal water, sewer, storm water, power, or other  
244 utility system.
- 245 (31)(a) "Identical plans" means floor plans submitted to a municipality that:
- 246 (i) are submitted within the same building code adoption cycle as floor plans that  
247 were previously approved by the municipality;
- 248 (ii) have no structural differences from floor plans that were previously approved by  
249 the municipality; and
- 250 (iii) describe a building that:
- 251 (A) is located on land zoned the same as the land on which the building described  
252 in the previously approved plans is located;
- 253 (B) has a substantially identical floor plan to a floor plan previously approved by  
254 the municipality; and
- 255 (C) does not require any engineering or analysis beyond a review to confirm the  
256 submitted floor plans are substantially identical to a floor plan previously  
257 approved by the municipality or a review of the site plan and associated  
258 geotechnical reports for the site.
- 259 (b) "Identical plans" include floor plans that are oriented differently as the floor plan that  
260 was previously approved by the municipality.
- 261 (32) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact  
262 Fees Act.
- 263 (33) "Improvement completion assurance" means a surety bond, letter of credit, financial  
264 institution bond, cash, assignment of rights, lien, or other equivalent security required by  
265 a municipality to guaranty the proper completion of landscaping or an infrastructure  
266 improvement required as a condition precedent to:
- 267 (a) recording a subdivision plat; or  
268 (b) development of a commercial, industrial, mixed use, or multifamily project.

- 269 (34) "Improvement warranty" means an applicant's unconditional warranty that the  
270 applicant's installed and accepted landscaping or infrastructure improvement:
- 271 (a) complies with the municipality's written standards for design, materials, and  
272 workmanship; and
  - 273 (b) will not fail in any material respect, as a result of poor workmanship or materials,  
274 within the improvement warranty period.
- 275 (35) "Improvement warranty period" means a period:
- 276 (a) no later than one year after a municipality's acceptance of required public  
277 landscaping; or
  - 278 (b) no later than one year after a municipality's acceptance of required infrastructure,  
279 unless the municipality:
    - 280 (i) determines, based on accepted industry standards and for good cause, that a  
281 one-year period would be inadequate to protect the public health, safety, and  
282 welfare; and
    - 283 (ii) has substantial evidence, on record:
      - 284 (A) of prior poor performance by the applicant; or
      - 285 (B) that the area upon which the infrastructure will be constructed contains  
286 suspect soil and the municipality has not otherwise required the land use  
287 applicant to mitigate the suspect soil.
- 288 (36) "Infrastructure improvement" means permanent infrastructure that is essential for the  
289 public health and safety or that:
- 290 (a) is required for human occupation; and
  - 291 (b) an applicant shall install:
    - 292 (i) in accordance with published installation and inspection specifications for public  
293 improvements; and
    - 294 (ii) whether the improvement is public or private, as a condition of:
      - 295 (A) recording a subdivision plat;
      - 296 (B) obtaining a building permit; or
      - 297 (C) development of a commercial, industrial, mixed use, condominium, or  
298 multifamily project.
- 299 (37) "Internal lot restriction" means a platted note, platted demarcation, or platted  
300 designation that:
- 301 (a) runs with the land; and
  - 302 (b)(i) creates a restriction that is enclosed within the perimeter of a lot described on

- 303 the plat; or
- 304 (ii) designates a development condition that is enclosed within the perimeter of a lot
- 305 described on the plat.
- 306 (38) "Land use applicant" means: a property owner, or the property owner's designee, who
- 307 submits a land use application regarding the property owner's land.
- 308 (39) "Land use application":
- 309 (a) means an application that is:
- 310 (i) required by a municipality; and
- 311 (ii) submitted by a land use applicant to obtain a land use decision; and
- 312 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 313 (40) "Land use authority" means:
- 314 (a) a person, board, commission, agency, or body, including the local legislative body,
- 315 designated by the local legislative body to act upon a land use application; or
- 316 (b) if the local legislative body has not designated a person, board, commission, agency,
- 317 or body, the local legislative body.
- 318 (41) "Land use decision" means an administrative decision of a land use authority or appeal
- 319 authority regarding:
- 320 (a) a land use permit; or
- 321 (b) a land use application.
- 322 (42) "Land use permit" means a permit issued by a land use authority.
- 323 (43) "Land use regulation":
- 324 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
- 325 engineering or development standard, specification for public improvement, fee, or
- 326 rule that governs the use or development of land;
- 327 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
- 328 and
- 329 (c) does not include:
- 330 (i) a land use decision of the legislative body acting as the land use authority, even if
- 331 the decision is expressed in a resolution or ordinance; or
- 332 (ii) a temporary revision to an engineering specification that does not materially:
- 333 (A) increase a land use applicant's cost of development compared to the existing
- 334 specification; or
- 335 (B) impact a land use applicant's use of land.
- 336 (44) "Legislative body" means the municipal council.

- 337 (45) "Local historic district or area" means a geographically definable area that:
- 338 (a) contains any combination of buildings, structures, sites, objects, landscape features,
- 339 archeological sites, or works of art that contribute to the historic preservation goals of
- 340 a legislative body; and
- 341 (b) is subject to land use regulations to preserve the historic significance of the local
- 342 historic district or area.
- 343 (46) "Lot" means a tract of land, regardless of any label, that is created by and shown on a
- 344 subdivision plat that has been recorded in the office of the county recorder.
- 345 (47) "Major transit investment corridor" means public transit service that uses or occupies:
- 346 (a) public transit rail right-of-way;
- 347 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
- 348 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
- 349 municipality or county and:
- 350 (i) a public transit district as defined in Section 17B-2a-802; or
- 351 (ii) an eligible political subdivision as defined in Section 59-12-2202.
- 352 (48) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.
- 353 (49) "Moderate income housing" means housing occupied or reserved for occupancy by
- 354 households with a gross household income equal to or less than 80% of the median gross
- 355 income for households of the same size in the county in which the city is located.
- 356 (50) "Municipal utility easement" means an easement that:
- 357 (a) is created or depicted on a plat recorded in a county recorder's office and is described
- 358 as a municipal utility easement granted for public use;
- 359 (b) is not a protected utility easement or a public utility easement as defined in Section
- 360 54-3-27;
- 361 (c) the municipality or the municipality's affiliated governmental entity uses and
- 362 occupies to provide a utility service, including sanitary sewer, culinary water,
- 363 electrical, storm water, or communications or data lines;
- 364 (d) is used or occupied with the consent of the municipality in accordance with an
- 365 authorized franchise or other agreement;
- 366 (e)(i) is used or occupied by a specified public utility in accordance with an
- 367 authorized franchise or other agreement; and
- 368 (ii) is located in a utility easement granted for public use; or
- 369 (f) is described in Section 10-20-615 and is used by a specified public utility.
- 370 (51) "Nominal fee" means a fee that reasonably reimburses a municipality only for time

- 371 spent and expenses incurred in:
- 372 (a) verifying that building plans are identical plans; and
- 373 (b) reviewing and approving those minor aspects of identical plans that differ from the
- 374 previously reviewed and approved building plans.
- 375 (52) "Noncomplying structure" means a structure that:
- 376 (a) legally existed before the structure's current land use designation; and
- 377 (b) because of one or more subsequent land use ordinance changes, does not conform to
- 378 the setback, height restrictions, or other regulations, excluding those regulations,
- 379 which govern the use of land.
- 380 (53) "Nonconforming use" means a use of land that:
- 381 (a) legally existed before [its] the land's current land use designation;
- 382 (b) has been maintained continuously since the time the land use ordinance governing
- 383 the land changed; and
- 384 (c) because of one or more subsequent land use ordinance changes, does not conform to
- 385 the regulations that now govern the use of the land.
- 386 (54) "Official map" means a map drawn by municipal authorities and recorded in a county
- 387 recorder's office that:
- 388 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
- 389 highways and other transportation facilities;
- 390 (b) provides a basis for restricting development in designated rights-of-way or between
- 391 designated setbacks to allow the government authorities time to purchase or
- 392 otherwise reserve the land; and
- 393 (c) has been adopted as an element of the municipality's general plan.
- 394 (55) "Parcel" means any real property that is not a lot.
- 395 (56) "Person" means an individual, corporation, partnership, organization, association, trust,
- 396 governmental agency, or any other legal entity.
- 397 (57) "Plan for moderate income housing" means a written document adopted by a
- 398 municipality's legislative body that includes:
- 399 (a) an estimate of the existing supply of moderate income housing located within the
- 400 municipality;
- 401 (b) an estimate of the need for moderate income housing in the municipality for the next
- 402 five years;
- 403 (c) a survey of total residential land use;
- 404 (d) an evaluation of how existing land uses and zones affect opportunities for moderate

- 405 income housing; and
- 406 (e) a description of the municipality's program to encourage an adequate supply of
- 407 moderate income housing.
- 408 (58) "Planning commission" means the commission established under Section 10-20-301.
- 409 (59) "Plat" means an instrument subdividing property into lots as depicted on a map or
- 410 other graphical representation of lands that a licensed professional land surveyor makes
- 411 and prepares in accordance with Section 10-20-803 or 57-8-13.
- 412 (60) "Potential geologic hazard area" means an area that:
- 413 (a) is designated by a Utah Geological Survey map, county geologist map, or other
- 414 relevant map or report as needing further study to determine the area's potential for
- 415 geologic hazard; or
- 416 (b) has not been studied by the Utah Geological Survey or a county geologist but
- 417 presents the potential of geologic hazard because the area has characteristics similar
- 418 to those of a designated geologic hazard area.
- 419 (61) "Property owner" means a person that holds legal or equitable title or interest in real
- 420 property.
- 421 [~~(61)~~] (62) "Public agency" means:
- 422 (a) the federal government;
- 423 (b) the state;
- 424 (c) a county, municipality, school district, special district, special service district, or
- 425 other political subdivision of the state; or
- 426 (d) a charter school.
- 427 [~~(62)~~] (63) "Public hearing" means a hearing at which members of the public are provided a
- 428 reasonable opportunity to comment on the subject of the hearing.
- 429 [~~(63)~~] (64) "Public meeting" means a meeting that is required to be open to the public under
- 430 Title 52, Chapter 4, Open and Public Meetings Act.
- 431 [~~(64)~~] (65) "Public street" means a public right-of-way, including a public highway, public
- 432 avenue, public boulevard, public parkway, public road, public lane, public alley, public
- 433 viaduct, public subway, public tunnel, public bridge, public byway, other public
- 434 transportation easement, or other public way.
- 435 [~~(65)~~] (66) "Receiving zone" means an area that a municipality designates, by ordinance, as
- 436 an area in which an owner of land may receive a transferable development right.
- 437 [~~(66)~~] (67) "Record of survey map" means a map of a survey of land prepared in accordance
- 438 with Section 17-73-504.

- 439 [(67)] (68) "Residential facility for persons with a disability" means a residence:
- 440 (a) in which more than one person with a disability resides; and
- 441 (b) which is licensed or certified by the Department of Health and Human Services
- 442 under:
- 443 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or
- 444 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 445 [(68)] (69) "Residential roadway" means a public local residential road that:
- 446 (a) will serve primarily to provide access to adjacent primarily residential areas and
- 447 property;
- 448 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;
- 449 (c) is not identified as a supplementary to a collector or other higher system classified
- 450 street in an approved municipal street or transportation master plan;
- 451 (d) has a posted speed limit of 25 miles per hour or less;
- 452 (e) does not have higher traffic volumes resulting from connecting previously separated
- 453 areas of the municipal road network;
- 454 (f) cannot have a primary access, but can have a secondary access, and does not abut lots
- 455 intended for high volume traffic or community centers, including schools, recreation
- 456 centers, sports complexes, or libraries; and
- 457 (g) primarily serves traffic within a neighborhood or limited residential area and is not
- 458 necessarily continuous through several residential areas.
- 459 [(69)] (70) "Rules of order and procedure" means a set of rules that govern and prescribe in
- 460 a public meeting:
- 461 (a) parliamentary order and procedure;
- 462 (b) ethical behavior; and
- 463 (c) civil discourse.
- 464 [(70)] (71) "Sanitary sewer authority" means the department, agency, or public entity with
- 465 responsibility to review and approve the feasibility of sanitary sewer services or onsite
- 466 wastewater systems.
- 467 [(71)] (72) "Sending zone" means an area that a municipality designates, by ordinance, as an
- 468 area from which an owner of land may transfer a transferable development right.
- 469 [(72)] (73) "Simple boundary adjustment" means a boundary adjustment that does not:
- 470 (a) affect a public right-of-way, municipal utility easement, or other public property;
- 471 (b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or
- 472 (c) result in a lot or parcel out of conformity with land use regulations.

473 ~~[(73)]~~ (74) "Special district" means an entity under Title 17B, Limited Purpose Local  
 474 Government Entities - Special Districts, and any other governmental or  
 475 quasi-governmental entity that is not a county, municipality, school district, or the state.

476 (75) "Specific land use law" means a requirement or restriction on the use of a specific  
 477 parcel in a development agreement that a legislative body approves with the consent of  
 478 an affected property owner.

479 ~~[(74)]~~ (76) "Specified public agency" means:

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

483 ~~[(75)]~~ (77) "Specified public utility" means an electrical corporation, gas corporation, or  
 484 telephone corporation, as those terms are defined in Section 54-2-1.

485 ~~[(76)]~~ (78) "State" includes any department, division, or agency of the state.

486 ~~[(77)]~~ (79)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to  
 487 be divided into two or more lots or other division of land for the purpose, whether  
 488 immediate or future, for offer, sale, lease, or development either on the installment  
 489 plan or upon any and all other plans, terms, and conditions.

490 (b) "Subdivision" includes:

- 491 (i) the division or development of land, whether by deed, metes and bounds  
 492 description, devise and testacy, map, plat, or other recorded instrument, regardless  
 493 of whether the division includes all or a portion of a parcel or lot; and
- 494 (ii) except as provided in Subsection ~~[(77)(e)]~~ (79)(c), divisions of land for residential  
 495 and nonresidential uses, including land used or to be used for commercial,  
 496 agricultural, and industrial purposes.

497 (c) "Subdivision" does not include:

- 498 (i) a bona fide division or partition of land used for agricultural purposes as provided  
 499 in Subsection 10-20-808(2);
- 500 (ii) a recorded conveyance document:
  - 501 (A) consolidating multiple lots or parcels into one legal description encompassing  
 502 all lots by reference to a recorded plat and all parcels by metes and bounds  
 503 description; or
  - 504 (B) joining a lot to a parcel;
- 505 (iii) a bona fide division of land by deed or other instrument if the deed or other  
 506 instrument states in writing that the division:

507 (A) is in anticipation of future land use approvals on the parcel or parcels;

508 (B) does not confer any land use approvals; and

509 (C) has not been approved by the land use authority;

510 (iv) a boundary adjustment;

511 (v) a boundary establishment;

512 (vi) a road, street, or highway dedication plat;

513 (vii) a deed or easement for a road, street, or highway purpose; or

514 (viii) any other division of land authorized by law.

515 ~~[(78)]~~ (80)(a) "Subdivision amendment" means an amendment to a recorded subdivision  
516 in accordance with Section 10-20-811 that:

517 (i) vacates all or a portion of the subdivision;

518 (ii) increases the number of lots within the subdivision;

519 (iii) alters a public right-of-way, a public easement, or public infrastructure within the  
520 subdivision; or

521 (iv) alters a common area or other common amenity within the subdivision.

522 (b) "Subdivision amendment" does not include a simple boundary adjustment.

523 ~~[(79)]~~ (81) "Substantial evidence" means evidence that:

524 (a) is beyond a scintilla; and

525 (b) a reasonable mind would accept as adequate to support a conclusion.

526 ~~[(80)]~~ (82) "Suspect soil" means soil that has:

527 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
528 3% swell potential;

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

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

532 ~~[(81)]~~ (83) "Therapeutic school" means a residential group living facility:

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

534 (i) the owner of the facility; or

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

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

537 (i) at home;

538 (ii) in a public school; or

539 (iii) in a nonresidential private school; and

540 (c) that offers:

- 541 (i) room and board; and  
 542 (ii) an academic education integrated with:  
 543 (A) specialized structure and supervision; or  
 544 (B) services or treatment related to a disability, an emotional development, a  
 545 behavioral development, a familial development, or a social development.

546 [(82)] (84) "Transferable development right" means a right to develop and use land that  
 547 originates by an ordinance that authorizes a [land] property owner in a designated  
 548 sending zone to transfer land use rights from a designated sending zone to a designated  
 549 receiving zone.

550 [(83)] (85) "Unincorporated" means the area outside of the incorporated area of a city or  
 551 town.

552 [(84)] (86) "Water interest" means any right to the beneficial use of water, including:

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

557 [(85)] (87) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts  
 558 land use zones, overlays, or districts.

