

Lincoln Fillmore proposes the following substitute bill:

Local Land Use Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Jill Koford

LONG TITLE

General Description:

This bill modifies provisions related to land use.

Highlighted Provisions:

This bill:

- defines terms;
- amends requirements for a modified feasibility request related to a proposed municipal incorporation;
- clarifies standards for county and municipal land use regulations and requirements;
- modified requirements for an ordinance establishing a planning commission;
- modifies planning commission powers and duties;
- modifies the process for reviewing and approving a new or unlisted business use;
- 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;
- modifies the requirement to place certain infrastructure completion assurances in an interest-bearing account;
- 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;
- requires a specified municipality to allow a detached accessory dwelling unit as a

- 29 permitted use in certain zones;
- 30 ▸ clarifies notice requirements for a proposed county land use ordinance that is ministerial
- 31 in nature;
- 32 ▸ modifies a county's authority to deny an applicant a building permit or certificate of
- 33 occupancy if the applicant has not completed an infrastructure improvement; and
- 34 ▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2a-106, as last amended by Laws of Utah 2023, Chapter 224 and further amended by Revisor Instructions, Laws of Utah 2023, Chapter 224

10-2a-206, as last amended by Laws of Utah 2024, Chapter 518

10-2a-220, as last amended by Laws of Utah 2024, Chapter 518

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

10-20-301, 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, Chapter 15

10-20-501, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 15

10-20-502, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 15

10-20-507, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 15

10-20-806, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 15

10-20-807, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 15

10-20-902, as renumbered and amended by Laws of Utah 2025, First Special Session, Chapter 15

63 **10-20-910**, as enacted by Laws of Utah 2025, First Special Session, Chapter 15
64 **10-20-911**, as renumbered and amended by Laws of Utah 2025, First Special Session,
65 Chapter 15
66 **10-20-1001**, as renumbered and amended by Laws of Utah 2025, First Special Session,
67 Chapter 15
68 **10-20-1101**, as renumbered and amended by Laws of Utah 2025, First Special Session,
69 Chapter 15
70 **10-20-1106**, as renumbered and amended by Laws of Utah 2025, First Special Session,
71 Chapter 15
72 **10-20-1107**, as renumbered and amended by Laws of Utah 2025, First Special Session,
73 Chapter 15
74 **10-20-1109**, as renumbered and amended by Laws of Utah 2025, First Special Session,
75 Chapter 15
76 **10-21-101**, as renumbered and amended by Laws of Utah 2025, First Special Session,
77 Chapter 15
78 **13-43-205**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
79 **17-79-102**, as renumbered and amended by Laws of Utah 2025, First Special Session,
80 Chapter 14
81 **17-79-205**, as renumbered and amended by Laws of Utah 2025, First Special Session,
82 Chapter 14
83 **17-79-301**, as renumbered and amended by Laws of Utah 2025, First Special Session,
84 Chapter 14
85 **17-79-302**, as renumbered and amended by Laws of Utah 2025, First Special Session,
86 Chapter 14
87 **17-79-501**, as renumbered and amended by Laws of Utah 2025, First Special Session,
88 Chapter 14
89 **17-79-502**, as renumbered and amended by Laws of Utah 2025, First Special Session,
90 Chapter 14
91 **17-79-507**, as renumbered and amended by Laws of Utah 2025, First Special Session,
92 Chapter 14
93 **17-79-706**, as renumbered and amended by Laws of Utah 2025, First Special Session,
94 Chapter 14
95 **17-79-707**, as renumbered and amended by Laws of Utah 2025, First Special Session,
96 Chapter 14

- 97 **17-79-803**, as renumbered and amended by Laws of Utah 2025, First Special Session,
- 98 Chapter 14
- 99 **17-79-811**, as enacted by Laws of Utah 2025, First Special Session, Chapter 14
- 100 **17-79-812**, as renumbered and amended by Laws of Utah 2025, First Special Session,
- 101 Chapter 14
- 102 **17-79-901**, as renumbered and amended by Laws of Utah 2025, First Special Session,
- 103 Chapter 14
- 104 **17-79-1001**, as renumbered and amended by Laws of Utah 2025, First Special Session,
- 105 Chapter 14
- 106 **17-79-1006**, as renumbered and amended by Laws of Utah 2025, First Special Session,
- 107 Chapter 14
- 108 **17-79-1007**, as renumbered and amended by Laws of Utah 2025, First Special Session,
- 109 Chapter 14
- 110 **17-79-1009**, as renumbered and amended by Laws of Utah 2025, First Special Session,
- 111 Chapter 14

112 ENACTS:

- 113 **10-20-912**, Utah Code Annotated 1953
- 114 **10-21-304**, Utah Code Annotated 1953
- 115 **17-79-813**, Utah Code Annotated 1953

116 REPEALS AND REENACTS:

- 117 **10-20-1105**, as renumbered and amended by Laws of Utah 2025, First Special Session,
- 118 Chapter 15
- 119 **17-79-1005**, as renumbered and amended by Laws of Utah 2025, First Special Session,
- 120 Chapter 14