559 Section 2. Section **10-20-302** is amended to read:

560 **10-20-302 . Planning commission powers and duties -- Training requirements.**

- 561 (1) The planning commission shall review and make a recommendation to the legislative  
 562 body for:  
 563 (a) a general plan and amendments to the general plan;  
 564 (b) land use regulations, including:  
 565 (i) ordinances regarding the subdivision of land within the municipality; and  
 566 (ii) amendments to existing land use regulations;  
 567 (c) an appropriate delegation of power to at least one designated land use authority to  
 568 hear and act on a land use application;  
 569 (d) an appropriate delegation of power to at least one appeal authority to hear and act on  
 570 an appeal from a decision of the land use authority; and  
 571 (e) application processes that:  
 572 (i) may include a designation of routine land use matters that, upon application and  
 573 proper notice, will receive informal streamlined review and action if the  
 574 application is uncontested; and

- 575 (ii) shall protect the right of each:
- 576 (A) land use applicant and adversely affected party to require formal consideration
- 577 of any application by a land use authority;
- 578 (B) land use applicant or adversely affected party to appeal a land use authority's
- 579 decision to a separate appeal authority; and
- 580 (C) participant to be heard in each public hearing on a contested application.
- 581 (2) Before making a recommendation to a legislative body on an item described in
- 582 Subsection (1)(a) or (b), the planning commission shall hold a public hearing in
- 583 accordance with Section 10-20-405.
- 584 (3) A legislative body may adopt, modify, or reject a planning commission's
- 585 recommendation to the legislative body under this section.
- 586 [~~(4) A legislative body may consider a planning commission's failure to make a timely~~
- 587 ~~recommendation as a negative recommendation.~~]
- 588 [~~(5)~~ (4) Nothing in this section limits the right of a municipality to initiate or propose the
- 589 actions described in this section.
- 590 [~~(6)~~ (5)(a)(i) This Subsection [~~(6)~~ (5) applies to:
- 591 (A) a city of the first, second, third, or fourth class; and
- 592 (B) a city of the fifth class with a population of 5,000 or more, if the city is located
- 593 within a county of the first, second, or third class.
- 594 (ii) The population for each city described in Subsection [~~(6)(a)(i)~~ (5)(a)(i) shall be
- 595 derived from:
- 596 (A) an estimate of the Utah Population Committee created in Section 63C-20-103;
- 597 or
- 598 (B) if the Utah Population Committee estimate is not available, the most recent
- 599 official census or census estimate of the United States [~~Bureau of the~~]Census
- 600 Bureau.
- 601 (b) A municipality described in Subsection [~~(6)(a)(i)~~ (5)(a)(i) shall ensure that each
- 602 member of the municipality's planning commission completes four hours of annual
- 603 land use training as follows:
- 604 (i) one hour of annual training on general powers and duties under this chapter; and
- 605 (ii) three hours of annual training on land use, which may include:
- 606 (A) appeals and variances;
- 607 (B) conditional use permits;
- 608 (C) exactions;

- 609 (D) impact fees;
- 610 (E) vested rights;
- 611 (F) subdivision regulations and improvement guarantees;
- 612 (G) land use referenda;
- 613 (H) property rights;
- 614 (I) real estate procedures and financing;
- 615 (J) zoning, including use-based and form-based; and
- 616 (K) drafting ordinances and code that complies with statute.
- 617 (c) A newly appointed planning commission member may not participate in a public
- 618 meeting as an appointed member until the member completes the training described
- 619 in Subsection [~~(6)(b)(i)~~] (5)(b)(i).
- 620 (d) A planning commission member may qualify for one completed hour of training
- 621 required under Subsection [~~(6)(b)(ii)~~] (5)(b)(ii) if the member attends, as an appointed
- 622 member, 12 public meetings of the planning commission within a calendar year.
- 623 (e) A municipality shall provide the training described in Subsection [~~(6)(b)~~] (5)(b)
- 624 through:
- 625 (i) municipal staff;
- 626 (ii) the Utah League of Cities and Towns; or
- 627 (iii) a list of training courses selected by:
- 628 (A) the Utah League of Cities and Towns; or
- 629 (B) the Division of Real Estate created in Section 61-2-201.
- 630 (f) A municipality shall, for each planning commission member:
- 631 (i) monitor compliance with the training requirements in Subsection [~~(6)(b)~~] (5)(b);
- 632 and
- 633 (ii) maintain a record of training completion at the end of each calendar year.

634 Section 3. Section **10-20-501** is amended to read:

635 **10-20-501 . Enactment of land use regulation, land use decision, or development**  
 636 **agreement.**

- 637 (1) Only a legislative body, as the body authorized to weigh policy considerations, may
- 638 enact a land use regulation.
- 639 (2)(a) Except as provided in Subsection (2)(b), a legislative body may enact a land use
- 640 regulation only by ordinance.
- 641 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that
- 642 imposes a fee.

643 (3) A legislative body shall ensure that a land use regulation is consistent with the purposes [  
644 ~~set forth in~~] of this chapter.

645 (4)(a) A legislative body shall adopt a land use regulation to:

646 (i) create or amend a zoning district under Subsection 10-20-503(1)(a); and

647 (ii) designate general uses allowed in each zoning district.

648 (b) A land use authority may establish or modify other restrictions or requirements other  
649 than those described in Subsection (4)(a), including the configuration or modification  
650 of uses or density, through a land use decision that applies criteria or policy elements  
651 that a land use regulation establishes or describes.

652 (5)(a) Except as provided in Subsection (5)(b), a municipality shall publish on the  
653 municipality's website:

654 (i) all of the municipality's land use regulations; and

655 (ii) a fee schedule that lists all of the municipality's fees related to a land use  
656 application, land use permit, or land use regulation, including development review  
657 fees and impact fees.

658 (b) A municipality that does not have a website shall provide for inspection of the  
659 information described in Subsection (5)(a) at the municipality's place of business  
660 during normal business hours.

661 [~~(5)~~] (6) A municipality may not adopt a land use regulation[;] or development agreement,  
662 or make a land use decision, that restricts the type of crop that may be grown in an area  
663 that is:

664 (a) zoned agricultural; or

665 (b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

666 [~~(6)~~] (7) A municipal land use regulation pertaining to an airport or an airport influence area,  
667 as that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4,  
668 Airport Zoning Act.

669 Section 4. Section **10-20-502** is amended to read:

670 **10-20-502 . Preparation and adoption of land use regulation.**

671 (1) A planning commission shall:

672 (a) provide notice as required by Subsection 10-20-205(1)(a) and, if applicable,  
673 Subsection 10-20-205(4);

674 (b) hold a public hearing on a proposed land use regulation;

675 (c) if applicable, consider each written objection filed in accordance with Subsection  
676 10-20-205(5) before the public hearing; and

677 (d)(i) review and recommend to the legislative body a proposed land use regulation  
 678 that represents the planning commission's recommendation for regulating the use  
 679 and development of land within all or any part of the area of the municipality; and  
 680 (ii) forward to the legislative body all objections filed in accordance with Subsection  
 681 10-20-205(5).

682 (2)(a) A legislative body shall consider each proposed land use regulation that the  
 683 planning commission recommends to the legislative body.

684 (b) After providing notice as required by Subsection 10-20-205(1)(b) and holding a  
 685 public meeting, the legislative body may adopt or reject the land use regulation  
 686 described in Subsection (2)(a):

687 (i) as proposed by the planning commission; or

688 (ii) after making any revision the legislative body considers appropriate.

689 (c) ~~[A legislative body may consider a planning commission's failure to make a timely~~  
 690 ~~recommendation as a negative recommendation if the legislative body has provided~~  
 691 ~~for that consideration by ordinance]~~ Beginning on September 15, 2026, if a planning  
 692 commission fails to make a timely recommendation on a proposed land use  
 693 regulation, the legislative body shall adopt or reject the proposed land use regulation  
 694 in accordance with Subsection (2)(b).

695 Section 5. Section **10-20-806** is amended to read:

696 **10-20-806 . Review of subdivision applications and subdivision improvement**  
 697 **plans.**

698 (1) As used in this section:

699 (a) "Review cycle" means the occurrence of:

700 (i) the applicant's submittal of a complete subdivision application;

701 (ii) the municipality's review of that subdivision application;

702 (iii) the municipality's response to that subdivision application, in accordance with  
 703 this section; and

704 (iv) the applicant's reply to the municipality's response that addresses each of the  
 705 municipality's required modifications or requests for additional information.

706 (b) "Subdivision application" means a land use application for the subdivision of land.

707 (c) "Subdivision improvement plans" means the civil engineering plans associated with  
 708 required infrastructure improvements and municipally controlled utilities required for  
 709 a subdivision.

710 (d) "Subdivision ordinance review" means review by a municipality to verify that a

- 711 subdivision application meets the criteria of the municipality's ordinances.
- 712 (e) "Subdivision plan review" means a review of the applicant's subdivision  
713 improvement plans and other aspects of the subdivision application to verify that the  
714 application complies with municipal ordinances and applicable installation standards  
715 and inspection specifications for infrastructure improvements.
- 716 (2) The review cycle restrictions and requirements of this section do not apply to the review  
717 of subdivision applications affecting property within identified geological hazard areas.
- 718 (3)(a) A municipality may require a subdivision improvement plan to be submitted with  
719 a subdivision application.
- 720 (b) A municipality may not require a subdivision improvement plan to be submitted with  
721 both a preliminary subdivision application and a final subdivision application.
- 722 (4)(a) The review cycle requirements of this section apply:
- 723 (i) to the review of a preliminary subdivision application, if the municipality requires  
724 a subdivision improvement plan to be submitted with a preliminary subdivision  
725 application; or
- 726 (ii) to the review of a final subdivision application, if the municipality requires a  
727 subdivision improvement plan to be submitted with a final subdivision application.
- 728 (b) A municipality may not, outside the review cycle, engage in a substantive review of  
729 required infrastructure improvements or a municipally controlled utility.
- 730 (5)(a) A municipality shall complete the initial review of a complete subdivision  
731 application submitted for ordinance review for a residential subdivision for  
732 single-family dwellings, two-family dwellings, or town homes:
- 733 (i) no later than 15 business days after the complete subdivision application is  
734 submitted, if the municipality has a population over 5,000; or
- 735 (ii) no later than 30 business days after the complete subdivision application is  
736 submitted, if the municipality has a population of 5,000 or less.
- 737 (b) A municipality shall maintain and publish a list of the items comprising the complete  
738 subdivision application, including:
- 739 (i) the application;
- 740 (ii) the owner's affidavit;
- 741 (iii) an electronic copy of all plans in PDF format;
- 742 (iv) the preliminary subdivision plat drawings; and
- 743 (v) a breakdown of fees due upon approval of the application.
- 744 (6) A municipality shall publish a list of the items that comprise a complete subdivision

- 745 land use application.
- 746 (7) A municipality shall complete a subdivision plan review of a subdivision improvement  
747 plan that is submitted with a complete subdivision application for a residential  
748 subdivision for single-family dwellings, two-family dwellings, or town homes:
- 749 (a) within 20 business days after the complete subdivision application is submitted, if the  
750 municipality has a population over 5,000; or
- 751 (b) within 40 business days after the complete subdivision application is submitted, if  
752 the municipality has a population of 5,000 or less.
- 753 (8)(a) In reviewing a subdivision application, a municipality may require:
- 754 (i) additional information relating to an applicant's plans to ensure compliance with  
755 municipal ordinances and approved standards and specifications for construction  
756 of public improvements; and
- 757 (ii) modifications to plans that do not meet current ordinances, applicable standards  
758 or specifications, or do not contain complete information.
- 759 (b) A municipality's request for additional information or modifications to plans under  
760 Subsection (8)(a)(i) or (ii) shall be specific and include citations to ordinances,  
761 standards, or specifications that require the modifications to subdivision  
762 improvement plans, and shall be logged in an index of requested modifications or  
763 additions.
- 764 (c) A municipality may not require more than four review cycles for a subdivision  
765 improvement plan review.
- 766 (d)(i) Subject to Subsection (8)(d)(ii), unless the change or correction is necessitated  
767 by the applicant's adjustment to a subdivision improvement plan or an update to a  
768 phasing plan that adjusts the infrastructure needed for the specific development, a  
769 change or correction not addressed or referenced in a municipality's subdivision  
770 improvement plan review is waived.
- 771 (ii) A modification or correction necessary to protect public health and safety or to  
772 enforce state or federal law may not be waived.
- 773 (iii) If an applicant makes a material change to a subdivision improvement plan, the  
774 municipality has the discretion to restart the review process at the first review of  
775 the subdivision improvement plan review, but only with respect to the portion of  
776 the subdivision improvement plan that the material change substantively affects.
- 777 (e)(i) This Subsection (8)(e) applies if an applicant does not submit a revised  
778 subdivision improvement plan within :

- 779 (A) 20 business days after the municipality requires a modification or correction,  
 780 if the municipality has a population over 5,000; or  
 781 (B) 40 business days after the municipality requires a modification or correction,  
 782 if the municipality has a population of 5,000 or less.
- 783 (ii) If an applicant does not submit a revised subdivision improvement plan within the  
 784 time specified in Subsection (8)(e)(i), a municipality has an additional 20 business  
 785 days after the time specified in Subsection (7) to respond to a revised subdivision  
 786 improvement plan.
- 787 (9) After the applicant has responded to the final review cycle, and the applicant has  
 788 complied with each modification requested in the municipality's previous review cycle,  
 789 the municipality may not require additional revisions if the applicant has not materially  
 790 changed the plan, other than changes that were in response to requested modifications or  
 791 corrections.
- 792 (10)(a) In addition to revised plans, an applicant shall provide a written explanation in  
 793 response to the municipality's review comments, identifying and explaining the  
 794 applicant's revisions and reasons for declining to make revisions, if any.
- 795 (b) The applicant's written explanation shall be comprehensive and specific, including  
 796 citations to applicable standards and ordinances for the design and an index of  
 797 requested revisions or additions for each required correction.
- 798 (c) If an applicant fails to address a review comment in the response, the review cycle is  
 799 not complete and the subsequent review cycle may not begin until all comments are  
 800 addressed.
- 801 (11)~~(11)~~ If, on the fourth or final review, a municipality fails to respond within 20  
 802 business days, the municipality shall, upon request of the property owner, and within  
 803 10 business days after the day on which the request is received:
- 804 ~~(i)~~ (a) for a dispute arising from the subdivision improvement plans, assemble an  
 805 appeal panel in accordance with Subsection ~~[10-20-911(5)(d)]~~ 10-20-911(4)(d) to  
 806 review and approve or deny the final revised set of plans; or
- 807 ~~(ii)~~ (b) for a dispute arising from the subdivision ordinance review, advise the  
 808 applicant, in writing, of the deficiency in the application and of the right to appeal the  
 809 determination to a designated appeal authority.
- 810 Section 6. Section **10-20-902** is amended to read:
- 811 **10-20-902 . Applicant's entitlement to land use application approval --**  
 812 **Municipality's requirements and limitations -- Vesting upon submission of development**

813 **plan and schedule.**

- 814 (1)(a)(i) An applicant who has submitted a complete land use application as  
815 described in Subsection (1)(c), including the payment of all application fees, is  
816 entitled to substantive review of the application under the land use regulations:
- 817 (A) in effect on the date that the application is complete; and
  - 818 (B) applicable to the application or to the information shown on the application.
- 819 (ii) An applicant is entitled to approval of a land use application if the application  
820 conforms to the requirements of the applicable land use regulations, land use  
821 decisions, and development standards in effect when the applicant submits a  
822 complete application and pays application fees, unless:
- 823 (A) the land use authority, on the record, formally finds that a compelling,  
824 countervailing public interest would be jeopardized by approving the  
825 application and specifies the compelling, countervailing public interest in  
826 writing; or
  - 827 (B) in the manner provided by local ordinance and before the applicant submits  
828 the application, the municipality formally initiates proceedings to amend the  
829 municipality's land use regulations in a manner that would prohibit approval of  
830 the application as submitted.
- 831 (b) The municipality shall process an application without regard to proceedings the  
832 municipality initiated to amend the municipality's ordinances as described in  
833 Subsection (1)(a)(ii)(B) if:
- 834 (i) 180 days have passed since the municipality initiated the proceedings; and
  - 835 (ii)(A) the proceedings have not resulted in an enactment that prohibits approval  
836 of the application as submitted; or
  - 837 (B) during the 12 months before the municipality processing the application, or  
838 multiple applications of the same type, are impaired or prohibited under the  
839 terms of a temporary land use regulation adopted under Section 10-20-504.
- 840 (c) A land use application is considered submitted and complete when the applicant  
841 provides the application in a form that complies with the requirements of applicable  
842 ordinances and pays all applicable fees.
- 843 (d) A subsequent incorporation of a municipality or a petition that proposes the  
844 incorporation of a municipality does not affect a land use application approved by a  
845 county in accordance with Section 17-79-803.
- 846 (e) Unless a phasing sequence is required in an executed development agreement, a

- 847 municipality shall, without regard to any other separate and distinct land use  
848 application, accept and process a complete land use application.
- 849 (f) The continuing validity of an approval of a land use application is conditioned upon  
850 the applicant proceeding after approval to implement the approval with reasonable  
851 diligence.
- 852 (g) A municipality may not impose on an applicant who has submitted a complete  
853 application a requirement that is not expressed in:
- 854 (i) this chapter;
- 855 (ii) a municipal ordinance in effect on the date that the applicant submits a complete  
856 application, subject to Subsection 10-20-902(1)(a)(ii); or
- 857 (iii) a municipal specification for public improvements applicable to a subdivision or  
858 development that is in effect on the date that the applicant submits an application.
- 859 (h) A municipality may not impose on a holder of an issued land use permit or a final,  
860 unexpired subdivision plat a requirement that is not expressed:
- 861 (i) in a land use permit;
- 862 (ii) on the subdivision plat;
- 863 (iii) in a document on which the land use permit or subdivision plat is based;
- 864 (iv) in the written record evidencing approval of the land use permit or subdivision  
865 plat;
- 866 (v) in this chapter;
- 867 (vi) in a municipal ordinance; or
- 868 (vii) in a municipal specification for residential roadways in effect at the time a  
869 residential subdivision was approved.
- 870 (i) Except as provided in Subsection (1)(j) or (k), a municipality may not withhold  
871 issuance of a certificate of occupancy or acceptance of subdivision improvements  
872 because of an applicant's failure to comply with a requirement that is not expressed:
- 873 (i) in the building permit or subdivision plat, documents on which the building permit  
874 or subdivision plat is based, or the written record evidencing approval of the land  
875 use permit or subdivision plat; or
- 876 (ii) in this chapter or the municipality's ordinances.
- 877 (j) A municipality may not unreasonably withhold issuance of a certificate of occupancy  
878 where an applicant has met all requirements essential for the public health, public  
879 safety, and general welfare of the occupants, in accordance with this chapter, unless:
- 880 (i) the applicant and the municipality have agreed in a written document to the

- 881                   withholding of a certificate of occupancy; or
- 882                   (ii) the applicant has not provided a financial assurance for required and uncompleted
- 883                   public landscaping improvements or infrastructure improvements in accordance
- 884                   with an applicable local ordinance.
- 885           (k) A municipality may not conduct a final inspection required before issuing a
- 886           certificate of occupancy for a residential unit that is within the boundary of an
- 887           infrastructure financing district, as defined in Section 17B-1-102, until the applicant
- 888           for the certificate of occupancy provides adequate proof to the municipality that any
- 889           lien on the unit arising from the infrastructure financing district's assessment against
- 890           the unit under Title 11, Chapter 42, Assessment Area Act, has been released after
- 891           payment in full of the infrastructure financing district's assessment against that unit.
- 892           (l) A municipality:
- 893                   (i) may require the submission of a private landscaping plan, as defined in Section
- 894                   10-20-807, before landscaping is installed; and
- 895                   (ii) may not withhold an applicant's building permit or certificate of occupancy
- 896                   because the applicant has not submitted a private landscaping plan.
- 897           (2) A municipality is bound by the terms and standards of applicable land use regulations
- 898           and shall comply with mandatory provisions of those regulations.
- 899           (3)(a) Except as provided in Subsection (3)(b), a municipality shall publish on the
- 900           municipality's website an application checklist for each land use application type that
- 901           includes:
- 902                   (i) a checklist of all required plans and documents that make a complete application;
- 903                   (ii) links to applicable land use regulations posted on the municipality's website;
- 904                   (iii) a complete list of applicable development standards or links to those standards;
- 905                   and
- 906                   (iv) a list of applicable development review fees.
- 907           (b) A municipality that does not have a website shall provide for inspection of the
- 908           information described in Subsection (3)(a) at the municipality's place of business
- 909           during normal business hours.
- 910           [(3)] (4) A municipality may not, as a condition of land use application approval, require a
- 911           person filing a land use application to obtain documentation regarding a school district's
- 912           willingness, capacity, or ability to serve the development proposed in the land use
- 913           application.
- 914           [(4)] (5) Upon a specified public agency's submission of a development plan and schedule as

915 required in Subsection 10-20-304(8) that complies with the requirements of that  
 916 subsection, the specified public agency vests in the municipality's applicable land use  
 917 maps, zoning map, hookup fees, impact fees, other applicable development fees, and  
 918 land use regulations in effect on the date of submission.

919 [(5)] (6)(a) If sponsors of a referendum timely challenge a project in accordance with  
 920 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land  
 921 use approval by delivering a written notice:

922 (i) to the local clerk as defined in Section 20A-7-101; and  
 923 (ii) no later than seven days after the day on which a petition for a referendum is  
 924 determined sufficient under Subsection 20A-7-607(5).

925 (b) Upon delivery of a written notice described in Subsection [(5)(a)] (6)(a) the following  
 926 are rescinded and are of no further force or effect:

927 (i) the relevant land use approval; and  
 928 (ii) any land use regulation enacted specifically in relation to the land use approval.

929 [(6)] (7)(a) After issuance of a building permit, a municipality may not:

930 (i) change or add to the requirements expressed in the building permit, unless the  
 931 change or addition is:

932 (A) requested by the building permit holder; or  
 933 (B) necessary to comply with an applicable state building code; or

934 (ii) revoke the building permit or take action that has the effect of revoking the  
 935 building permit.

936 (b) Subsection [(6)(a)] (7)(a) does not prevent a municipality from issuing a building  
 937 permit that contains an expiration date defined in the building permit.

938 Section 7. Section **10-20-910** is amended to read:

939 **10-20-910 . Provisions applicable to a provider of culinary or secondary water.**

940 A provider of culinary or secondary water that commits to provide a water service required  
 941 by a land use application process is subject to the following as if it were a municipality:

942 (1) Subsections 10-20-904(5) and (6);

943 (2) Section 10-20-905; [~~and~~]

944 (3) Section 10-20-911; and

945 (4) Section 10-20-912.

946 Section 8. Section **10-20-911** is amended to read:

947 **10-20-911 . Exactions -- Requirement to offer to original owner property**

948 **acquired by exaction -- Exaction for right-of-way improvements -- Improvement**

949 **completion assurance requirements.**

950 (1) A municipality may impose an exaction or exactions on development proposed in a land  
 951 use application, including, subject to ~~[Subsection (3)]~~ Section 10-20-912, an exaction for  
 952 a water interest, if:

953 (a) an essential link exists between a legitimate governmental interest and each exaction;  
 954 and

955 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the  
 956 proposed development.

957 (2) If a land use authority imposes an exaction for another governmental entity:

958 (a) the governmental entity shall request the exaction; and

959 (b) the land use authority shall transfer the exaction to the governmental entity for which  
 960 it was exacted.

961 ~~[(3)(a)(i) Subject to the requirements of this Subsection (3), a municipality shall base  
 962 an exaction for a water interest on the culinary water authority's established  
 963 calculations of projected water interest requirements.]~~

964 ~~[(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall  
 965 base an exaction for a culinary water interest on:]~~

966 ~~[(A) consideration of the system-wide minimum sizing standards established for  
 967 the culinary water authority by the Division of Drinking Water in accordance  
 968 with Section 19-4-114; and]~~

969 ~~[(B) the number of equivalent residential connections associated with the culinary  
 970 water demand for each specific development proposed in the development's  
 971 land use application, applying lower exactions for developments with lower  
 972 equivalent residential connections as demonstrated by at least five years of  
 973 usage data for like land uses within the municipality.]~~

974 ~~[(iii) A municipality may impose an exaction for a culinary water interest that results  
 975 in less water being exacted than would otherwise be exacted under Subsection  
 976 (3)(a)(i) if the municipality, at the municipality's sole discretion, determines there  
 977 is good cause to do so.]~~

978 ~~[(iv)(A) A municipality shall make public the methodology used to comply with  
 979 Subsection (3)(a)(ii)(B).]~~

980 ~~[(B) A land use applicant may appeal to the municipality's governing body an  
 981 exaction calculation used by the municipality under Subsection (3)(a)(ii).]~~

982 ~~[(C) A land use applicant may present data and other information that illustrates a~~

983 need for an exaction recalculation and the municipality's governing body shall  
 984 respond with due process.]

985 [(v) Upon an applicant's request, the culinary water authority shall provide the  
 986 applicant with the basis for the culinary water authority's calculations under  
 987 Subsection (3)(a)(i) on which an exaction for a water interest is based.]

988 [(b) A municipality may not impose an exaction for a water interest if the culinary water  
 989 authority's existing available water interests exceed the water interests needed to meet  
 990 the reasonable future water requirement of the public, as determined under  
 991 Subsection 73-1-4(2)(f).]

992 [(4)] (3)(a) If a municipality plans to dispose of surplus real property that was acquired  
 993 under this section and has been owned by the municipality for less than 15 years, the  
 994 municipality shall first offer to reconvey the property, [without receiving additional  
 995 consideration] at no cost, to the person who granted the property to the municipality.

996 (b) A person to whom a municipality offers to reconvey property under Subsection [  
 997 (4)(a)] (3)(a) has 90 days to accept or reject the municipality's offer.

998 (c) If a person to whom a municipality offers to reconvey property declines the offer, the  
 999 municipality may offer the property for sale.

1000 (d) Subsection [(4)(a)] (3)(a) does not apply to the disposal of property acquired by  
 1001 exaction by a community reinvestment agency.

1002 [(5)] (4)(a) A municipality may not, as part of an infrastructure improvement, require the  
 1003 installation of pavement on a residential roadway at a width in excess of 32 feet.

1004 (b) Subsection [(5)(a)] (4)(a) does not apply if a municipality requires the installation of  
 1005 pavement in excess of 32 feet:

1006 (i) in a vehicle turnaround area;

1007 (ii) in a cul-de-sac;

1008 (iii) to address specific traffic flow constraints at an intersection, mid-block  
 1009 crossings, or other areas;

1010 (iv) to address an applicable general or master plan improvement, including  
 1011 transportation, bicycle lanes, trails, or other similar improvements that are not  
 1012 included within an impact fee area;

1013 (v) to address traffic flow constraints for service to or abutting higher density  
 1014 developments or uses that generate higher traffic volumes, including community  
 1015 centers, schools, and other similar uses;

1016 (vi) as needed for the installation or location of a utility which is maintained by the

- 1017 municipality and is considered a transmission line or requires additional roadway  
1018 width;
- 1019 (vii) for third-party utility lines that have an easement preventing the installation of  
1020 utilities maintained by the municipality within the roadway;
- 1021 (viii) for utilities over 12 feet in depth;
- 1022 (ix) for roadways with a design speed that exceeds 25 miles per hour;
- 1023 (x) as needed for flood and stormwater routing;
- 1024 (xi) as needed to meet fire code requirements for parking and hydrants; or
- 1025 (xii) as needed to accommodate street parking.
- 1026 (c) Nothing in this section shall be construed to prevent a municipality from approving a  
1027 road cross section with a pavement width less than 32 feet.
- 1028 (d)(i) A land use applicant may appeal a municipal requirement for pavement in  
1029 excess of 32 feet on a residential roadway.
- 1030 (ii) A land use applicant that has appealed a municipal specification for a residential  
1031 roadway pavement width in excess of 32 feet may request that the municipality  
1032 assemble a panel of qualified experts to serve as the appeal authority for purposes  
1033 of determining the technical aspects of the appeal.
- 1034 (iii) Unless otherwise agreed by the applicant and the municipality, the panel  
1035 described in Subsection [~~(5)(d)(ii)~~] (4)(d)(ii) shall consist of the following three  
1036 experts:
- 1037 (A) one licensed engineer, designated by the municipality;
- 1038 (B) one licensed engineer, designated by the land use applicant; and
- 1039 (C) one licensed engineer, agreed upon and designated by the two designated  
1040 engineers under Subsections [~~(5)(d)(iii)(A)~~] (4)(d)(iii)(A) and (B).
- 1041 (iv) A member of the panel assembled by the municipality under Subsection [  
1042 ~~(5)(d)(ii)~~] (4)(d)(ii) may not have an interest in the application that is the subject of  
1043 the appeal.
- 1044 (v) The land use applicant shall pay:
- 1045 (A) 50% of the cost of the panel; and
- 1046 (B) the municipality's published appeal fee.
- 1047 (vi) The decision of the panel is a final decision, subject to a petition for review under  
1048 Subsection [~~(5)(d)(vii)~~] (4)(d)(vii).
- 1049 (vii) In accordance with Section 10-20-1109, a land use applicant or the municipality  
1050 may file a petition for review of the decision with the district court within 30 days

1051 after the date that the decision is final.

1052 [~~(6) A provider of culinary or secondary water that commits to provide a water service~~  
1053 ~~required by a land use application process is subject to the provisions of this section the~~  
1054 ~~same as if the provider were a municipality.]~~

1055 Section 9. Section **10-20-912** is enacted to read:

1056 **10-20-912 . Exactions for water rights.**

- 1057 (1) Subject to the requirements of this section, a municipality shall base an exaction for a  
1058 water interest on the culinary water authority's established calculations of projected  
1059 water interest requirements.
- 1060 (2) Except as provided in Subsection (3), a culinary water authority shall base an exaction  
1061 for a culinary water interest on:
- 1062 (a) consideration of the system-wide minimum sizing standards established for the  
1063 culinary water authority by the Division of Drinking Water under Section 19-4-114;  
1064 and
- 1065 (b) the number of equivalent residential connections associated with the culinary water  
1066 demand for each specific development proposed in the development's land use  
1067 application, applying lower exactions for developments with lower equivalent  
1068 residential connections as demonstrated by at least five years of usage data for like  
1069 land uses within the municipality.
- 1070 (3) If a municipality determines, in the sole discretion of the municipality, that good cause  
1071 exists, the municipality may impose an exaction for a culinary water interest that results  
1072 in less water being exacted than would otherwise be exacted under Subsection (2).
- 1073 (4) A municipality shall make public the methodology used to comply with Subsection  
1074 (2)(b).
- 1075 (5) A land use applicant may appeal to the municipality's legislative body an exaction  
1076 calculation used by the municipality under Subsection (2).
- 1077 (6) A land use applicant may present data and other information that illustrates a need for  
1078 an exaction recalculation and the municipality's legislative body shall respond with due  
1079 process.
- 1080 (7) Upon an applicant's request, the culinary water authority shall provide the applicant  
1081 with the basis for the culinary water authority's calculations under Subsection (2) on  
1082 which an exaction for a water interest is based.
- 1083 (8) A municipality may not impose an exaction for a water interest if the culinary water  
1084 authority's existing available water interests exceed the water interests needed to meet

1085 the reasonable future water requirement of the public, as determined under Subsection  
 1086 73-1-4(2)(f).

1087 (9) A provider of culinary or secondary water that commits to provide a water service  
 1088 required by a land use application process is subject to the provisions of this section and  
 1089 Section 10-20-911 the same as if the provider were a municipality.

1090 Section 10. Section **10-20-1001** is amended to read:

1091 **10-20-1001 . Enforcement -- Limitations on a municipality's ability to enforce an**  
 1092 **ordinance by withholding a permit or certificate.**

1093 (1)(a) A municipality or [~~an adversely affected party~~] a land use applicant may, in  
 1094 addition to other remedies provided by law, institute:

1095 (i) injunctions, mandamus, abatement, or any other appropriate actions; or  
 1096 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

1097 (b) A municipality need only establish the violation to obtain the injunction.

1098 (2)(a) Except as provided in Subsections (3) [~~though~~] through (6), or as provided in the  
 1099 provisions of a development agreement, a municipality may enforce the  
 1100 municipality's ordinance by withholding a building permit or certificate of occupancy.

1101 (b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any  
 1102 building or other structure within a municipality without approval of a building  
 1103 permit.

1104 (c) A municipality may not issue a building permit unless the plans of and for the  
 1105 proposed erection, construction, reconstruction, alteration, or use fully conform to all  
 1106 regulations then in effect.

1107 (d) A municipality may require an applicant to maintain and repair a temporary fire  
 1108 apparatus road during the construction of a structure accessed by the temporary fire  
 1109 apparatus road in accordance with the municipality's adopted standards.

1110 (e) A municipality may require temporary signs to be installed at each street intersection  
 1111 once construction of a new roadway allows passage by a motor vehicle.

1112 (f) A municipality may adopt and enforce any appendix of the International Fire Code,  
 1113 2021 Edition.

1114 (3)(a) A municipality may not deny an applicant a building permit or certificate of  
 1115 occupancy because the applicant has not completed an infrastructure improvement:

1116 (i) unless the infrastructure improvement is essential to meet the requirements for the  
 1117 issuance of a building permit or certificate of occupancy under Title 15A, State  
 1118 Construction and Fire Codes Act; and

- 1119 (ii) for which the municipality has accepted an improvement completion assurance  
1120 for a public landscaping improvement, as defined in Section 10-20-807, or an  
1121 infrastructure improvement for the development.
- 1122 (b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6,  
1123 infrastructure improvement that is essential means:
- 1124 (i) for a building permit:
- 1125 (A) operable fire hydrants installed in a manner that is consistent with the  
1126 municipality's adopted engineering standards; and
- 1127 (B) for temporary roads used during construction, a properly compacted road base  
1128 installed in a manner consistent with the municipality's adopted engineering  
1129 standards;
- 1130 (ii) for a certificate of occupancy, at the discretion of the municipality, at least one of  
1131 the following:
- 1132 (A) a permanent road;
- 1133 (B) a temporary road covered with asphalt or concrete; or
- 1134 (C) another method for accessing a structure consistent with Appendix D of the  
1135 International Fire Code; and
- 1136 (iii) public infrastructure necessary for the health, life, and safety of the occupant.
- 1137 (c) A municipality may not adopt an engineering standard that requires an applicant to  
1138 install a permanent road or a temporary road with asphalt or concrete before  
1139 receiving a building permit.
- 1140 (4) A municipality may not deny an applicant a building permit or certificate of occupancy  
1141 for failure to:
- 1142 (a) submit a private landscaping plan, as defined in Section 10-20-807; or
- 1143 (b) complete a landscaping improvement that is not a public landscaping improvement,  
1144 as defined in Section 10-20-807.
- 1145 (5) A municipality may not withhold a building permit based on the lack of completion of a  
1146 portion of a public sidewalk to be constructed within a public right-of-way serving a lot  
1147 where a single-family or two-family residence or town home is proposed in a building  
1148 permit application if an improvement completion assurance has been posted for the  
1149 incomplete portion of the public sidewalk.
- 1150 (6) A municipality may not prohibit the construction of a single-family or two-family  
1151 residence or town home, withhold recording a plat, or withhold acceptance of a public  
1152 landscaping improvement, as defined in Section 10-20-807, or an infrastructure

1153 improvement based on the lack of installation of a public sidewalk if an improvement  
1154 completion assurance has been posted for the public sidewalk.

1155 (7) A municipality may not redeem an improvement completion assurance securing the  
1156 installation of a public sidewalk sooner than 18 months after the date the improvement  
1157 completion assurance is posted.