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

123 Section 1. Section **10-2a-106** is amended to read:

124 **10-2a-106 . Feasibility request filed before changes to law take effect.**

- 125 (1) If an individual files a feasibility request for incorporation of a city or town before May
- 126 14, 2019, the process for incorporating the city or town is not subject to Laws of Utah
- 127 2019, Chapter 165 or Laws of Utah 2023, Chapter 224, and is instead subject to the
- 128 municipal incorporation law in effect on the day on which the individual files the
- 129 feasibility request.
- 130 (2) If an individual files a feasibility request for incorporation of a city or town before May

- 131 3, 2023[~~5~~] :
- 132 (a) except as provided in Subsection (2)(b), the process for incorporating the city or
 133 town is not subject to Laws of Utah 2023, Chapter 224, and is subject to the
 134 municipal incorporation law in effect on the day on which the individual files the
 135 feasibility request; and
- 136 (b) the process and requirements for filing a modified feasibility request on or after May
 137 6, 2026, shall be in accordance with the law in effect on the day on which the
 138 individual or an incorporation sponsor files a modified feasibility request.
- 139 Section 2. Section **10-2a-206** is amended to read:
- 140 **10-2a-206 . Modified feasibility request -- Supplemental feasibility study.**
- 141 (1) As used in this section, "specified landowner" means the same as that term is defined in
 142 Section 10-2a-204.5.
- 143 [(+)] (2)(a) The sponsors of a feasibility request may modify the request to alter the
 144 boundaries of the proposed municipality and refile the modified feasibility request
 145 with the county clerk if:
- 146 (i) the results of the feasibility study do not comply with Subsection 10-2a-205(5)(a);
 147 or
- 148 (ii)(A) the feasibility request complies with Subsection 10-2a-201.5(4)(b);
 149 (B) the annexation petition described in Subsection 10-2a-201.5(4)(b) that
 150 proposed the annexation of an area that is part of the area proposed for
 151 incorporation has been denied; and
- 152 (C) an incorporation petition based on the feasibility request has not been filed.
- 153 (b)(i) The sponsors of a feasibility request may not file a modified request under
 154 Subsection [(+)(a)(i)] (2)(a)(i) more than 90 days after the day on which the
 155 feasibility consultant submits the final results of the feasibility study under
 156 Subsection 10-2a-205(2)(c)(iii).
- 157 (ii) The sponsors of a feasibility request may not file a modified request under
 158 Subsection [(+)(a)(ii)] (2)(a)(ii) more than 18 months after filing the original
 159 feasibility request under Section 10-2a-202.
- 160 (c)(i) Subject to Subsection [(+)(e)(ii)] (2)(c)(ii), each modified feasibility request
 161 under Subsection [(+)(a)] (2)(a) shall comply with Subsections 10-2a-202(1), (3),
 162 (4), and (5) and Subsection 10-2a-201.5(4).
- 163 (ii) Notwithstanding Subsection [(+)(e)(i)] (2)(c)(i), a signature on a feasibility request
 164 filed under Section 10-2a-202 may be used toward fulfilling the signature

165 requirement of Subsection 10-2a-202(1)(a) for the feasibility request as modified
166 under Subsection [~~(1)(a)~~] (2)(a), unless the modified feasibility request proposes
167 the incorporation of an area that is more than 20% larger or smaller than the area
168 described by the original feasibility request in terms of:

169 (A) private land area; or

170 (B) assessed fair market value of private real property, as of January 1 of the
171 current year.

172 (d) Within 20 days after the day on which the county clerk receives the modified
173 request, the county clerk and the lieutenant governor shall follow the same procedure
174 described in Subsections 10-2a-204(1) through (6) for the modified feasibility request
175 as for an original feasibility request.

176 (e)(i) If a sponsor files a modified feasibility request that includes an area of land that
177 was not included in the original feasibility request, the county clerk shall, within
178 seven days after the day on which the sponsor files the modified feasibility request
179 with the lieutenant governor, identify any new specified landowners located
180 within the added area of land and mail written notice to each of the new specified
181 landowners.

182 (ii) The notice described in Subsection (2)(e)(i) shall:

183 (A) describe the added area of land; and

184 (B) state that a specified landowner who owns land within the added area may
185 request exclusion of the land from the proposed incorporation boundaries by
186 filing a request for exclusion with the county clerk within 30 days after the day
187 on which the county clerk mails the notice.

188 (f)(i) A specified landowner who owns land within the added area described in
189 Subsection (2)(e)(i) may request exclusion of the land from the proposed
190 incorporation boundaries by filing a request for exclusion with the county clerk
191 within 30 days after the day on which the county clerk mails the notice described
192 in Subsection (2)(e)(i).

193 (ii) The county clerk shall process a request for exclusion filed under Subsection (
194 2)(f)(i) in accordance with Subsections 10-2a-204.5(3) through (7), except that the
195 deadlines calculated from the first public hearing in Section 10-2a-204.5 shall
196 instead be calculated from the day on which the county clerk mails notice
197 described in Subsection (2)(e)(i).

198 [(e)] (g) Within 10 days after [a] the day on which the time period for a specified

199 landowner to request exclusion under Subsection (2)(f) expires, or if a sponsor files a
200 modified feasibility request that does not include a new area of land, within 10 days
201 after the sponsor files the modified feasibility request~~[is filed]~~, the lieutenant
202 governor shall:

- 203 (i) estimate the cost of a supplemental feasibility study under this section; and
- 204 (ii) provide the estimated cost to the feasibility request sponsors.