1158 (8) A municipality shall allow an applicant to post an improvement completion assurance  
1159 for a public sidewalk separate from an improvement completion assurance for:

1160 (a) another infrastructure improvement; or

1161 (b) a public landscaping improvement, as defined in Section 10-20-807.

1162 (9) A municipality may withhold a certificate of occupancy for a single-family or  
1163 two-family residence or town home until the portion of the public sidewalk to be  
1164 constructed within a public right-of-way and located immediately adjacent to the  
1165 single-family or two-family residence or town home is completed and accepted by the  
1166 municipality.

1167 Section 11. Section **10-20-1101** is amended to read:

1168 **10-20-1101 . Appeal authority required -- Condition precedent to judicial review**

1169 **-- Appeal authority duties.**

1170 (1)(a) Each municipality adopting a land use ordinance:

1171 (i) shall, by ordinance, establish one or more appeal authorities; and

1172 (ii) beginning on July 1, 2026, may not designate the legislative body as an appeal  
1173 authority.

1174 (b) An appeal authority described in Subsection (1)(a) shall hear and decide:

1175 (i) requests for [~~variances~~] a variance from [~~the terms of~~] a land use [~~ordinances~~]  
1176 ordinance;

1177 (ii) appeals from a land use [~~decisions~~] decision applying a land use [~~ordinances~~]  
1178 ordinance; and

1179 (iii) appeals from a fee charged in accordance with Section 10-20-904.

1180 (c) An appeal authority described in Subsection (1)(a) may not hear an appeal from the  
1181 enactment of a land use regulation.

1182 (2) As a condition precedent to judicial review, each adversely affected party or land use  
1183 applicant shall timely and specifically challenge a land use authority's land use decision,  
1184 in accordance with local ordinance.

1185 (3) An appeal authority described in Subsection (1)(a):

1186 (a) shall:

- 1187 (i) act in a quasi-judicial manner; and
- 1188 (ii) serve as the final arbiter of issues involving the interpretation or application of a
- 1189 land use [~~ordinances~~] ordinance; and
- 1190 (b) may not entertain an appeal of a matter in which the appeal authority, or any
- 1191 participating member, had first acted as the land use authority.
- 1192 (4) By ordinance, a municipality may:
- 1193 (a) designate a separate appeal authority to hear requests for variances than the appeal
- 1194 authority the municipality designates to hear appeals;
- 1195 (b) designate one or more separate appeal authorities to hear distinct types of appeals of
- 1196 land use authority decisions;
- 1197 (c) require an adversely affected party to present to an appeal authority every theory of
- 1198 relief that the adversely affected party can raise in district court; and
- 1199 [~~(d) not require a land use applicant or adversely affected party to pursue duplicate or~~
- 1200 ~~successive appeals before the same or separate appeal authorities as a condition of an~~
- 1201 ~~appealing party's duty to exhaust administrative remedies; and]~~
- 1202 [(~~e~~)] (d) provide that specified types of land use decisions may be appealed directly to the
- 1203 district court.
- 1204 (5) A municipality may not:
- 1205 (a) require a public hearing for a request for a variance or land use appeal[-] ; or
- 1206 (b) require a land use applicant or adversely affected party to pursue successive appeals
- 1207 before the same or separate appeal authorities as a condition of an appealing party's
- 1208 duty to exhaust administrative remedies.
- 1209 (6) If the municipality establishes or, before the effective date of this chapter, has
- 1210 established a multiperson board, body, or panel to act as an appeal authority, at a
- 1211 minimum the board, body, or panel shall:
- 1212 (a) notify each of the members of the board, body, or panel of any meeting or hearing of
- 1213 the board, body, or panel;
- 1214 (b) provide each of the members of the board, body, or panel with the same information
- 1215 and access to municipal resources as any other member;
- 1216 (c) convene only if a quorum of the members of the board, body, or panel is present; and
- 1217 (d) act only upon the vote of a majority of the convened members of the board, body, or
- 1218 panel.
- 1219 Section 12. Section **10-20-1106** is amended to read:
- 1220 **10-20-1106 . Due process.**

1221 (1) ~~[Each]~~ An appeal authority shall conduct each appeal and variance request as provided  
 1222 in local ordinance.

1223 (2) ~~[Each]~~ An appeal authority shall respect the due process rights of ~~[each of the~~  
 1224 ~~participants]~~ an appeal participant.

1225 (3) An appeal authority may only allow the following people to participate, present, or  
 1226 speak during an appeal or variance hearing:

1227 (a) the appellant or the appellant's representatives;

1228 (b) the land use applicant or the land use applicant's representatives; and

1229 (c) the municipality's representatives.

1230 Section 13. Section **10-20-1107** is amended to read:

1231 **10-20-1107 . Scope of review of factual matters on appeal -- Appeal authority**  
 1232 **requirements.**

1233 (1) A municipality may, by ordinance, designate the scope of review of factual matters for  
 1234 appeals of land use authority decisions.

1235 (2) If the municipality fails to designate a scope of review of factual matters, the appeal  
 1236 authority shall review the ~~[matter]~~ factual matters de novo, without deference to the land  
 1237 use authority's determination of the factual matters.

1238 (3) If the scope of review of factual matters is on the record, the appeal authority shall  
 1239 determine whether the record on appeal includes substantial evidence for each essential  
 1240 finding of fact.

1241 (4) The appeal authority shall:

1242 (a) determine the correctness of the land use authority's interpretation and application of  
 1243 the plain meaning of the land use regulations; and

1244 (b) interpret and apply a land use regulation to favor a land use application unless the  
 1245 land use regulation plainly restricts the land use application.

1246 (5)(a) An appeal authority's land use decision is a quasi-judicial act.

1247 (b) ~~[A] Beginning on July 1, 2026, a legislative body may not act as an appeal authority[~~  
 1248 ~~unless both the legislative body and the appealing party agree to allow a third party to~~  
 1249 ~~act as the appeal authority].~~

1250 (6) Only a decision in which a land use authority has applied a land use regulation to a  
 1251 particular land use application, person, or parcel may be appealed to an appeal authority.

1252 Section 14. Section **10-20-1109** is amended to read:

1253 **10-20-1109 . No district court review until administrative remedies exhausted --**

1254 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**

- 1255 -- **Staying of decision.**
- 1256 (1) ~~[Nø]~~ A person may challenge in district court a land use decision or the approval of a
- 1257 specific land use law only if, in accordance with this part:
- 1258 (a) the person's appeal of the land use decision or approval of a specific land use law to
- 1259 the appeal authority is timely; and
- 1260 (b) ~~[-until that]~~ the person has exhausted the person's administrative remedies~~[-as~~
- 1261 ~~provided in this part]~~, if applicable.
- 1262 (2)(a) Subject to Subsection (1), a land use applicant or adversely affected party may file
- 1263 a petition for review of a land use decision or the approval of a specific land use law
- 1264 with the district court within 30 days after the decision is final.
- 1265 (b)(i) The time under Subsection (2)(a) to file a petition is tolled from the date a
- 1266 property owner files a request for arbitration of a constitutional taking issue with
- 1267 the property rights ombudsman under Section 13-43-204 until 30 days after:
- 1268 (A) the arbitrator issues a final award; or
- 1269 (B) the property rights ombudsman issues a written statement under Subsection
- 1270 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.
- 1271 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
- 1272 taking issue that is the subject of the request for arbitration filed with the property
- 1273 rights ombudsman by a property owner.
- 1274 (iii) A request for arbitration filed with the property rights ombudsman after the time
- 1275 under Subsection (2)(a) to file a petition has expired does not affect the time to
- 1276 file a petition.
- 1277 (3)(a) A court shall:
- 1278 (i) presume that a land use regulation properly enacted under the authority of this
- 1279 chapter is valid; and
- 1280 (ii) determine only whether:
- 1281 (A) the land use regulation is expressly preempted by, or was enacted contrary to,
- 1282 state or federal law; and
- 1283 (B) it is reasonably debatable that the land use regulation is consistent with this
- 1284 chapter.
- 1285 (b) A court shall presume that a final land use decision of a land use authority or an
- 1286 appeal authority is valid unless the land use decision is:
- 1287 (i) arbitrary and capricious; or
- 1288 (ii) illegal.

- 1289 (c)(i) A land use decision is arbitrary and capricious if the land use decision is not  
1290 supported by substantial evidence in the record.
- 1291 (ii) A land use decision is illegal if the land use decision:  
1292 (A) is based on an incorrect interpretation of a land use regulation;  
1293 (B) conflicts with the authority granted by this title; or  
1294 (C) is contrary to law.
- 1295 (d)(i) A court may affirm or reverse a land use decision.  
1296 (ii) If the court reverses a land use decision, the court shall remand the matter to the  
1297 land use authority with instructions to issue a land use decision consistent with the  
1298 court's ruling.
- 1299 (4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes  
1300 final action on a land use application, if the municipality conformed with the notice  
1301 provisions of Part 2, Notice, or for any person who had actual notice of the pending land  
1302 use decision.
- 1303 (5) If the municipality has complied with Section 10-20-205, a challenge to the enactment  
1304 of a land use regulation or general plan may not be filed with the district court more than  
1305 30 days after the enactment.
- 1306 (6) A challenge to a land use decision is barred unless the challenge is filed within 30 days  
1307 after the land use decision is final.
- 1308 (7)(a) The land use authority or appeal authority, as the case may be, shall transmit to  
1309 the reviewing court the record of the proceedings of the land use authority or appeal  
1310 authority, including the minutes, findings, orders, and, if available, a true and correct  
1311 transcript of the proceedings.
- 1312 (b) If the proceeding was recorded, a transcript of that recording is a true and correct  
1313 transcript for purposes of this Subsection (7).
- 1314 (8)(a)(i) If there is a record, the district court's review is limited to the record  
1315 provided by the land use authority or appeal authority, as the case may be.  
1316 (ii) The court may not accept or consider any evidence outside the record of the land  
1317 use authority or appeal authority, as the case may be, unless that evidence was  
1318 offered to the land use authority or appeal authority, respectively, and the court  
1319 determines that the evidence was improperly excluded.
- 1320 (b) If there is no record, the court may call witnesses and take evidence.
- 1321 (9)(a) The filing of a petition does not stay the land use decision of the land use  
1322 authority or appeal authority, as the case may be.

- 1323 (b)(i) Before filing a petition under this section or a request for mediation or  
 1324 arbitration of a constitutional taking issue under Section 13-43-204, a land use  
 1325 applicant may petition the appeal authority to stay the appeal authority's land use  
 1326 decision.
- 1327 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal  
 1328 authority's land use decision stayed pending district court review if the appeal  
 1329 authority finds the order to be in the best interest of the municipality.
- 1330 (iii) After a petition is filed under this section or a request for mediation or arbitration  
 1331 of a constitutional taking issue is filed under Section 13-43-204, the petitioner  
 1332 may seek an injunction staying the appeal authority's land use decision.
- 1333 (10) If the court determines that a party initiated or pursued a challenge to a land use  
 1334 decision on a land use application in bad faith, the court may award attorney fees.
- 1335 Section 15. Section **13-43-205** is amended to read:
- 1336 **13-43-205 . Advisory opinion.**
- 1337 (1) A local government, private entity, or a potentially aggrieved person may, in accordance  
 1338 with Section 13-43-206, request a written advisory opinion:
- 1339 (a) from a neutral third party to determine compliance with:
- 1340 (i) Sections 10-20-506, 10-20-507, 10-20-602, 10-20-604, 10-20-605, 10-20-902,  
 1341 10-20-904, 10-20-905, 10-20-910, 10-20-911, 10-20-912, and 10-20-1003;
- 1342 (ii) Sections 17-79-506, 17-79-507, 17-79-601, 17-79-602, 17-79-603, 17-79-803,  
 1343 17-79-804, 17-79-805, 17-79-811, 17-79-812, 17-79-813, and 17-79-903; and
- 1344 (iii) Title 11, Chapter 36a, Impact Fees Act; and
- 1345 (b) at any time before:
- 1346 (i) a final decision on a land use application by a local appeal authority under Title  
 1347 11, Chapter 36a, Impact Fees Act, or Section 10-20-1108 or 17-79-1008;
- 1348 (ii) the deadline for filing an appeal with the district court under Title 11, Chapter  
 1349 36a, Impact Fees Act, or Section 10-20-1109 or 17-79-1009, if no local appeal  
 1350 authority is designated to hear the issue that is the subject of the request for an  
 1351 advisory opinion; or
- 1352 (iii) the enactment of an impact fee, if the request for an advisory opinion is a request  
 1353 to review and comment on a proposed impact fee facilities plan or a proposed  
 1354 impact fee analysis as defined in Section 11-36a-102.
- 1355 (2) A private property owner may, in accordance with Section 13-43-206, request a written  
 1356 advisory opinion from a neutral third party to determine if a condemning entity:

- 1357 (a) is in occupancy of the owner's property;
- 1358 (b) is occupying the property:
- 1359 (i) for a public use authorized by law; and
- 1360 (ii) without colorable legal or equitable authority; and
- 1361 (c) continues to occupy the property without the owner's consent, the occupancy would
- 1362 constitute a taking of private property for a public use without just compensation.
- 1363 (3) An advisory opinion issued under Subsection (2) may justify an award of attorney fees
- 1364 against a condemning entity in accordance with Section 13-43-206 only if the court
- 1365 finds that the condemning entity:
- 1366 (a) does not have a colorable claim or defense for the entity's actions; and
- 1367 (b) continued occupancy without payment of just compensation and in disregard of the
- 1368 advisory opinion.

1369 Section 16. Section **17-79-102** is amended to read:

1370 **17-79-102 . Definitions.**

1371 As used in this chapter:

- 1372 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
- 1373 detached from a primary single-family dwelling and contained on one lot.
- 1374 (2) "Adversely affected party" means a person other than a land use applicant who:
- 1375 (a) owns real property adjoining the property that is the subject of a land use application
- 1376 or land use decision; or
- 1377 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
- 1378 general community as a result of the land use decision.
- 1379 (3) "Affected entity" means a county, municipality, special district, special service district
- 1380 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
- 1381 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
- 1382 specified property owner, property owner's association, public utility, or the Department
- 1383 of Transportation, if:
- 1384 (a) the entity's services or facilities are likely to require expansion or significant
- 1385 modification because of an intended use of land;
- 1386 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
- 1387 or
- 1388 (c) the entity has filed with the county a request for notice during the same calendar year
- 1389 and before the county provides notice to an affected entity in compliance with a
- 1390 requirement imposed under this chapter.

- 1391 (4) "Affected owner" means the owner of real property that is:
- 1392 (a) a single project; and
- 1393 (b) the subject of a land use approval that:
- 1394 (i) sponsors of a referendum timely challenged in accordance with Subsection
- 1395 20A-7-601(6); and
- 1396 [(e)] (ii) is determined to be legally referable under Section 20A-7-602.8.
- 1397 (5) "Appeal authority" means the person, board, commission, agency, or other body
- 1398 designated by ordinance to decide an appeal of a decision of a land use application or a
- 1399 variance.
- 1400 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
- 1401 residential property if the sign is designed or intended to direct attention to a business,
- 1402 product, or service that is not sold, offered, or existing on the property where the sign is
- 1403 located.
- 1404 [~~(7) "Building code adoption cycle" means the period of time beginning the day on which a~~
- 1405 ~~specific edition of a construction code from a nationally recognized code authority is~~
- 1406 ~~adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day~~
- 1407 ~~before a new edition of a construction code is adopted and effective in Title 15A, State~~
- 1408 ~~Construction and Fire Codes Act.]~~
- 1409 [(8)] (7)(a) "Boundary adjustment" means an agreement between adjoining property
- 1410 owners to relocate a common boundary that results in a conveyance of property
- 1411 between the adjoining lots, adjoining parcels, or adjoining lots and parcels.
- 1412 (b) "Boundary adjustment" does not mean a modification of a lot or parcel boundary that:
- 1413 (i) creates an additional lot or parcel; or
- 1414 (ii) is made by the Department of Transportation.
- 1415 [(9)] (8)(a) "Boundary establishment" means an agreement between adjoining property
- 1416 owners to clarify the location of an ambiguous, uncertain, or disputed common
- 1417 boundary.
- 1418 (b) "Boundary establishment" does not mean a modification of a lot or parcel boundary
- 1419 that:
- 1420 (i) creates an additional lot or parcel; or
- 1421 (ii) is made by the Department of Transportation.
- 1422 [(10)] (9)(a) "Charter school" means:
- 1423 (i) an operating charter school;
- 1424 (ii) a charter school applicant that a charter school authorizer approves in accordance

- 1425 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
- 1426 (iii) an entity that is working on behalf of a charter school or approved charter
- 1427 applicant to develop or construct a charter school building.
- 1428 (10) "Building code adoption cycle" means the period of time beginning the day on which a
- 1429 specific edition of a construction code from a nationally recognized code authority is
- 1430 adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day
- 1431 before a new edition of a construction code is adopted and effective in Title 15A, State
- 1432 Construction and Fire Codes Act.
- 1433 [(b)] (a) "Charter school" does not include a therapeutic school.
- 1434 (11) "Chief executive officer" means the person or body that exercises the executive powers
- 1435 of the county.
- 1436 (12) "Conditional use" means a land use that, because of the unique characteristics or
- 1437 potential detrimental impact of the land use on the county, surrounding neighbors, or
- 1438 adjacent land uses, may not be compatible in some areas or may be compatible only if
- 1439 certain conditions are required that mitigate or eliminate the detrimental impacts.
- 1440 (13) "Constitutional taking" means a governmental action that results in a taking of private
- 1441 property [~~so that~~] where compensation to the property owner [~~of the property~~] is required
- 1442 by the:
- 1443 (a) Fifth or Fourteenth Amendment [of] to the Constitution of the United States; or
- 1444 (b) Utah Constitution, Article I, Section 22.
- 1445 (14) "Conveyance document" means an instrument that:
- 1446 (a) meets the definition of "document" in Section 57-1-1; and
- 1447 (b) meets the requirements of Section 57-1-45.5.
- 1448 (15) "Conveyance of property" means the transfer of ownership of any portion of real
- 1449 property from one person to another person.
- 1450 (16) "County utility easement" means an easement that:
- 1451 (a) a plat recorded in a county recorder's office described as a county utility easement or
- 1452 otherwise as a utility easement;
- 1453 (b) is not a protected utility easement or a public utility easement as defined in Section
- 1454 54-3-27;
- 1455 (c) the county or the county's affiliated governmental entity owns or creates; and
- 1456 (d)(i) either:
- 1457 (A) no person uses or occupies; or
- 1458 (B) the county or the county's affiliated governmental entity uses and occupies to

1459 provide a utility service, including sanitary sewer, culinary water, electrical,  
1460 storm water, or communications or data lines; or

1461 (ii) a person uses or occupies with or without an authorized franchise or other  
1462 agreement with the county.

1463 (17) "Culinary water authority" means the department, agency, or public entity with  
1464 responsibility to review and approve the feasibility of the culinary water system and  
1465 sources for the subject property.

1466 (18) "Department of Transportation" means the entity created in Section 72-1-201.

1467 (19) "Development activity" means:

1468 (a) any construction or expansion of a building, structure, or use that creates additional  
1469 demand and need for public facilities;

1470 (b) any change in use of a building or structure that creates additional demand and need  
1471 for public facilities; or

1472 (c) any change in the use of land that creates additional demand and need for public  
1473 facilities.

1474 (20)(a) "Development agreement" means a written agreement or amendment to a written  
1475 agreement between a county and one or more parties that regulates or controls the use  
1476 or development of a specific area of land.

1477 (b) "Development agreement" does not include an improvement completion assurance.

1478 (21)(a) "Disability" means a physical or mental impairment that substantially limits one  
1479 or more of a person's major life activities, including a person having a record of such  
1480 an impairment or being regarded as having such an impairment.

1481 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
1482 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21  
1483 U.S.C. Sec. 802.

1484 (22) "Document" means the same as that term is defined in Section 57-1-1.

1485 (23) "Educational facility":

1486 (a) means:

1487 (i) a school district's building at which pupils assemble to receive instruction in a  
1488 program for any combination of grades from preschool through grade 12,  
1489 including kindergarten and a program for children with disabilities;

1490 (ii) a structure or facility:

1491 (A) located on the same property as a building described in Subsection (23)(a)(i);  
1492 and

- 1493 (B) used in support of the use of that building; and
- 1494 (iii) a building to provide office and related space to a school district's administrative
- 1495 personnel; and
- 1496 (b) does not include:
- 1497 (i) land or a structure, including land or a structure for inventory storage, equipment
- 1498 storage, food processing or preparing, vehicle storage or maintenance, or similar
- 1499 use that is:
- 1500 (A) not located on the same property as a building described in Subsection
- 1501 (23)(a)(i); and
- 1502 (B) used in support of the purposes of a building described in Subsection (23)(a)(i);
- 1503 or
- 1504 (ii) a therapeutic school.
- 1505 (24) "Establishment document" means an instrument that:
- 1506 (a) meets the definition of "document" in Section 57-1-1; and
- 1507 (b) meets the requirements of Section 57-1-45.
- 1508 [~~(25) "Full boundary adjustment" means a boundary adjustment that is not a simple~~
- 1509 ~~boundary adjustment.~~]
- 1510 [(26)] (25) "Fire authority" means the department, agency, or public entity with
- 1511 responsibility to review and approve the feasibility of fire protection and suppression
- 1512 services for the subject property.
- 1513 [(27)] (26) "Flood plain" means land that:
- 1514 (a) is within the 100-year flood plain designated by the Federal Emergency Management
- 1515 Agency; or
- 1516 (b) has not been studied or designated by the Federal Emergency Management Agency
- 1517 but presents a likelihood of experiencing chronic flooding or a catastrophic flood
- 1518 event because the land has characteristics that are similar to those of a 100-year flood
- 1519 plain designated by the Federal Emergency Management Agency.
- 1520 (27) "Full boundary adjustment" means a boundary adjustment that is not a simple
- 1521 boundary adjustment.
- 1522 (28) "Gas corporation" has the same meaning as defined in Section 54-2-1.
- 1523 (29) "General plan" means a document that a county adopts that sets forth general
- 1524 guidelines for proposed future development of:
- 1525 (a) the unincorporated land within the county; or
- 1526 (b) for a mountainous planning district, the land within the mountainous planning

1527 district.

1528 (30) "Geologic hazard" means:

1529 (a) a surface fault rupture;

1530 (b) shallow groundwater;

1531 (c) liquefaction;

1532 (d) a landslide;

1533 (e) a debris flow;

1534 (f) unstable soil;

1535 (g) a rock fall; or

1536 (h) any other geologic condition that presents a risk:

1537 (i) to life;

1538 (ii) of substantial loss of real property; or

1539 (iii) of substantial damage to real property.

1540 (31) "Home-based microschool" means the same as that term is defined in Section

1541 53G-6-201.

1542 (32) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter,

1543 or appurtenance to connect to a county water, sewer, storm water, power, or other utility

1544 system.

1545 (33)(a) "Identical plans" means floor plans submitted to a county that:

1546 (i) are submitted within the same building code adoption cycle as floor plans that  
1547 were previously approved by the county;

1548 (ii) have no structural differences from floor plans that were previously approved by  
1549 the county; and

1550 (iii) describe a building that:

1551 (A) is located on land zoned the same as the land on which the building described  
1552 in the previously approved plans is located;

1553 (B) has a substantially identical floor plan to a floor plan previously approved by  
1554 the county; and

1555 (C) does not require any engineering or analysis beyond a review to confirm the  
1556 submitted floor plans are substantially identical to a floor plan previously  
1557 approved by the county or a review of the site plan and associated geotechnical  
1558 reports for the site.

1559 (b) "Identical plans" include floor plans that are oriented differently as the floor plan that  
1560 was previously approved by the county.

- 1561 (34) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact  
1562 Fees Act.
- 1563 (35) "Improvement completion assurance" means a surety bond, letter of credit, financial  
1564 institution bond, cash, assignment of rights, lien, or other equivalent security required by  
1565 a county to guaranty the proper completion of landscaping or an infrastructure  
1566 improvement required as a condition precedent to:
- 1567 (a) recording a subdivision plat; or
  - 1568 (b) development of a commercial, industrial, mixed use, or multifamily project.
- 1569 (36) "Improvement warranty" means an applicant's unconditional warranty that the  
1570 applicant's installed and accepted landscaping or infrastructure improvement:
- 1571 (a) complies with the county's written standards for design, materials, and workmanship;  
1572 and
  - 1573 (b) will not fail in any material respect, as a result of poor workmanship or materials,  
1574 within the improvement warranty period.
- 1575 (37) "Improvement warranty period" means a period:
- 1576 (a) no later than one year after a county's acceptance of required public landscaping; or
  - 1577 (b) no later than one year after a county's acceptance of required infrastructure, unless  
1578 the county:
    - 1579 (i) determines, based on accepted industry standards and for good cause, that a  
1580 one-year period would be inadequate to protect the public health, safety, and  
1581 welfare; and
    - 1582 (ii) has substantial evidence, on record:
      - 1583 (A) of prior poor performance by the applicant; or
      - 1584 (B) that the area upon which the infrastructure will be constructed contains  
1585 suspect soil and the county has not otherwise required the applicant to mitigate  
1586 the suspect soil.
- 1587 (38) "Infrastructure improvement" means permanent infrastructure that is essential for the  
1588 public health and safety or that:
- 1589 (a) is required for human consumption; and
  - 1590 (b) an applicant shall install:
    - 1591 (i) in accordance with published installation and inspection specifications for public  
1592 improvements; and
    - 1593 (ii) as a condition of:
      - 1594 (A) recording a subdivision plat;

- 1595 (B) obtaining a building permit; or  
1596 (C) developing a commercial, industrial, mixed use, condominium, or multifamily  
1597 project.
- 1598 (39) "Internal lot restriction" means a platted note, platted demarcation, or platted  
1599 designation that:  
1600 (a) runs with the land; and  
1601 (b)(i) creates a restriction that is enclosed within the perimeter of a lot described on  
1602 the plat; or  
1603 (ii) designates a development condition that is enclosed within the perimeter of a lot  
1604 described on the plat.
- 1605 (40) "Interstate pipeline company" means a person or entity engaged in natural gas  
1606 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission  
1607 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 1608 (41) "Intrastate pipeline company" means a person or entity engaged in natural gas  
1609 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory  
1610 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 1611 (42) "Land use applicant" means a property owner, or the property owner's designee, who  
1612 submits a land use application regarding the property owner's land.
- 1613 (43) "Land use application":  
1614 (a) means an application that is:  
1615 (i) required by a county; and  
1616 (ii) submitted by a land use applicant to obtain a land use decision; and  
1617 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 1618 (44) "Land use authority" means:  
1619 (a) a person, board, commission, agency, or body, including the local legislative body,  
1620 designated by the local legislative body to act upon a land use application; or  
1621 (b) if the local legislative body has not designated a person, board, commission, agency,  
1622 or body, the local legislative body.
- 1623 (45) "Land use decision" means an administrative decision of a land use authority or appeal  
1624 authority regarding:  
1625 (a) a land use permit;  
1626 (b) a land use application; or  
1627 (c) the enforcement of a land use regulation, land use permit, or development agreement.
- 1628 (46) "Land use permit" means a permit issued by a land use authority.

- 1629 (47) "Land use regulation":
- 1630 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
- 1631 engineering or development standard, specification for public improvement, fee, or
- 1632 rule that governs the use or development of land;
- 1633 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
- 1634 and
- 1635 (c) does not include:
- 1636 (i) a land use decision of the legislative body acting as the land use authority, even if
- 1637 the decision is expressed in a resolution or ordinance; or
- 1638 (ii) a temporary revision to an engineering specification that does not materially:
- 1639 (A) increase a land use applicant's cost of development compared to the existing
- 1640 specification; or
- 1641 (B) impact a land use applicant's use of land.
- 1642 (48) "Legislative body" means the county legislative body, or for a county that has adopted
- 1643 an alternative form of government, the body exercising legislative powers.
- 1644 (49) "Lot" means a tract of land, regardless of any label, that is created by and shown on a
- 1645 subdivision plat that has been recorded in the office of the county recorder.
- 1646 (50) "Major transit investment corridor" means public transit service that uses or occupies:
- 1647 (a) public transit rail right-of-way;
- 1648 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
- 1649 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
- 1650 municipality or county and:
- 1651 (i) a public transit district as defined in Section 17B-2a-802; or
- 1652 (ii) an eligible political subdivision as defined in Section 59-12-2202.
- 1653 (51) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.
- 1654 (52) "Moderate income housing" means housing occupied or reserved for occupancy by
- 1655 households with a gross household income equal to or less than 80% of the median gross
- 1656 income for households of the same size in the county in which the housing is located.
- 1657 (53) "Mountainous planning district" means an area designated by a county legislative body
- 1658 in accordance with Section 17-79-408.
- 1659 (54) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and
- 1660 expenses incurred in:
- 1661 (a) verifying that building plans are identical plans; and
- 1662 (b) reviewing and approving those minor aspects of identical plans that differ from the

- 1663 previously reviewed and approved building plans.
- 1664 (55) "Noncomplying structure" means a structure that:
- 1665 (a) legally existed before the structure's current land use designation; and
- 1666 (b) because of one or more subsequent land use ordinance changes, does not conform to
- 1667 the setback, height restrictions, or other regulations, excluding those regulations that
- 1668 govern the use of land.
- 1669 (56) "Nonconforming use" means a use of land that:
- 1670 (a) legally existed before the land's current land use designation;
- 1671 (b) has been maintained continuously since the time the land use ordinance regulation
- 1672 governing the land changed; and
- 1673 (c) because of one or more subsequent land use ordinance changes, does not conform to
- 1674 the regulations that now govern the use of the land.
- 1675 (57) "Official map" means a map drawn by county authorities and recorded in the county
- 1676 recorder's office that:
- 1677 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
- 1678 highways and other transportation facilities;
- 1679 (b) provides a basis for restricting development in designated rights-of-way or between
- 1680 designated setbacks to allow the government authorities time to purchase or
- 1681 otherwise reserve the land; and
- 1682 (c) has been adopted as an element of the county's general plan.
- 1683 (58) "Parcel" means any real property that is not a lot.
- 1684 (59) "Person" means an individual, corporation, partnership, organization, association, trust,
- 1685 governmental agency, or any other legal entity.
- 1686 (60) "Plan for moderate income housing" means a written document adopted by a county
- 1687 legislative body that includes:
- 1688 (a) an estimate of the existing supply of moderate income housing located within the
- 1689 county;
- 1690 (b) an estimate of the need for moderate income housing in the county for the next five
- 1691 years;
- 1692 (c) a survey of total residential land use;
- 1693 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
- 1694 income housing; and
- 1695 (e) a description of the county's program to encourage an adequate supply of moderate
- 1696 income housing.

- 1697 (61) "Planning advisory area" means a contiguous, geographically defined portion of the  
 1698 unincorporated area of a county established under this part with planning and zoning  
 1699 functions as exercised through the planning advisory area planning commission, as  
 1700 provided in this chapter, but with no legal or political identity separate from the county  
 1701 and no taxing authority.
- 1702 (62) "Plat" means an instrument subdividing property into lots as depicted on a map or  
 1703 other graphical representation of lands that a licensed professional land surveyor makes  
 1704 and prepares in accordance with Section 17-79-703 or 57-8-13.
- 1705 (63) "Potential geologic hazard area" means an area that:
- 1706 (a) is designated by a Utah Geological Survey map, county geologist map, or other  
 1707 relevant map or report as needing further study to determine the area's potential for  
 1708 geologic hazard; or
- 1709 (b) has not been studied by the Utah Geological Survey or a county geologist but  
 1710 presents the potential of geologic hazard because the area has characteristics similar  
 1711 to those of a designated geologic hazard area.
- 1712 (64) "Property owner" means a person that holds legal or equitable title or interest in real  
 1713 property.
- 1714 [~~(64)~~] (65) "Public agency" means:
- 1715 (a) the federal government;
- 1716 (b) the state;
- 1717 (c) a county, municipality, school district, special district, special service district, or  
 1718 other political subdivision of the state; or
- 1719 (d) a charter school.
- 1720 [~~(65)~~] (66) "Public hearing" means a hearing at which members of the public are provided a  
 1721 reasonable opportunity to comment on the subject of the hearing.
- 1722 [~~(66)~~] (67) "Public meeting" means a meeting that is required to be open to the public under  
 1723 Title 52, Chapter 4, Open and Public Meetings Act.
- 1724 [~~(67)~~] (68) "Public street" means a public right-of-way, including a public highway, public  
 1725 avenue, public boulevard, public parkway, public road, public lane, public alley, public  
 1726 viaduct, public subway, public tunnel, public bridge, public byway, other public  
 1727 transportation easement, or other public way.
- 1728 [~~(68)~~] (69) "Receiving zone" means an unincorporated area that a county designates, by  
 1729 ordinance, as an area in which an owner of land may receive a transferable development  
 1730 right.

1731 [~~(69)~~] (70) "Record of survey map" means a map of a survey of land prepared in accordance  
1732 with Section 17-73-504.

1733 [~~(70)~~] (71) "Residential facility for persons with a disability" means a residence:

1734 (a) in which more than one person with a disability resides; and

1735 (b) which is licensed or certified by the Department of Health and Human Services  
1736 under:

1737 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

1738 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

1739 [~~(71)~~] (72) "Residential roadway" means a public local residential road that:

1740 (a) will serve primarily to provide access to adjacent primarily residential areas and  
1741 property;

1742 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;

1743 (c) is not identified as a supplementary to a collector or other higher system classified  
1744 street in an approved municipal street or transportation master plan;

1745 (d) has a posted speed limit of 25 miles per hour or less;

1746 (e) does not have higher traffic volumes resulting from connecting previously separated  
1747 areas of the municipal road network;

1748 (f) cannot have a primary access, but can have a secondary access, and does not abut lots  
1749 intended for high volume traffic or community centers, including schools, recreation  
1750 centers, sports complexes, or libraries; and

1751 (g) primarily serves traffic within a neighborhood or limited residential area and is not  
1752 necessarily continuous through several residential areas.

1753 [~~(72)~~] (73) "Rules of order and procedure" means a set of rules that govern and prescribe in  
1754 a public meeting:

1755 (a) parliamentary order and procedure;

1756 (b) ethical behavior; and

1757 (c) civil discourse.

1758 [~~(73)~~] (74) "Sanitary sewer authority" means the department, agency, or public entity with  
1759 responsibility to review and approve the feasibility of sanitary sewer services or onsite  
1760 wastewater systems.

1761 [~~(74)~~] (75) "Sending zone" means an unincorporated area that a county designates, by  
1762 ordinance, as an area from which an owner of land may transfer a transferable  
1763 development right.