205 ~~[(f)]~~ (h) Within 20 days after the lieutenant governor provides the estimated
206 supplemental feasibility study cost, the feasibility request sponsors shall pay the
207 estimated cost to the lieutenant governor for a supplemental feasibility study
208 conducted on or after May 1, 2024.

209 ~~[(2)]~~ (3) The timely filing of a modified feasibility request under Subsection ~~[(1)]~~ (2) gives
210 the modified feasibility request the same processing priority under Subsection
211 10-2a-204(7) as the original feasibility request if the feasibility request sponsors pay the
212 estimated cost of the supplemental feasibility study as required in Subsection ~~[(1)(e)]~~
213 (2)(e).

214 ~~[(3)]~~ (4) ~~[Within]~~ Except as provided in Subsection (5), within 10 days after the day on
215 which the lieutenant governor receives payment of the estimated supplemental
216 feasibility study cost, the lieutenant governor shall commission the feasibility consultant
217 who conducted the feasibility study to conduct a supplemental feasibility study that
218 accounts for the modified feasibility request.

219 (5) If a modified feasibility request includes an area of land that was not included in the
220 original feasibility request, the lieutenant governor may not commission a supplemental
221 feasibility study under Subsection (4) unless:

222 (a) the deadline for filing a request for exclusion described in Subsection (2)(f) has
223 passed; and

224 (b) the county clerk and lieutenant governor have issued a final determination on any
225 request for exclusion filed in accordance with Subsection (2)(f).

226 ~~[(4)]~~ (6) The lieutenant governor shall require the feasibility consultant to:

227 (a) submit a draft of the supplemental feasibility study to each applicable person with
228 whom the feasibility consultant is required to consult under Subsection
229 10-2a-205(3)(c) within 30 days after the day on which the feasibility consultant is
230 engaged to conduct the supplemental study;

231 (b) allow each person to whom the consultant provided a draft under Subsection ~~[(4)(a)]~~
232 (6)(a) to review and provide comment on the draft; and

- 233 (c) submit a completed supplemental feasibility study, to the following within 45 days
- 234 after the day on which the feasibility consultant is engaged to conduct the feasibility
- 235 study:
- 236 (i) the lieutenant governor;
- 237 (ii) the county legislative body of the county in which the incorporation is proposed;
- 238 (iii) the contact sponsor; and
- 239 (iv) each person to whom the consultant provided a draft under Subsection [~~(4)~~(a)]
- 240 (6)(a).

241 [~~(5)~~] (7) If the results of the supplemental feasibility study do not comply with Subsection

242 10-2a-205(5)(a):

- 243 (a) the process to incorporate the area that is the subject of the supplemental feasibility
- 244 study may not proceed; and
- 245 (b) a feasibility request under Section 10-2a-202 may not be filed within 18 months after
- 246 the date of the supplemental feasibility study if the feasibility request proposes the
- 247 incorporation of an area included within the area described in the supplemental
- 248 feasibility study.

249 Section 3. Section **10-2a-220** is amended to read:

250 **10-2a-220 . Costs of incorporation -- Fees established by lieutenant governor.**

- 251 (1)(a) There is created an expendable special revenue fund known as the "Municipal
- 252 Incorporation Expendable Special Revenue Fund."
- 253 (b) The fund shall consist of:
- 254 (i) appropriations from the Legislature;
- 255 (ii) payments that feasibility request sponsors make to the lieutenant governor under
- 256 Subsections 10-2a-205(1)(b) and 10-2a-206(1)(f); and
- 257 (iii) fees the lieutenant governor collects and remits to the fund under this section.
- 258 (c) The lieutenant governor shall deposit all money collected under this section into the
- 259 fund.
- 260 (2)(a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504
- 261 for a cost incurred by the lieutenant governor or the county for an incorporation
- 262 proceeding, including:
- 263 (i) a request certification;
- 264 (ii) a petition certification;
- 265 (iii) publication of notices;
- 266 (iv) public hearings;

- 267 (v) all other incorporation activities occurring after the elections; and
 268 (vi) any other cost incurred by the lieutenant governor or county in relation to an
 269 incorporation proceeding.
- 270 (b) A cost under Subsection (2)(a) does not include a cost incurred by a county for
 271 holding an election under Section 10-2a-210.
- 272 (3) Subject to Subsections 10-2a-205(1)(b) and [~~10-2a-206(1)(f)~~] 10-2a-206(2)(h), the
 273 lieutenant governor shall pay for a cost described in Subsection (2)(a) using funds from
 274 the Municipal Incorporation Expendable Special Revenue Fund.
- 275 (4)(a) A newly incorporated municipality shall:
- 276 (i) pay to the lieutenant governor each fee established under Subsection (2) for each
 277 cost described in Subsection (2)(a) incurred by the lieutenant governor or the
 278 county;
- 279 (ii) pay the county for a cost described in Subsection (2)(b); and
- 280 (iii) reimburse feasibility request sponsors the cost the feasibility request sponsors
 281 paid for:
- 282 (A) a feasibility study under Section 10-2a-205; and
 283 (B) any supplemental feasibility study under Section 10-2a-206.
- 284 (b) The lieutenant governor shall execute a payback agreement with each new
 285 municipality for the new municipality to pay the fees described in Subsection (4)(a)
 286 over a period that, except as provided in Subsection (4)(c), may not exceed five years.
- 287 (c) If necessary, the lieutenant governor may extend a fee payment deadline beyond the
 288 deadline described in Subsection (4)(b) by amending the payback agreement
 289 described in Subsection (4)(b).
- 290 (d) The lieutenant governor shall deposit each fee the lieutenant governor collects under
 291 Subsection (4)(a)(i) into the Municipal Incorporation Expendable Special Revenue
 292 Fund.
- 293 (5) If the lieutenant governor expends funds from the Municipal Incorporation Expendable
 294 Special Revenue Fund that are not repaid to the lieutenant governor under Subsection
 295 (4)(a)(i) because an area did not incorporate as a municipality, the Legislature shall
 296 appropriate money to the fund in an amount equal to the funds that are not repaid.
- 297 Section 4. Section **10-20-102** is amended to read:
- 298 **10-20-102 . Definitions.**
- 299 As used in this chapter:
- 300 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or