1764 [~~(75)~~] (76) "Simple boundary adjustment" means a boundary adjustment that does not:

- 1765 (a) affect a public right-of-way, county utility easement, or other public property;
- 1766 (b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or
- 1767 (c) result in a lot or parcel out of conformity with land use regulations.
- 1768 ~~[(76)]~~ (77) "Site plan" means a document or map that may be required by a county during a
- 1769 preliminary review before the issuance of a building permit to demonstrate that an
- 1770 owner's or developer's proposed development activity meets a land use requirement.
- 1771 ~~[(77)]~~ (78)(a) "Special district" means an entity under Title 17B, Limited Purpose Local
- 1772 Government Entities - Special Districts.
- 1773 (b) "Special district" includes a governmental or quasi-governmental entity that is not a
- 1774 county, municipality, school district, or the state.
- 1775 (79) "Specific land use law" means a requirement or restriction on the use of a specific
- 1776 parcel in a development agreement that a legislative body approves with the consent of
- 1777 an affected property owner.
- 1778 ~~[(78)]~~ (80) "Specified public agency" means:
- 1779 (a) the state;
- 1780 (b) a school district; or
- 1781 (c) a charter school.
- 1782 ~~[(79)]~~ (81) "Specified public utility" means an electrical corporation, gas corporation, or
- 1783 telephone corporation, as those terms are defined in Section 54-2-1.
- 1784 ~~[(80)]~~ (82) "State" includes any department, division, or agency of the state.
- 1785 ~~[(81)]~~ (83)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to
- 1786 be divided into two or more lots or other division of land for the purpose, whether
- 1787 immediate or future, for offer, sale, lease, or development either on the installment
- 1788 plan or upon any and all other plans, terms, and conditions.
- 1789 (b) "Subdivision" includes:
- 1790 (i) the division or development of land, whether by deed, metes and bounds
- 1791 description, devise and testacy, map, plat, or other recorded instrument, regardless
- 1792 of whether the division includes all or a portion of a parcel or lot; and
- 1793 (ii) except as provided in Subsection ~~[(81)(e)]~~ (83)(c), divisions of land for residential
- 1794 and nonresidential uses, including land used or to be used for commercial,
- 1795 agricultural, and industrial purposes.
- 1796 (c) "Subdivision" does not include:
- 1797 (i) a bona fide division or partition of agricultural land for agricultural purposes;
- 1798 (ii) a recorded conveyance document:

- 1799 (A) consolidating multiple lots or parcels into one legal description encompassing  
 1800 all lots by reference to a recorded plat and all parcels by metes and bounds  
 1801 description; or  
 1802 (B) joining a lot to a parcel;  
 1803 (iii) a bona fide division or partition of land in a county other than a first class county  
 1804 for the purpose of siting, on one or more of the resulting separate parcels:  
 1805 (A) an electrical transmission line or a substation;  
 1806 (B) a natural gas pipeline or a regulation station; or  
 1807 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other  
 1808 utility service regeneration, transformation, retransmission, or amplification  
 1809 facility;  
 1810 (iv) a bona fide division of land by deed or other instrument if the deed or other  
 1811 instrument states in writing that the division:  
 1812 (A) is in anticipation of future land use approvals on the parcel or parcels;  
 1813 (B) does not confer any land use approvals; and  
 1814 (C) has not been approved by the land use authority;  
 1815 (v) a boundary adjustment;  
 1816 (vi) a boundary establishment;  
 1817 (vii) a road, street, or highway dedication plat;  
 1818 (viii) a deed or easement for a road, street, or highway purpose; or  
 1819 (ix) any other division of land authorized by law.

- 1820 ~~[(82)]~~ (84)(a) "Subdivision amendment" means an amendment to a recorded subdivision  
 1821 in accordance with Section 17-79-711 that:  
 1822 (i) vacates all or a portion of the subdivision;  
 1823 (ii) increases the number of lots within the subdivision;  
 1824 (iii) alters a public right-of-way, a public easement, or public infrastructure within the  
 1825 subdivision; or  
 1826 (iv) alters a common area or other common amenity within the subdivision.  
 1827 (b) "Subdivision amendment" does not include a simple boundary adjustment.

- 1828 ~~[(83)]~~ (85) "Substantial evidence" means evidence that:  
 1829 (a) is beyond a scintilla; and  
 1830 (b) a reasonable mind would accept as adequate to support a conclusion.

- 1831 ~~[(84)]~~ (86) "Suspect soil" means soil that has:  
 1832 (a) a high susceptibility for volumetric change, typically clay rich, having more than a

- 1833 3% swell potential;
- 1834 (b) bedrock units with high shrink or swell susceptibility; or
- 1835 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 1836 commonly associated with dissolution and collapse features.
- 1837 ~~[(85)]~~ (87) "Therapeutic school" means a residential group living facility:
- 1838 (a) for four or more individuals who are not related to:
- 1839 (i) the owner of the facility; or
- 1840 (ii) the primary service provider of the facility;
- 1841 (b) that serves students who have a history of failing to function:
- 1842 (i) at home;
- 1843 (ii) in a public school; or
- 1844 (iii) in a nonresidential private school; and
- 1845 (c) that offers:
- 1846 (i) room and board; and
- 1847 (ii) an academic education integrated with:
- 1848 (A) specialized structure and supervision; or
- 1849 (B) services or treatment related to a disability, an emotional development, a
- 1850 behavioral development, a familial development, or a social development.
- 1851 ~~[(86)]~~ (88) "Transferable development right" means a right to develop and use land that
- 1852 originates by an ordinance that authorizes a ~~[land]~~ property owner in a designated
- 1853 sending zone to transfer land use rights from a designated sending zone to a designated
- 1854 receiving zone.
- 1855 ~~[(87)]~~ (89) "Unincorporated" means the area outside of the incorporated area of a
- 1856 municipality.
- 1857 ~~[(88)]~~ (90) "Water interest" means any right to the beneficial use of water, including:
- 1858 (a) each of the rights listed in Section 73-1-11; and
- 1859 (b) an ownership interest in the right to the beneficial use of water represented by:
- 1860 (i) a contract; or
- 1861 (ii) a share in a water company, as defined in Section 73-3-3.5.
- 1862 ~~[(89)]~~ (91) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
- 1863 land use zones, overlays, or districts.
- 1864 Section 17. Section **17-79-302** is amended to read:
- 1865 **17-79-302 . Planning commission powers and duties -- Training requirements.**
- 1866 (1) Each countywide, planning advisory area, or mountainous planning district planning

- 1867 commission shall, with respect to the unincorporated area of the county, the planning  
 1868 advisory area, or the mountainous planning district, review and make a recommendation  
 1869 to the county legislative body for:
- 1870 (a) a general plan and amendments to the general plan;
  - 1871 (b) land use regulations, including:
    - 1872 (i) ordinances regarding the subdivision of land within the county; and
    - 1873 (ii) amendments to existing land use regulations;
  - 1874 (c) an appropriate delegation of power to at least one designated land use authority to  
 1875 hear and act on a land use application;
  - 1876 (d) an appropriate delegation of power to at least one appeal authority to hear and act on  
 1877 an appeal from a decision of the land use authority; and
  - 1878 (e) application processes that:
    - 1879 (i) may include a designation of routine land use matters that, upon application and  
 1880 proper notice, will receive informal streamlined review and action if the  
 1881 application is uncontested; and
    - 1882 (ii) shall protect the right of each:
      - 1883 (A) land use applicant and adversely affected party to require formal consideration  
 1884 of any application by a land use authority;
      - 1885 (B) land use applicant or adversely affected party to appeal a land use authority's  
 1886 decision to a separate appeal authority; and
      - 1887 (C) participant to be heard in each public hearing on a contested application.
- 1888 (2) Before making a recommendation to a legislative body on an item described in  
 1889 Subsection (1)(a) or (b), the planning commission shall hold a public hearing in  
 1890 accordance with Section 17-79-404.
- 1891 (3) A legislative body may adopt, modify, or reject a planning commission's  
 1892 recommendation to the legislative body under this section.
- 1893 [~~(4) A legislative body may consider a planning commission's failure to make a timely~~  
 1894 ~~recommendation as a negative recommendation.]~~
- 1895 [(5)] (4) Nothing in this section limits the right of a county to initiate or propose the actions  
 1896 described in this section.
- 1897 [(6)] (5)(a)(i) This Subsection [(6)] (5) applies to a county that:
- 1898 (A) is a county of the first, second, or third class; and
  - 1899 (B) has a population in the county's unincorporated areas of 5,000 or more.
- 1900 (ii) The population for each county described in Subsection [(6)](a)(i) (5)(a)(i) shall

- 1901 be derived from:
- 1902 (A) an estimate of the Utah Population Committee created in Section 63C-20-103;
- 1903 or
- 1904 (B) if the Utah Population Committee estimate is not available, the most recent
- 1905 official census or census estimate of the United States [~~Bureau of the~~] Census
- 1906 Bureau.
- 1907 (b) A county described in Subsection [~~(6)(a)(i)~~] (5)(a)(i) shall ensure that each member
- 1908 of the county's planning commission completes four hours of annual land use training
- 1909 as follows:
- 1910 (i) one hour of annual training on general powers and duties under Title 17, Chapter
- 1911 27a, County Land Use, Development, and Management Act; and
- 1912 (ii) three hours of annual training on land use, which may include:
- 1913 (A) appeals and variances;
- 1914 (B) conditional use permits;
- 1915 (C) exactions;
- 1916 (D) impact fees;
- 1917 (E) vested rights;
- 1918 (F) subdivision regulations and improvement guarantees;
- 1919 (G) land use referenda;
- 1920 (H) property rights;
- 1921 (I) real estate procedures and financing;
- 1922 (J) zoning, including use-based and form-based; and
- 1923 (K) drafting ordinances and code that complies with statute.
- 1924 (c) A newly appointed planning commission member may not participate in a public
- 1925 meeting as an appointed member until the member completes the training described
- 1926 in Subsection [~~(6)(b)(i)~~] (5)(b)(i).
- 1927 (d) A planning commission member may qualify for one completed hour of training
- 1928 required under Subsection [~~(6)(b)(ii)~~] (5)(b)(ii) if the member attends, as an appointed
- 1929 member, 12 public meetings of the planning commission within a calendar year.
- 1930 (e) A county shall provide the training described in Subsection [~~(6)(b)~~] (5)(b) through:
- 1931 (i) county staff;
- 1932 (ii) the Utah Association of Counties; or
- 1933 (iii) a list of training courses selected by:
- 1934 (A) the Utah Association of Counties; or

1935 (B) the Division of Real Estate created in Section 61-2-201.

1936 (f) A county shall, for each planning commission member:

1937 (i) monitor compliance with the training requirements in Subsection [~~(6)(b)~~] (5)(b);

1938 and

1939 (ii) maintain a record of training completion at the end of each calendar year.

1940 Section 18. Section **17-79-501** is amended to read:

1941 **17-79-501 . Enactment of land use regulation.**

1942 (1) Only a legislative body, as the body authorized to weigh policy considerations, may  
1943 enact a land use regulation.

1944 (2)(a) Except as provided in Subsection (2)(b), a legislative body may enact a land use  
1945 regulation only by ordinance.

1946 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that  
1947 imposes a fee.

1948 (3) A land use regulation shall be consistent with the purposes [~~set forth in~~] of this chapter.

1949 (4)(a) A legislative body shall adopt a land use regulation to:

1950 (i) create or amend a zoning district under Subsection 17-79-503(1)(a); and

1951 (ii) designate general uses allowed in each zoning district.

1952 (b) A land use authority may establish or modify other restrictions or requirements other  
1953 than those described in Subsection (4)(a), including the configuration or modification  
1954 of uses or density, through a land use decision that applies criteria or policy elements  
1955 that a land use regulation establishes or describes.

1956 (5) A county shall publish on the county's website:

1957 (a) all of the county's land use regulations; and

1958 (b) a fee schedule that lists all of the county's fees related to a land use application, land  
1959 use permit, or land use regulation, including development review fees and impact  
1960 fees.

1961 [~~(5)~~] (6) A county may not adopt a land use regulation[;] or development agreement, or  
1962 make a land use decision that restricts the type of crop that may be grown in an area that  
1963 is:

1964 (a) zoned agricultural; or

1965 (b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

1966 [~~(6)~~] (7) A county land use regulation pertaining to an airport or an airport influence area, as  
1967 that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4,  
1968 Airport Zoning Act.

1969 Section 19. Section **17-79-502** is amended to read:

1970 **17-79-502 . Preparation and adoption of land use regulation.**

1971 (1) A planning commission shall:

1972 (a) provide notice as required by Subsection 17-79-205(1)(a) and, if applicable,  
1973 Subsection 17-79-205(4);

1974 (b) hold a public hearing on a proposed land use regulation;

1975 (c) if applicable, consider each written objection filed in accordance with Subsection  
1976 17-79-205(4) before the public hearing; and

1977 (d)(i) review and recommend to the legislative body a proposed land use regulation  
1978 that represents the planning commission's recommendation for regulating the use  
1979 and development of land within:

1980 (A) all or any part of the unincorporated area of the county; or

1981 (B) for a mountainous planning district, all or any part of the area in the  
1982 mountainous planning district; and

1983 (ii) forward to the legislative body all objections filed in accordance with Subsection  
1984 17-79-205(4).

1985 (2)(a) The legislative body shall consider each proposed land use regulation that the  
1986 planning commission recommends to the legislative body.

1987 (b) After providing notice as required by Subsection 17-79-205(1)(b) and holding a  
1988 public meeting, the legislative body may adopt or reject the proposed land use  
1989 regulation described in Subsection (2)(a):

1990 (i) as proposed by the planning commission; or

1991 (ii) after making any revision the legislative body considers appropriate.

1992 (c) [~~A legislative body may consider a planning commission's failure to make a timely~~  
1993 ~~recommendation as a negative recommendation if the legislative body has provided~~  
1994 ~~for that consideration by ordinance]~~ Beginning on September 15, 2026, if a planning  
1995 commission fails to make a timely recommendation on a proposed land use  
1996 regulation, the legislative body shall adopt or reject the proposed land use regulation  
1997 in accordance with Subsection (2)(b).

1998 Section 20. Section **17-79-706** is amended to read:

1999 **17-79-706 . Review of subdivision applications and subdivision improvement**  
2000 **plans.**

2001 (1) As used in this section:

2002 (a) "Review cycle" means the occurrence of:

- 2003 (i) the applicant's submittal of a complete subdivision application;
- 2004 (ii) the county's review of that subdivision application;
- 2005 (iii) the county's response to that subdivision application, in accordance with this
- 2006 section; and
- 2007 (iv) the applicant's reply to the county's response that addresses each of the county's
- 2008 required modifications or requests for additional information.
- 2009 (b) "Subdivision application" means a land use application for the subdivision of land
- 2010 located within the unincorporated area of a county.
- 2011 (c) "Subdivision improvement plans" means the civil engineering plans associated with
- 2012 required infrastructure improvements and county-controlled utilities required for a
- 2013 subdivision.
- 2014 (d) "Subdivision ordinance review" means review by a county to verify that a
- 2015 subdivision application meets the criteria of the county's ordinances.
- 2016 (e) "Subdivision plan review" means a review of the applicant's subdivision
- 2017 improvement plans and other aspects of the subdivision application to verify that the
- 2018 application complies with county ordinances and applicable installation standards and
- 2019 inspection specifications for infrastructure improvements.
- 2020 (2) The review cycle restrictions and requirements of this section do not apply to the review
- 2021 of subdivision applications affecting property within identified geological hazard areas.
- 2022 (3)(a) A county may require a subdivision improvement plan to be submitted with a
- 2023 subdivision application.
- 2024 (b) A county may not require a subdivision improvement plan to be submitted with both
- 2025 a preliminary subdivision application and a final subdivision application.
- 2026 (4)(a) The review cycle requirements of this section apply:
- 2027 (i) to the review of a preliminary subdivision application, if the county requires a
- 2028 subdivision improvement plan to be submitted with a preliminary subdivision
- 2029 application; or
- 2030 (ii) to the review of a final subdivision application, if the county requires a
- 2031 subdivision improvement plan to be submitted with a final subdivision application.
- 2032 (b) A county may not, outside the review cycle, engage in a substantive review of
- 2033 required infrastructure improvements or a county controlled utility.
- 2034 (5)(a) A county shall complete the initial review of a complete subdivision application
- 2035 submitted for ordinance review for a residential subdivision for single-family
- 2036 dwellings, two-family dwellings, or town homes:

- 2037 (i) no later than 15 business days after the complete subdivision application is  
2038 submitted, if the county has a population over 5,000; or  
2039 (ii) no later than 30 business days after the complete subdivision application is  
2040 submitted, if the county has a population of 5,000 or less.
- 2041 (b) A county shall maintain and publish a list of the items comprising the complete  
2042 subdivision application, including:  
2043 (i) the application;  
2044 (ii) the owner's affidavit;  
2045 (iii) an electronic copy of all plans in PDF format;  
2046 (iv) the preliminary subdivision plat drawings; and  
2047 (v) a breakdown of fees due upon approval of the application.
- 2048 (6) A county shall publish a list of the items that comprise a complete subdivision land use  
2049 application.
- 2050 (7) A county shall complete a subdivision plan review of a subdivision improvement plan  
2051 that is submitted with a complete subdivision application for a residential subdivision for  
2052 single-family dwellings, two-family dwellings, or town homes:  
2053 (a) within 20 business days after the complete subdivision application is submitted, if the  
2054 county has a population over 5,000; or  
2055 (b) within 40 business days after the complete subdivision application is submitted, if  
2056 the county has a population of 5,000 or less.
- 2057 (8)(a) In reviewing a subdivision application, a county may require:  
2058 (i) additional information relating to an applicant's plans to ensure compliance with  
2059 county ordinances and approved standards and specifications for construction of  
2060 public improvements; and  
2061 (ii) modifications to plans that do not meet current ordinances, applicable standards,  
2062 or specifications or do not contain complete information.
- 2063 (b) A county's request for additional information or modifications to plans under  
2064 Subsection (8)(a)(i) or (ii) shall be specific and include citations to ordinances,  
2065 standards, or specifications that require the modifications to subdivision  
2066 improvement plans, and shall be logged in an index of requested modifications or  
2067 additions.
- 2068 (c) A county may not require more than four review cycles for a subdivision  
2069 improvement plan review.
- 2070 (d)(i) Subject to Subsection (8)(d)(ii), unless the change or correction is necessitated

- 2071 by the applicant's adjustment to a subdivision improvement plan or an update to a  
2072 phasing plan that adjusts the infrastructure needed for the specific development, a  
2073 change or correction not addressed or referenced in a county's subdivision  
2074 improvement plan review is waived.
- 2075 (ii) A modification or correction necessary to protect public health and safety or to  
2076 enforce state or federal law may not be waived.
- 2077 (iii) If an applicant makes a material change to a subdivision improvement plan, the  
2078 county has the discretion to restart the review process at the first review of the  
2079 subdivision improvement plan review, but only with respect to the portion of the  
2080 subdivision improvement plan that the material change substantively affects.
- 2081 (e)(i) This Subsection (8) applies if an applicant does not submit a revised  
2082 subdivision improvement plan within:
- 2083 (A) 20 business days after the county requires a modification or correction, if the  
2084 county has a population over 5,000; or
- 2085 (B) 40 business days after the county requires a modification or correction, if the  
2086 county has a population of 5,000 or less.
- 2087 (ii) If an applicant does not submit a revised subdivision improvement plan within the  
2088 time specified in Subsection (8)(e)(i), a county has an additional 20 business days  
2089 after the time specified in Subsection (7) to respond to a revised subdivision  
2090 improvement plan.
- 2091 (9) After the applicant has responded to the final review cycle, and the applicant has  
2092 complied with each modification requested in the county's previous review cycle, the  
2093 county may not require additional revisions if the applicant has not materially changed  
2094 the plan, other than changes that were in response to requested modifications or  
2095 corrections.
- 2096 (10)(a) In addition to revised plans, an applicant shall provide a written explanation in  
2097 response to the county's review comments, identifying and explaining the applicant's  
2098 revisions and reasons for declining to make revisions, if any.
- 2099 (b) The applicant's written explanation shall be comprehensive and specific, including  
2100 citations to applicable standards and ordinances for the design and an index of  
2101 requested revisions or additions for each required correction.
- 2102 (c) If an applicant fails to address a review comment in the response, the review cycle is  
2103 not complete and the subsequent review cycle may not begin until all comments are  
2104 addressed.

- 2105 (11)~~(a)~~ If, on the fourth or final review, a county fails to respond within 20 business  
 2106 days, the county shall, upon request of the property owner, and within 10 business  
 2107 days after the day on which the request is received:
- 2108 ~~(i)~~ (a) for a dispute arising from the subdivision improvement plans, assemble an  
 2109 appeal panel in accordance with Subsection ~~[17-79-812(5)(d)]~~ 17-79-812(4)(d) to  
 2110 review and approve or deny the final revised set of plans; or
- 2111 ~~(ii)~~ (b) for a dispute arising from the subdivision ordinance review, advise the  
 2112 applicant, in writing, of the deficiency in the application and of the right to appeal the  
 2113 determination to a designated appeal authority.

2114 Section 21. Section **17-79-803** is amended to read:

2115 **17-79-803 . Applicant's entitlement to land use application approval --**  
 2116 **Application relating to land in a high priority transportation corridor -- County's**  
 2117 **requirements and limitations -- Vesting upon submission of development plan and**  
 2118 **schedule.**

- 2119 (1)(a)(i) Subject to Subsection ~~[7]~~ (8), an applicant who has submitted a complete  
 2120 land use application, including the payment of all application fees, is entitled to  
 2121 substantive review of the application under the land use regulations:
- 2122 (A) in effect on the date that the application is complete; and  
 2123 (B) applicable to the application or to the information shown on the submitted  
 2124 application.
- 2125 (ii) An applicant is entitled to approval of a land use application if the application  
 2126 conforms to the requirements of the applicable land use regulations, land use  
 2127 decisions, and development standards in effect when the applicant submits a  
 2128 complete application and pays all application fees, unless:
- 2129 (A) the land use authority, on the record, formally finds that a compelling,  
 2130 countervailing public interest would be jeopardized by approving the  
 2131 application and specifies the compelling, countervailing public interest in  
 2132 writing; or  
 2133 (B) in the manner provided by local ordinance and before the applicant submits  
 2134 the application, the county formally initiates proceedings to amend the county's  
 2135 land use regulations in a manner that would prohibit approval of the  
 2136 application as submitted.
- 2137 (b) The county shall process an application without regard to proceedings the county  
 2138 initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

- 2139 (i) 180 days have passed since the county initiated the proceedings; and  
2140 (ii)(A) the proceedings have not resulted in an enactment that prohibits approval  
2141 of the application as submitted; or  
2142 (B) during the 12 months before the county processing the application or multiple  
2143 applications of the same type, the application is impaired or prohibited under  
2144 the terms of a temporary land use regulation adopted under Section 17-79-504.
- 2145 (c) A land use application is considered submitted and complete when the applicant  
2146 provides the application in a form that complies with the requirements of applicable  
2147 ordinances and pays all applicable fees.
- 2148 (d) Unless a phasing sequence is required in an executed development agreement, a  
2149 county shall, without regard to any other separate and distinct land use application,  
2150 accept and process a complete land use application in accordance with this chapter.
- 2151 (e) The continuing validity of an approval of a land use application is conditioned upon  
2152 the applicant proceeding after approval to implement the approval with reasonable  
2153 diligence.
- 2154 (f) Subject to Subsection [~~(7)~~] (8), a county may not impose on an applicant who has  
2155 submitted a complete application a requirement that is not expressed in:  
2156 (i) this chapter;  
2157 (ii) a county ordinance in effect on the date that the applicant submits a complete  
2158 application, subject to Subsection (1)(a)(ii); or  
2159 (iii) a county specification for public improvements applicable to a subdivision or  
2160 development that is in effect on the date that the applicant submits an application.
- 2161 (g) A county may not impose on a holder of an issued land use permit or a final,  
2162 unexpired subdivision plat a requirement that is not expressed:  
2163 (i) in a land use permit;  
2164 (ii) on the subdivision plat;  
2165 (iii) in a document on which the land use permit or subdivision plat is based;  
2166 (iv) in the written record evidencing approval of the land use permit or subdivision  
2167 plat;  
2168 (v) in this chapter;  
2169 (vi) in a county ordinance; or  
2170 (vii) in a county specification for residential roadways in effect at the time a  
2171 residential subdivision was approved.
- 2172 (h) Except as provided in Subsection (1)(i) or (j), a county may not withhold issuance of

- 2173 a certificate of occupancy or acceptance of subdivision improvements because of an  
2174 applicant's failure to comply with a requirement that is not expressed:
- 2175 (i) in the building permit or subdivision plat, documents on which the building permit  
2176 or subdivision plat is based, or the written record evidencing approval of the  
2177 building permit or subdivision plat; or  
2178 (ii) in this chapter or the county's ordinances.
- 2179 (i) A county may not unreasonably withhold issuance of a certificate of occupancy  
2180 where an applicant has met all requirements essential for the public health, public  
2181 safety, and general welfare of the occupants, in accordance with this chapter, unless:
- 2182 (i) the applicant and the county have agreed in a written document to the withholding  
2183 of a certificate of occupancy; or  
2184 (ii) the applicant has not provided a financial assurance for required and uncompleted  
2185 public landscaping improvements or infrastructure improvements in accordance  
2186 with an applicable local ordinance.
- 2187 (j) A county may not conduct a final inspection required before issuing a certificate of  
2188 occupancy for a residential unit that is within the boundary of an infrastructure  
2189 financing district, as defined in Section 17B-1-102, until the applicant for the  
2190 certificate of occupancy provides adequate proof to the county that any lien on the  
2191 unit arising from the infrastructure financing district's assessment against the unit  
2192 under Title 11, Chapter 42, Assessment Area Act, has been released after payment in  
2193 full of the infrastructure financing district's assessment against that unit.
- 2194 (k) A county:
- 2195 (i) may require the submission of a private landscaping plan, as defined in Section  
2196 17-79-707, before landscaping is installed; and  
2197 (ii) may not withhold an applicant's building permit or certificate of occupancy  
2198 because the applicant has not submitted a private landscaping plan.
- 2199 (2) A county is bound by the terms and standards of applicable land use regulations and  
2200 shall comply with mandatory provisions of those regulations.
- 2201 (3) A county shall publish on the county's website an application checklist for each land use  
2202 application type that includes:
- 2203 (a) a checklist of all required plans and documents that make a complete application;  
2204 (b) links to applicable land use regulations posted on the county's website;  
2205 (c) a complete list of applicable development standards or links to those standards; and  
2206 (d) a list of applicable development review fees.

2207 [~~(3)~~] (4) A county may not, as a condition of land use application approval, require a person  
 2208 filing a land use application to obtain documentation regarding a school district's  
 2209 willingness, capacity, or ability to serve the development proposed in the land use  
 2210 application.

2211 [~~(4)~~] (5) Subject to Subsection [~~(7)~~] (8), a specified public agency's submission of a  
 2212 development plan and schedule as required in Subsection 17-79-305(8) that complies  
 2213 with the requirements of that subsection, the specified public agency vests in the  
 2214 county's applicable land use maps, zoning map, hookup fees, impact fees, other  
 2215 applicable development fees, and land use regulations in effect on the date of submission.

2216 [~~(5)~~] (6)(a) If sponsors of a referendum timely challenge a project in accordance with  
 2217 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land  
 2218 use approval by delivering a written notice:

- 2219 (i) to the local clerk as defined in Section 20A-7-101; and
- 2220 (ii) no later than seven days after the day on which a petition for a referendum is  
 2221 determined sufficient under Subsection 20A-7-607(4).

2222 (b) Upon delivery of a written notice described in Subsection [~~(5)~~](a) (6)(a) the following  
 2223 are rescinded and are of no further force or effect:

- 2224 (i) the relevant land use approval; and
- 2225 (ii) any land use regulation enacted specifically in relation to the land use approval.

2226 [~~(6)~~] (7)(a) After issuance of a building permit, a county may not:

- 2227 (i) change or add to the requirements expressed in the building permit, unless the  
 2228 change or addition is:

- 2229 (A) requested by the building permit holder; or
- 2230 (B) necessary to comply with an applicable state building code; or

- 2231 (ii) revoke the building permit or take action that has the effect of revoking the  
 2232 building permit.

2233 (b) Subsection [~~(6)~~](a) (7)(a) does not prevent a county from issuing a building permit  
 2234 that contains an expiration date defined in the building permit.

2235 [~~(7)~~] (8) A county shall comply with the provisions of this chapter regarding all pending  
 2236 land use applications and new land use applications submitted under this chapter.

2237 Section 22. Section **17-79-811** is amended to read:

2238 **17-79-811 . Provisions applicable to a provider of culinary or secondary water.**

2239 A provider of culinary or secondary water that commits to provide a water service required  
 2240 by a land use application process is subject to the following provisions the same as if the

2241 provider were a county:

2242 (1) Subsections 17-79-804(5) and (6);

2243 (2) Section 17-79-805; ~~and~~

2244 (3) Section 17-79-812; and

2245 (4) Section 17-79-813.

2246 Section 23. Section **17-79-812** is amended to read:

2247 **17-79-812 . Exactions -- Requirement to offer to original owner property**  
 2248 **acquired by exaction -- Exaction for right-of-way improvements -- Improvement**  
 2249 **completion assurance requirements.**

2250 (1) A county may impose an exaction or exactions on development proposed in a land use  
 2251 application, including, subject to ~~[Subsection (3)]~~ Section 17-79-813, an exaction for a  
 2252 water interest, if:

2253 (a) an essential link exists between a legitimate governmental interest and each exaction;  
 2254 and

2255 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the  
 2256 proposed development.

2257 (2) If a land use authority imposes an exaction for another governmental entity:

2258 (a) the governmental entity shall request the exaction; and

2259 (b) the land use authority shall transfer the exaction to the governmental entity for which  
 2260 it was exacted.

2261 ~~[(3)(a)(i) Subject to the requirements of this Subsection (3), a county or, if~~  
 2262 ~~applicable, the county's culinary water authority shall base any exaction for a~~  
 2263 ~~water interest on the culinary water authority's established calculations of~~  
 2264 ~~projected water interest requirements.]~~

2265 ~~[(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall~~  
 2266 ~~base an exaction for a culinary water interest on:]~~

2267 ~~[(A) consideration of the system-wide minimum sizing standards established for~~  
 2268 ~~the culinary water authority by the Division of Drinking Water in accordance~~  
 2269 ~~with Section 19-4-114; and]~~

2270 ~~[(B) the number of equivalent residential connections associated with the culinary~~  
 2271 ~~water demand for each specific development proposed in the development's~~  
 2272 ~~land use application, applying lower exactions for developments with lower~~  
 2273 ~~equivalent residential connections as demonstrated by at least five years of~~  
 2274 ~~usage data for like land uses within the county.]~~

2275 [(iii) A county or culinary water authority may impose an exaction for a culinary  
 2276 water interest that results in less water being exacted than would otherwise be  
 2277 exacted under Subsection (3)(a)(ii) if the county or culinary water authority, at the  
 2278 county's or culinary water authority's sole discretion, determines there is good  
 2279 cause to do so.]

2280 [(iv) A county shall make public the methodology used to comply with Subsection  
 2281 (3)(a)(ii)(B). A land use applicant may appeal to the county's governing body an  
 2282 exaction calculation used by the county or the county's culinary water authority  
 2283 under Subsection (3)(a)(ii). A land use applicant may present data and other  
 2284 information that illustrates a need for an exaction recalculation and the county's  
 2285 governing body shall respond with due process.]

2286 [(v) Upon an applicant's request, the culinary water authority shall provide the  
 2287 applicant with the basis for the culinary water authority's calculations under  
 2288 Subsection (3)(a)(i) on which an exaction for a water interest is based.]

2289 [(b) A county or the county's culinary water authority may not impose an exaction for a  
 2290 water interest if the culinary water authority's existing available water interests  
 2291 exceed the water interests needed to meet the reasonable future water requirement of  
 2292 the public, as determined under Subsection 73-1-4(2)(f).]

2293 [(4)] (3)(a) If a county plans to dispose of surplus real property under Section 17-78-103  
 2294 that was acquired under this section and has been owned by the county for less than  
 2295 15 years, the county shall first offer to reconvey the property, [without receiving  
 2296 additional consideration] at no cost, to the person who granted the property to the  
 2297 county.

2298 (b) A person to whom a county offers to reconvey property under Subsection [(4)(a)]  
 2299 (3)(a) has 90 days to accept or reject the county's offer.

2300 (c) If a person to whom a county offers to reconvey property declines the offer, the  
 2301 county may offer the property for sale.

2302 (d) Subsection [(4)(a)] (3)(a) does not apply to the disposal of property acquired by  
 2303 exaction by a community development or urban renewal agency.

2304 [(5)] (4)(a) A county may not, as part of an infrastructure improvement, require the  
 2305 installation of pavement on a residential roadway at a width in excess of 32 feet.

2306 (b) Subsection [(5)(a)] (4)(a) does not apply if a county requires the installation of  
 2307 pavement in excess of 32 feet:

2308 (i) in a vehicle turnaround area;

- 2309 (ii) in a cul-de-sac;
- 2310 (iii) to address specific traffic flow constraints at an intersection, mid-block
- 2311 crossings, or other areas;
- 2312 (iv) to address an applicable general or master plan improvement, including
- 2313 transportation, bicycle lanes, trails, or other similar improvements that are not
- 2314 included within an impact fee area;
- 2315 (v) to address traffic flow constraints for service to or abutting higher density
- 2316 developments or uses that generate higher traffic volumes, including community
- 2317 centers, schools, and other similar uses;
- 2318 (vi) as needed for the installation or location of a utility which is maintained by the
- 2319 county and is considered a transmission line or requires additional roadway width;
- 2320 (vii) for third-party utility lines that have an easement preventing the installation of
- 2321 utilities maintained by the county within the roadway;
- 2322 (viii) for utilities over 12 feet in depth;
- 2323 (ix) for roadways with a design speed that exceeds 25 miles per hour;
- 2324 (x) as needed for flood and stormwater routing;
- 2325 (xi) as needed to meet fire code requirements for parking and hydrants; or
- 2326 (xii) as needed to accommodate street parking.
- 2327 (c) Nothing in this section shall be construed to prevent a county from approving a road
- 2328 cross section with a pavement width less than 32 feet.
- 2329 (d)(i) A land use applicant may appeal a municipal requirement for pavement in
- 2330 excess of 32 feet on a residential roadway.
- 2331 (ii) A land use applicant that has appealed a municipal specification for a residential
- 2332 roadway pavement width in excess of 32 feet may request that the county
- 2333 assemble a panel of qualified experts to serve as the appeal authority for purposes
- 2334 of determining the technical aspects of the appeal.
- 2335 (iii) Unless otherwise agreed by the applicant and the county, the panel described in
- 2336 Subsection [~~(5)(d)(ii)~~] (4)(d)(ii) shall consist of the following three experts:
- 2337 (A) one licensed engineer, designated by the county;
- 2338 (B) one licensed engineer, designated by the land use applicant; and
- 2339 (C) one licensed engineer, agreed upon and designated by the two designated
- 2340 engineers under Subsections [~~(5)(d)(iii)(A)~~] (4)(d)(iii)(A) and (B).
- 2341 (iv) A member of the panel assembled by the county under Subsection [~~(5)(d)(ii)~~]
- 2342 (4)(d)(ii) may not have an interest in the application that is the subject of the

2343 appeal.