- 301 detached from a primary single-family dwelling and contained on one lot.
- 302 (2) "Adversely affected party" means a person other than a land use applicant who:
- 303 (a) owns real property adjoining the property that is the subject of a land use application
- 304 or land use decision; or
- 305 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
- 306 general community as a result of the land use decision.
- 307 (3) "Affected entity" means a county, municipality, special district, special service district
- 308 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
- 309 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
- 310 specified public utility, property owner, property owners association, or the Department
- 311 of Transportation, if:
- 312 (a) the entity's services or facilities are likely to require expansion or significant
- 313 modification because of an intended use of land;
- 314 (b) the entity has filed with the municipality a copy of the entity's general or long-range
- 315 plan; or
- 316 (c) the entity has filed with the municipality a request for notice during the same
- 317 calendar year and before the municipality provides notice to an affected entity in
- 318 compliance with a requirement imposed under this chapter.
- 319 (4) "Affected owner" means the owner of real property that is:
- 320 (a) a single project; and
- 321 (b) the subject of a land use approval that:
- 322 (i) sponsors of a referendum timely challenged in accordance with Section 20A-7-601;
- 323 and
- 324 [(e)] (ii) is determined to be legally referable under Section 20A-7-602.8.
- 325 (5) "Appeal authority" means the person, board, commission, agency, or other body
- 326 designated by ordinance to decide an appeal of a decision of a land use application or a
- 327 variance.
- 328 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
- 329 residential property if the sign is designed or intended to direct attention to a business,
- 330 product, or service that is not sold, offered, or existing on the property where the sign is
- 331 located.
- 332 (7)(a) "Boundary adjustment" means an agreement between adjoining property owners
- 333 to relocate a common boundary that results in a conveyance of property between the
- 334 adjoining lots, adjoining parcels, or adjoining lots and parcels.

335 (b) "Boundary adjustment" does not mean a modification of a lot or parcel boundary that:
 336 (i) creates an additional lot or parcel; or
 337 (ii) is made by the Department of Transportation.

338 (8)(a) "Boundary establishment" means an agreement between adjoining property
 339 owners to clarify the location of an ambiguous, uncertain, or disputed common
 340 boundary.

341 (b) "Boundary establishment" does not mean a modification of a lot or parcel boundary
 342 that:

343 (i) creates an additional lot or parcel; or
 344 (ii) is made by the Department of Transportation.

345 (9) "Building code adoption cycle" means the period of time beginning the day on which a
 346 specific edition of a construction code from a nationally recognized code authority is
 347 adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day
 348 before a new edition of a construction code is adopted and effective in Title 15A, State
 349 Construction and Fire Codes Act.

350 [~~(9)~~] (10)(a) "Charter school" means:

351 (i) an operating charter school;
 352 (ii) a charter school applicant that a charter school authorizer approves in accordance
 353 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
 354 (iii) an entity that is working on behalf of a charter school or approved charter
 355 applicant to develop or construct a charter school building.

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

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

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

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

- 369 (a) Fifth or Fourteenth Amendment [øf] to the Constitution of the United States; or
370 (b) Utah Constitution, Article I, Section 22.
- 371 (13) "Conveyance document" means an instrument that:
372 (a) meets the definition of "document" in Section 57-1-1; and
373 (b) meets the requirements of Section 57-1-45.5.
- 374 (14) "Conveyance of property" means the transfer of ownership of any portion of real
375 property from one person to another person.
- 376 (15) "Culinary water authority" means the department, agency, or public entity with
377 responsibility to review and approve the feasibility of the culinary water system and
378 sources for the subject property.
- 379 (16) "Department of Transportation" means the entity created in Section 72-1-201.
- 380 (17) "Development activity" means:
381 (a) any construction or expansion of a building, structure, or use that creates additional
382 demand and need for public facilities;
383 (b) any change in use of a building or structure that creates additional demand and need
384 for public facilities; or
385 (c) any change in the use of land that creates additional demand and need for public
386 facilities.
- 387 (18)(a) "Development agreement" means a written agreement or amendment to a written
388 agreement between a municipality and one or more parties that regulates or controls
389 the use or development of a specific area of land.
390 (b) "Development agreement" does not include an improvement completion assurance.
- 391 (19)(a) "Disability" means a physical or mental impairment that substantially limits one
392 or more of a person's major life activities, including a person having a record of such
393 an impairment or being regarded as having such an impairment.
394 (b) "Disability" does not include current illegal use of, or addiction to, any federally
395 controlled substance, as defined in the Controlled Substances Act, 21 U.S.C. Sec. 802.
- 396 (20) "Document" means the same as that term is defined in Section 57-1-1.
- 397 (21) "Educational facility":
398 (a) means:
399 (i) a school district's building at which pupils assemble to receive instruction in a
400 program for any combination of grades from preschool through grade 12,
401 including kindergarten and a program for children with disabilities;
402 (ii) a structure or facility:

- 403 (A) located on the same property as a building described in Subsection (21)(a)(i);
 404 and
 405 (B) used in support of the use of that building; and
 406 (iii) a building to provide office and related space to a school district's administrative
 407 personnel; and
 408 (b) does not include:
 409 (i) land or a structure, including land or a structure for inventory storage, equipment
 410 storage, food processing or preparing, vehicle storage or maintenance, or similar
 411 use that is:
 412 (A) not located on the same property as a building described in Subsection
 413 (21)(a)(i); and
 414 (B) used in support of the purposes of a building described in Subsection (21)(a)(i);
 415 or
 416 (ii) a therapeutic school.
- 417 (22) "Establishment document" means an instrument that:
 418 (a) meets the definition of "document" in Section 57-1-1; and
 419 (b) meets the requirements of Section 57-1-45.
- 420 [~~(23) "Full boundary adjustment" means a boundary adjustment that is not a simple~~
 421 ~~boundary adjustment.~~]
- 422 [(24)] (23) "Fire authority" means the department, agency, or public entity with
 423 responsibility to review and approve the feasibility of fire protection and suppression
 424 services for the subject property.
- 425 [(25)] (24) "Flood plain" means land that:
 426 (a) is within the 100-year flood plain designated by the Federal Emergency Management
 427 Agency; or
 428 (b) has not been studied or designated by the Federal Emergency Management Agency
 429 but presents a likelihood of experiencing chronic flooding or a catastrophic flood
 430 event because the land has characteristics that are similar to those of a 100-year flood
 431 plain designated by the Federal Emergency Management Agency.
- 432 (25) "Full boundary adjustment" means a boundary adjustment that is not a simple
 433 boundary adjustment.
- 434 (26) "General plan" means a document that a municipality adopts that sets forth general
 435 guidelines for proposed future development of the land within the municipality.
- 436 (27) "Geologic hazard" means:

- 437 (a) a surface fault rupture;
438 (b) shallow groundwater;
439 (c) liquefaction;
440 (d) a landslide;
441 (e) a debris flow;
442 (f) unstable soil;
443 (g) a rock fall; or
444 (h) any other geologic condition that presents a risk:
445 (i) to life;
446 (ii) of substantial loss of real property; or
447 (iii) of substantial damage to real property.
- 448 (28) "Historic preservation authority" means a person, board, commission, or other body
449 designated by a legislative body to:
450 (a) recommend land use regulations to preserve local historic districts or areas; and
451 (b) administer local historic preservation land use regulations within a local historic
452 district or area.
- 453 (29) "Home-based microschool" means the same as that term is defined in Section
454 53G-6-201.
- 455 (30) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter,
456 or appurtenance that connects to a municipal water, sewer, storm water, power, or other
457 utility system.
- 458 (31)(a) "Identical plans" means floor plans submitted to a municipality that:
459 (i) are submitted within the same building code adoption cycle as floor plans that
460 were previously approved by the municipality;
461 (ii) have no structural differences from floor plans that were previously approved by
462 the municipality; and
463 (iii) describe a building that:
464 (A) is located on land zoned the same as the land on which the building described
465 in the previously approved plans is located;
466 (B) has a substantially identical floor plan to a floor plan previously approved by
467 the municipality; and
468 (C) does not require any engineering or analysis beyond a review to confirm the
469 submitted floor plans are substantially identical to a floor plan previously
470 approved by the municipality or a review of the site plan and associated

- 471 geotechnical reports for the site.
- 472 (b) "Identical plans" include floor plans that are oriented differently as the floor plan that
473 was previously approved by the municipality.
- 474 (32) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact
475 Fees Act.
- 476 (33) "Improvement completion assurance" means a surety bond, letter of credit, financial
477 institution bond, cash, assignment of rights, lien, or other equivalent security required by
478 a municipality to guaranty the proper completion of landscaping or an infrastructure
479 improvement required as a condition precedent to:
- 480 (a) recording a subdivision plat; or
481 (b) development of a commercial, industrial, mixed use, or multifamily project.
- 482 (34) "Improvement warranty" means an applicant's unconditional warranty that the
483 applicant's installed and accepted landscaping or infrastructure improvement:
- 484 (a) complies with the municipality's written standards for design, materials, and
485 workmanship; and
486 (b) will not fail in any material respect, as a result of poor workmanship or materials,
487 within the improvement warranty period.
- 488 (35) "Improvement warranty period" means a period:
- 489 (a) no later than one year after a municipality's acceptance of required public
490 landscaping; or
491 (b) no later than one year after a municipality's acceptance of required infrastructure,
492 unless the municipality:
- 493 (i) determines, based on accepted industry standards and for good cause, that a
494 one-year period would be inadequate to protect the public health, safety, and
495 welfare; and
496 (ii) has substantial evidence, on record:
- 497 (A) of prior poor performance by the applicant; or
498 (B) that the area upon which the infrastructure will be constructed contains
499 suspect soil and the municipality has not otherwise required the land use
500 applicant to mitigate the suspect soil.
- 501 (36) "Infrastructure improvement" means permanent infrastructure that is essential for the
502 public health and safety or that:
- 503 (a) is required for human occupation; and
504 (b) an applicant shall install:

- 505 (i) in accordance with published installation and inspection specifications for public
506 improvements; and
- 507 (ii) whether the improvement is public or private, as a condition of:
- 508 (A) recording a subdivision plat;
- 509 (B) obtaining a building permit; or
- 510 (C) development of a commercial, industrial, mixed use, condominium, or
511 multifamily project.
- 512 (37) "Internal lot restriction" means a platted note, platted demarcation, or platted
513 designation that:
- 514 (a) runs with the land; and
- 515 (b)(i) creates a restriction that is enclosed within the perimeter of a lot described on
516 the plat; or
- 517 (ii) designates a development condition that is enclosed within the perimeter of a lot
518 described on the plat.
- 519 (38) "Land use applicant" means: a property owner, or the property owner's designee, who
520 submits a land use application regarding the property owner's land.
- 521 (39) "Land use application":
- 522 (a) means an application that is:
- 523 (i) required by a municipality; and
- 524 (ii) submitted by a land use applicant to obtain a land use decision; and
- 525 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 526 (40) "Land use authority" means:
- 527 (a) a person, board, commission, agency, or body, including the local legislative body,
528 designated by the local legislative body to act upon a land use application; or
- 529 (b) if the local legislative body has not designated a person, board, commission, agency,
530 or body, the local legislative body.
- 531 (41) "Land use decision" means an administrative decision of a land use authority or appeal
532 authority regarding:
- 533 (a) a land use permit; or
- 534 (b) a land use application.
- 535 (42) "Land use permit" means a permit issued by a land use authority.
- 536 (43) "Land use regulation":
- 537 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
538 engineering or development standard, specification for public improvement, fee, or

- 539 rule that governs the use or development of land;
- 540 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
- 541 and
- 542 (c) does not include:
- 543 (i) a land use decision of the legislative body acting as the land use authority, even if
- 544 the decision is expressed in a resolution or ordinance; or
- 545 (ii) a temporary revision to an engineering specification that does not materially:
- 546 (A) increase a land use applicant's cost of development compared to the existing
- 547 specification; or
- 548 (B) impact a land use applicant's use of land.
- 549 (44) "Legislative body" means the municipal council.
- 550 (45) "Local historic district or area" means a geographically definable area that:
- 551 (a) contains any combination of buildings, structures, sites, objects, landscape features,
- 552 archeological sites, or works of art that contribute to the historic preservation goals of
- 553 a legislative body; and
- 554 (b) is subject to land use regulations to preserve the historic significance of the local
- 555 historic district or area.
- 556 (46) "Lot" means a tract of land, regardless of any label, that is created by and shown on a
- 557 subdivision plat that has been recorded in the office of the county recorder.
- 558 (47) "Major transit investment corridor" means public transit service that uses or occupies:
- 559 (a) public transit rail right-of-way;
- 560 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
- 561 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
- 562 municipality or county and:
- 563 (i) a public transit district as defined in Section 17B-2a-802; or
- 564 (ii) an eligible political subdivision as defined in Section 59-12-2202.
- 565 (48) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.
- 566 (49) "Moderate income housing" means housing occupied or reserved for occupancy by
- 567 households with a gross household income equal to or less than 80% of the median gross
- 568 income for households of the same size in the county in which the city is located.
- 569 (50) "Municipal utility easement" means an easement that:
- 570 (a) is created or depicted on a plat recorded in a county recorder's office and is described
- 571 as a municipal utility easement granted for public use;
- 572 (b) is not a protected utility easement or a public utility easement as defined in Section

- 573 54-3-27;
- 574 (c) the municipality or the municipality's affiliated governmental entity uses and
575 occupies to provide a utility service, including sanitary sewer, culinary water,
576 electrical, storm water, or communications or data lines;
- 577 (d) is used or occupied with the consent of the municipality in accordance with an
578 authorized franchise or other agreement;
- 579 (e)(i) is used or occupied by a specified public utility in accordance with an
580 authorized franchise or other agreement; and
581 (ii) is located in a utility easement granted for public use; or
- 582 (f) is described in Section 10-20-615 and is used by a specified public utility.
- 583 (51) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
584 spent and expenses incurred in:
- 585 (a) verifying that building plans are identical plans; and
586 (b) reviewing and approving those minor aspects of identical plans that differ from the
587 previously reviewed and approved building plans.
- 588 (52) "Noncomplying structure" means a structure that:
- 589 (a) legally existed before the structure's current land use designation; and
590 (b) because of one or more subsequent land use ordinance changes, does not conform to
591 the setback, height restrictions, or other regulations, excluding those regulations,
592 which govern the use of land.
- 593 (53) "Nonconforming use" means a use of land that:
- 594 (a) legally existed before [its] the land's current land use designation;
595 (b) has been maintained continuously since the time the land use ordinance governing
596 the land changed; and
597 (c) because of one or more subsequent land use ordinance changes, does not conform to
598 the regulations that now govern the use of the land.
- 599 (54) "Official map" means a map drawn by municipal authorities and recorded in a county
600 recorder's office that:
- 601 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
602 highways and other transportation facilities;
603 (b) provides a basis for restricting development in designated rights-of-way or between
604 designated setbacks to allow the government authorities time to purchase or
605 otherwise reserve the land; and
606 (c) has been adopted as an element of the municipality's general plan.