2344 (v) The land use applicant shall pay:

2345 (A) 50% of the cost of the panel; and

2346 (B) the county's published appeal fee.

2347 (vi) The decision of the panel is a final decision, subject to a petition for review under  
2348 Subsection [~~(5)(d)(vii)~~] (4)(d)(vii).

2349 (vii) In accordance with Section 17-79-1009, a land use applicant or the county may  
2350 file a petition for review of the decision with the district court within 30 days after  
2351 the date that the decision is final.

2352 Section 24. Section **17-79-813** is enacted to read:

2353 **17-79-813 . Exactions for water rights.**

2354 (1) Subject to the requirements of this section, a county or, if applicable, the county's  
2355 culinary water authority shall base any exaction for a water interest on the culinary water  
2356 authority's established calculations of projected water interest requirements.

2357 (2) Except as described in Subsection (3), a culinary water authority shall base an exaction  
2358 for a culinary water interest on:

2359 (a) consideration of the system-wide minimum sizing standards established for the  
2360 culinary water authority by the Division of Drinking Water in accordance with  
2361 Section 19-4-114; and

2362 (b) the number of equivalent residential connections associated with the culinary water  
2363 demand for each specific development proposed in the development's land use  
2364 application, applying lower exactions for developments with lower equivalent  
2365 residential connections as demonstrated by at least five years of usage data for like  
2366 land uses within the county.

2367 (3) If a county or culinary water authority determines, in the sole discretion of the county or  
2368 culinary water authority, that good cause exists, the county or culinary water authority  
2369 may impose an exaction for a culinary water interest that results in less water being  
2370 exacted than would otherwise be exacted under Subsection (2).

2371 (4) A county shall make public the methodology used to comply with Subsection (2)(b).

2372 (5) A land use applicant may appeal to the county's governing body an exaction calculation  
2373 used by the county or the county's culinary water authority under Subsection (2).

2374 (6) A land use applicant may present data and other information that illustrates a need for  
2375 an exaction recalculation and the county's governing body shall respond with due  
2376 process.

- 2377 (7) Upon an applicant's request, the culinary water authority shall provide the applicant  
 2378 with the basis for the culinary water authority's calculations under Subsection (2) on  
 2379 which an exaction for a water interest is based.
- 2380 (8) A county or the county's culinary water authority may not impose an exaction for a  
 2381 water interest if the culinary water authority's existing available water interests exceed  
 2382 the water interests needed to meet the reasonable future water requirement of the public,  
 2383 as determined under Subsection 73-1-4(2)(f).

2384 Section 25. Section **17-79-901** is amended to read:

2385 **17-79-901 . Enforcement -- Limitations on a county's ability to enforce an**  
 2386 **ordinance by withholding a permit or certificate.**

- 2387 (1)(a) A county or [~~an adversely affected party~~] a land use applicant may, in addition to  
 2388 other remedies provided by law, institute:
- 2389 (i) injunctions, mandamus, abatement, or any other appropriate actions; or  
 2390 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 2391 (b) A county need only establish the violation to obtain the injunction.
- 2392 (2)(a) Except as provided in Subsections (3) through (6), or as provided in the provisions  
 2393 of a development agreement, a county may enforce the county's ordinance by  
 2394 withholding a building permit or certificate of occupancy.
- 2395 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building  
 2396 or other structure within a county without approval of a building permit.
- 2397 (c) The county may not issue a building permit unless the plans of and for the proposed  
 2398 erection, construction, reconstruction, alteration, or use fully conform to all  
 2399 regulations then in effect.
- 2400 (d) A county may require an applicant to install a permanent road, cover a temporary  
 2401 road with asphalt or concrete, or create another method for servicing a structure that  
 2402 is consistent with Appendix D of the International Fire Code, before receiving a  
 2403 certificate of occupancy for that structure.
- 2404 (e) A county may require an applicant to maintain and repair a temporary fire apparatus  
 2405 road during the construction of a structure accessed by the temporary fire apparatus  
 2406 road in accordance with the county's adopted standards.
- 2407 (f) A county may require temporary signs to be installed at each street intersection once  
 2408 construction of new roadway allows passage by a motor vehicle.
- 2409 (g) A county may adopt and enforce any appendix of the International Fire Code, 2021  
 2410 Edition.

- 2411 (3)(a) A county may not deny an applicant a building permit or certificate of occupancy  
2412 because the applicant has not completed an infrastructure improvement:
- 2413 (i) unless the infrastructure improvement is essential to meet the requirements for the  
2414 issuance of a building permit or certificate of occupancy under Title 15A, State  
2415 Construction and Fire Codes Act; and
  - 2416 (ii) for which the county has accepted an improvement completion assurance for a  
2417 public landscaping improvement, as defined in Section 17-79-707, or an  
2418 infrastructure improvement for the development.
- 2419 (b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6,  
2420 infrastructure improvement that is essential means:
- 2421 (i) operable fire hydrants installed in a manner that is consistent with the county's  
2422 adopted engineering standards; and
  - 2423 (ii) for temporary roads used during construction, a properly compacted road base  
2424 installed in a manner consistent with the county's adopted engineering standards.
- 2425 (c) A county may not adopt an engineering standard that requires an applicant to install a  
2426 permanent road or a temporary road with asphalt or concrete before receiving a  
2427 building permit.
- 2428 (4) A county may not deny an applicant a building permit or certificate of occupancy for  
2429 failure to:
- 2430 (a) submit a private landscaping plan, as defined in Section 17-79-707; or
  - 2431 (b) complete a landscaping improvement that is not a public landscaping improvement,  
2432 as defined in Section 17-79-707.
- 2433 (5) A county may not withhold a building permit based on the lack of completion of a  
2434 portion of a public sidewalk to be constructed within a public right-of-way serving a lot  
2435 where a single-family or two-family residence or town home is proposed in a building  
2436 permit application if an improvement completion assurance has been posted for the  
2437 incomplete portion of the public sidewalk.
- 2438 (6) A county may not prohibit the construction of a single-family or two-family residence  
2439 or town home, withhold recording a plat, or withhold acceptance of a public landscaping  
2440 improvement, as defined in Section 17-79-707, or an infrastructure improvement based  
2441 on the lack of installation of a public sidewalk if an improvement completion assurance  
2442 has been posted for the public sidewalk.
- 2443 (7) A county may not redeem an improvement completion assurance securing the  
2444 installation of a public sidewalk sooner than 18 months after the date the improvement

- 2445 completion assurance is posted.
- 2446 (8) A county shall allow an applicant to post an improvement completion assurance for a  
 2447 public sidewalk separate from an improvement completion assurance for:
- 2448 (a) another infrastructure improvement; or  
 2449 (b) a public landscaping improvement, as defined in Section 17-79-707.
- 2450 (9) A county may withhold a certificate of occupancy for a single-family or two-family  
 2451 residence or town home until the portion of the public sidewalk to be constructed within  
 2452 a public right-of-way and located immediately adjacent to the single-family or  
 2453 two-family residence or town home is completed and accepted by the county.
- 2454 Section 26. Section **17-79-1001** is amended to read:
- 2455 **17-79-1001 . Appeal authority required -- Condition precedent to judicial review**  
 2456 **-- Appeal authority duties.**
- 2457 (1)(a) Each county adopting a land use ordinance:
- 2458 (i) shall, by ordinance, establish one or more appeal authorities; and  
 2459 (ii) beginning on July 1, 2026, may not designate the legislative body as an appeal  
 2460 authority.
- 2461 (b) An appeal authority shall hear and decide:
- 2462 (i) requests for [~~variances~~] a variance from [~~the terms of~~] a land use [~~ordinances~~]  
 2463 ordinance;
- 2464 (ii) appeals from a land use [~~decisions~~] decision applying a land use [~~ordinances~~]  
 2465 ordinance; and
- 2466 (iii) appeals from a fee charged in accordance with Section 17-79-802.
- 2467 (c) An appeal authority may not hear an appeal from the enactment of a land use  
 2468 regulation.
- 2469 (2) As a condition precedent to judicial review, each adversely affected party or land use  
 2470 applicant shall timely and specifically challenge a land use authority's land use decision,  
 2471 in accordance with local ordinance.
- 2472 (3) An appeal authority described in Subsection (1)(a):
- 2473 (a) shall:
- 2474 (i) act in a quasi-judicial manner; and  
 2475 (ii) serve as the final arbiter of issues involving the interpretation or application of a  
 2476 land use [~~ordinances~~] ordinance; and
- 2477 (b) may not entertain an appeal of a matter in which the appeal authority, or any  
 2478 participating member, had first acted as the land use authority.

- 2479 (4) By ordinance, a county may:
- 2480 (a) designate a separate appeal authority to hear requests for variances than the appeal
- 2481 authority the county designates to hear appeals;
- 2482 (b) designate one or more separate appeal authorities to hear distinct types of appeals of
- 2483 land use authority decisions;
- 2484 (c) require an adversely affected party to present to an appeal authority every theory of
- 2485 relief that the adversely affected party can raise in district court; and
- 2486 ~~[(d) not require a land use applicant or adversely affected party to pursue duplicate or~~
- 2487 ~~successive appeals before the same or separate appeal authorities as a condition of an~~
- 2488 ~~appealing party's duty to exhaust administrative remedies; and]~~
- 2489 ~~[(e)]~~ (d) provide that specified types of land use decisions may be appealed directly to the
- 2490 district court.
- 2491 (5) A county may not:
- 2492 (a) require a public hearing for a request for a variance or land use appeal[-] ; or
- 2493 (b) require a land use applicant or adversely affected party to pursue successive appeals
- 2494 before the same or separate appeal authorities as a condition of an appealing party's
- 2495 duty to exhaust administrative remedies.
- 2496 (6) If the county establishes or, before May 2, 2005, has established a multiperson board,
- 2497 body, or panel to act as an appeal authority, at a minimum the board, body, or panel
- 2498 shall:
- 2499 (a) notify each of the members of the board, body, or panel of any meeting or hearing of
- 2500 the board, body, or panel;
- 2501 (b) provide each of the members of the board, body, or panel with the same information
- 2502 and access to municipal resources as any other member;
- 2503 (c) convene only if a quorum of the members of the board, body, or panel is present; and
- 2504 (d) act only upon the vote of a majority of the convened members of the board, body, or
- 2505 panel.
- 2506 Section 27. Section **17-79-1006** is amended to read:
- 2507 **17-79-1006 . Due process.**
- 2508 (1) ~~[Each]~~ An appeal authority shall conduct each appeal and variance request as described
- 2509 by local ordinance.
- 2510 (2) ~~[Each]~~ An appeal authority shall respect the due process rights of ~~[each of the~~
- 2511 ~~participants]~~ an appeal participant.
- 2512 (3) An appeal authority may only allow the following people to participate, present, or

2513   speak during an appeal or variance hearing:

2514   (a) the appellant or the appellant's representatives;

2515   (b) the land use applicant or the land use applicant's representatives; and

2516   (c) the county's representatives.

2517 Section 28. Section **17-79-1007** is amended to read:

2518 **17-79-1007 . Scope of review of factual matters on appeal -- Appeal authority**

2519 **requirements.**

2520 (1) A county may, by ordinance, designate the scope of review of factual matters for

2521 appeals of land use authority decisions.

2522 (2) If the county fails to designate a scope of review of factual matters, the appeal authority

2523 shall review the ~~[matter]~~ factual matters de novo, without deference to the land use

2524 authority's determination of the factual matters.

2525 (3) If the scope of review of factual matters is on the record, the appeal authority shall

2526 determine whether the record on appeal includes substantial evidence for each essential

2527 finding of fact.

2528 (4) The appeal authority shall:

2529 (a) determine the correctness of the land use authority's interpretation and application of

2530 the plain meaning of the land use regulations; and

2531 (b) interpret and apply a land use regulation to favor a land use application unless the

2532 land use regulation plainly restricts the land use application.

2533 (5)(a) An appeal authority's land use decision is a quasi-judicial act.

2534 (b) ~~[A] Beginning on July 1, 2026, a legislative body may not act as an appeal authority[~~

2535 ~~unless both the legislative body and the appealing party agree to allow a third party to~~

2536 ~~act as the appeal authority].~~

2537 (6) Only a decision in which a land use authority has applied a land use regulation to a

2538 particular land use application, person, or parcel may be appealed to an appeal authority.

2539 Section 29. Section **17-79-1009** is amended to read:

2540 **17-79-1009 . No district court review until administrative remedies exhausted --**

2541 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**

2542 **-- Staying of decision.**

2543 (1) ~~[Nø]~~ A person may challenge in district court a land use decision or the approval of a

2544 specific land use law only if, in accordance with this part:

2545 (a) the person's appeal of the land use decision or approval of a specific land use law to

2546 the appeal authority is timely; and

- 2547 (b) [~~until that~~] the person has exhausted the person's administrative remedies[~~as~~  
2548 provided in Part 7, Appeal Authority and Variances], if applicable.
- 2549 (2)(a) Subject to Subsection (1), a land use applicant or adversely affected party may file  
2550 a petition for review of a land use decision or the approval of a specific land use law  
2551 with the district court within 30 days after the decision is final.
- 2552 (b)(i) The time under Subsection (2)(a) to file a petition is tolled from the date a  
2553 property owner files a request for arbitration of a constitutional taking issue with  
2554 the property rights ombudsman under Section 13-43-204 until 30 days after:  
2555 (A) the arbitrator issues a final award; or  
2556 (B) the property rights ombudsman issues a written statement under Subsection  
2557 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.
- 2558 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional  
2559 taking issue that is the subject of the request for arbitration filed with the property  
2560 rights ombudsman by a property owner.
- 2561 (iii) A request for arbitration filed with the property rights ombudsman after the time  
2562 under Subsection (2)(a) to file a petition has expired does not affect the time to  
2563 file a petition.
- 2564 (3)(a) A court shall:  
2565 (i) presume that a land use regulation properly enacted under the authority of this  
2566 chapter is valid; and  
2567 (ii) determine only whether:  
2568 (A) the land use regulation is expressly preempted by, or was enacted contrary to,  
2569 state or federal law; and  
2570 (B) it is reasonably debatable that the land use regulation is consistent with this  
2571 chapter.
- 2572 (b) A court shall presume that a final land use decision of a land use authority or an  
2573 appeal authority is valid unless the land use decision is:  
2574 (i) arbitrary and capricious; or  
2575 (ii) illegal.
- 2576 (c)(i) A land use decision is arbitrary and capricious if the land use decision is not  
2577 supported by substantial evidence in the record.  
2578 (ii) A land use decision is illegal if the land use decision:  
2579 (A) is based on an incorrect interpretation of a land use regulation;  
2580 (B) conflicts with the authority granted by this title; or

- 2581 (C) is contrary to law.
- 2582 (d)(i) A court may affirm or reverse a land use decision.
- 2583 (ii) If the court reverses a land use decision, the court shall remand the matter to the
- 2584 land use authority with instructions to issue a land use decision consistent with the
- 2585 court's decision.
- 2586 (4) The provisions of Subsection (2)(a) apply from the date on which the county takes final
- 2587 action on a land use application, if the county conformed with the notice provisions of
- 2588 Part 2, Notice, or for any person who had actual notice of the pending land use decision.
- 2589 (5) If the county has complied with Section 17-79-205, a challenge to the enactment of a
- 2590 land use regulation or general plan may not be filed with the district court more than 30
- 2591 days after the enactment.
- 2592 (6) A challenge to a land use decision is barred unless the challenge is filed within 30 days
- 2593 after the land use decision is final.
- 2594 (7)(a) The land use authority or appeal authority, as the case may be, shall transmit to
- 2595 the reviewing court the record of the proceedings of the land use authority or appeal
- 2596 authority, including the minutes, findings, orders and, if available, a true and correct
- 2597 transcript of the proceedings.
- 2598 (b) If the proceeding was recorded, a transcript of that recording is a true and correct
- 2599 transcript for purposes of this Subsection (7).
- 2600 (8)(a)(i) If there is a record, the district court's review is limited to the record
- 2601 provided by the land use authority or appeal authority, as the case may be.
- 2602 (ii) The court may not accept or consider any evidence outside the record of the land
- 2603 use authority or appeal authority, as the case may be, unless that evidence was
- 2604 offered to the land use authority or appeal authority, respectively, and the court
- 2605 determines that the evidence was improperly excluded.
- 2606 (b) If there is no record, the court may call witnesses and take evidence.
- 2607 (9)(a) The filing of a petition does not stay the land use decision of the land use
- 2608 authority or appeal authority, as the case may be.
- 2609 (b)(i) Before filing a petition under this section or a request for mediation or
- 2610 arbitration of a constitutional taking issue under Section 13-43-204, a land use
- 2611 applicant may petition the appeal authority to stay the appeal authority's decision.
- 2612 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal
- 2613 authority's decision stayed pending district court review if the appeal authority
- 2614 finds the order to be in the best interest of the county.

2615 (iii) After a petition is filed under this section or a request for mediation or arbitration  
2616 of a constitutional taking issue is filed under Section 13-43-204, the petitioner  
2617 may seek an injunction staying the appeal authority's land use decision.

2618 (10) If the court determines that a party initiated or pursued a challenge to a land use  
2619 decision on a land use application in bad faith, the court may award attorney fees.

2620 Section 30. **Effective Date.**

2621 This bill takes effect on May 6, 2026.