- 607 (55) "Parcel" means any real property that is not a lot.
- 608 (56) "Person" means an individual, corporation, partnership, organization, association, trust,
609 governmental agency, or any other legal entity.
- 610 (57) "Plan for moderate income housing" means a written document adopted by a
611 municipality's legislative body that includes:
- 612 (a) an estimate of the existing supply of moderate income housing located within the
613 municipality;
- 614 (b) an estimate of the need for moderate income housing in the municipality for the next
615 five years;
- 616 (c) a survey of total residential land use;
- 617 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
618 income housing; and
- 619 (e) a description of the municipality's program to encourage an adequate supply of
620 moderate income housing.
- 621 (58) "Planning commission" means the commission established under Section 10-20-301.
- 622 (59) "Plat" means an instrument subdividing property into lots as depicted on a map or
623 other graphical representation of lands that a licensed professional land surveyor makes
624 and prepares in accordance with Section 10-20-803 or 57-8-13.
- 625 (60) "Potential geologic hazard area" means an area that:
- 626 (a) is designated by a Utah Geological Survey map, county geologist map, or other
627 relevant map or report as needing further study to determine the area's potential for
628 geologic hazard; or
- 629 (b) has not been studied by the Utah Geological Survey or a county geologist but
630 presents the potential of geologic hazard because the area has characteristics similar
631 to those of a designated geologic hazard area.
- 632 (61) "Property owner" means a person that holds legal title in real property.
- 633 [~~61~~] (62) "Public agency" means:
- 634 (a) the federal government;
- 635 (b) the state;
- 636 (c) a county, municipality, school district, special district, special service district, or
637 other political subdivision of the state; or
- 638 (d) a charter school.
- 639 [~~62~~] (63) "Public hearing" means a hearing at which members of the public are provided a
640 reasonable opportunity to comment on the subject of the hearing.

641 [(63)] (64) "Public meeting" means a meeting that is required to be open to the public under
642 Title 52, Chapter 4, Open and Public Meetings Act.

643 [(64)] (65) "Public street" means a public right-of-way, including a public highway, public
644 avenue, public boulevard, public parkway, public road, public lane, public alley, public
645 viaduct, public subway, public tunnel, public bridge, public byway, other public
646 transportation easement, or other public way.

647 [(65)] (66) "Receiving zone" means an area that a municipality designates, by ordinance, as
648 an area in which an owner of land may receive a transferable development right.

649 [(66)] (67) "Record of survey map" means a map of a survey of land prepared in accordance
650 with Section 17-73-504.

651 [(67)] (68) "Residential facility for persons with a disability" means a residence:

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

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

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

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

657 [(68)] (69) "Residential roadway" means a public local residential road that:

658 (a) will serve primarily to provide access to adjacent primarily residential areas and
659 property;

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

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

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

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

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

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

671 [(69)] (70) "Rules of order and procedure" means a set of rules that govern and prescribe in
672 a public meeting:

673 (a) parliamentary order and procedure;

674 (b) ethical behavior; and

- 675 (c) civil discourse.
- 676 ~~[(70)]~~ (71) "Sanitary sewer authority" means the department, agency, or public entity with
677 responsibility to review and approve the feasibility of sanitary sewer services or onsite
678 wastewater systems.
- 679 ~~[(71)]~~ (72) "Sending zone" means an area that a municipality designates, by ordinance, as an
680 area from which an owner of land may transfer a transferable development right.
- 681 ~~[(72)]~~ (73) "Simple boundary adjustment" means a boundary adjustment that does not:
682 (a) affect a public right-of-way, municipal utility easement, or other public property;
683 (b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or
684 (c) result in a lot or parcel out of conformity with land use regulations.
- 685 ~~[(73)]~~ (74) "Special district" means an entity under Title 17B, Limited Purpose Local
686 Government Entities - Special Districts, and any other governmental or
687 quasi-governmental entity that is not a county, municipality, school district, or the state.
- 688 (75) "Specific land use law" means a requirement or restriction on the use of a specific
689 parcel in a development agreement that a legislative body approves with the consent of
690 an affected property owner.
- 691 ~~[(74)]~~ (76) "Specified public agency" means:
692 (a) the state;
693 (b) a school district; or
694 (c) a charter school.
- 695 ~~[(75)]~~ (77) "Specified public utility" means an electrical corporation, gas corporation, or
696 telephone corporation, as those terms are defined in Section 54-2-1.
- 697 ~~[(76)]~~ (78) "State" includes any department, division, or agency of the state.
- 698 ~~[(77)]~~ (79)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to
699 be divided into two or more lots or other division of land for the purpose, whether
700 immediate or future, for offer, sale, lease, or development either on the installment
701 plan or upon any and all other plans, terms, and conditions.
- 702 (b) "Subdivision" includes:
703 (i) the division or development of land, whether by deed, metes and bounds
704 description, devise and testacy, map, plat, or other recorded instrument, regardless
705 of whether the division includes all or a portion of a parcel or lot; and
706 (ii) except as provided in Subsection ~~[(77)(e)]~~ (79)(c), divisions of land for residential
707 and nonresidential uses, including land used or to be used for commercial,
708 agricultural, and industrial purposes.

- 709 (c) "Subdivision" does not include:
- 710 (i) a bona fide division or partition of land used for agricultural purposes as provided
- 711 in Subsection 10-20-808(2);
- 712 (ii) a recorded conveyance document:
- 713 (A) consolidating multiple lots or parcels into one legal description encompassing
- 714 all lots by reference to a recorded plat and all parcels by metes and bounds
- 715 description; or
- 716 (B) joining a lot to a parcel;
- 717 (iii) a bona fide division of land by deed or other instrument if the deed or other
- 718 instrument states in writing that the division:
- 719 (A) is in anticipation of future land use approvals on the parcel or parcels;
- 720 (B) does not confer any land use approvals; and
- 721 (C) has not been approved by the land use authority;
- 722 (iv) a boundary adjustment;
- 723 (v) a boundary establishment;
- 724 (vi) a road, street, or highway dedication plat;
- 725 (vii) a deed or easement for a road, street, or highway purpose; or
- 726 (viii) any other division of land authorized by law.

727 [~~78~~] (80)(a) "Subdivision amendment" means an amendment to a recorded subdivision

728 in accordance with Section 10-20-811 that:

- 729 (i) vacates all or a portion of the subdivision;
- 730 (ii) increases the number of lots within the subdivision;
- 731 (iii) alters a public right-of-way, a public easement, or public infrastructure within the
- 732 subdivision; or
- 733 (iv) alters a common area or other common amenity within the subdivision.

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

735 [~~79~~] (81) "Substantial evidence" means evidence that:

- 736 (a) is beyond a scintilla; and
- 737 (b) a reasonable mind would accept as adequate to support a conclusion.

738 [~~80~~] (82) "Suspect soil" means soil that has:

- 739 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 740 3% swell potential;
- 741 (b) bedrock units with high shrink or swell susceptibility; or
- 742 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum

743 commonly associated with dissolution and collapse features.

744 [(81)] (83) "Therapeutic school" means a residential group living facility:

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

746 (i) the owner of the facility; or

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

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

749 (i) at home;

750 (ii) in a public school; or

751 (iii) in a nonresidential private school; and

752 (c) that offers:

753 (i) room and board; and

754 (ii) an academic education integrated with:

755 (A) specialized structure and supervision; or

756 (B) services or treatment related to a disability, an emotional development, a
757 behavioral development, a familial development, or a social development.

758 [(82)] (84) "Transferable development right" means a right to develop and use land that

759 originates by an ordinance that authorizes a [land] property owner in a designated

760 sending zone to transfer land use rights from a designated sending zone to a designated

761 receiving zone.

762 [(83)] (85) "Unincorporated" means the area outside of the incorporated area of a city or

763 town.

764 [(84)] (86) "Water interest" means any right to the beneficial use of water, including:

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

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

767 (i) a contract; or

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

769 [(85)] (87) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts

770 land use zones, overlays, or districts.

771 Section 5. Section **10-20-301** is amended to read:

772 **10-20-301 . Ordinance establishing planning commission required -- Ordinance**
773 **requirements -- Compensation.**

774 (1)(a) Each municipality shall enact an ordinance establishing a planning commission.

775 (b) The ordinance shall[~~define~~]:

776 (i) include the number and terms of the planning commission members and, if the

777 municipality chooses, alternate members;

778 (ii) ~~[the mode of appointment]~~ provide procedures for appointing a planning
779 commission member;

780 (iii) ~~[the]~~ provide procedures for filling vacancies [and] on the planning commission;

781 (iv) ~~[removal from office;]~~ provide procedures for removing a planning commission
782 member from the planning commission and specify that:

783 (A) in a form of government described in Section 10-3b-301 or 10-3b-401, and
784 subject to any delegation of authority under Subsection 10-3b-303(1) or
785 10-3b-403(1), the legislative body may remove a planning commission
786 member; or

787 (B) in a form of government described in Section 10-3b-202, the mayor may
788 remove a planning commission member;

789 (v) except as provided in Subsection (1)(b)(vi), describe the causes for which a
790 planning commission member may be removed from the planning commission,
791 which shall include:

792 (A) using public funds for a political purpose under Title 20A, Chapter 11, Part
793 12, Political Activities of Public Entities Act;

794 (B) violating a provision of Title 10, Chapter 3, Part 13, Municipal Officers' and
795 Employees' Ethics Act; and

796 (C) acting with the intent to influence a land use decision or an appeal of a
797 pending land use application in a manner that creates actual impermissible bias
798 or an unacceptable risk of impermissible bias in the planning commission
799 member's administrative or quasi-judicial duties;

800 (vi) provide that a planning commission member deliberating about a specific
801 pending land use application in a planning commission meeting with municipal
802 staff, an elected official, or the land use applicant is not cause for removing a
803 planning commission member from the planning commission;

804 (vii) provide requirements for when a planning commission member shall recuse
805 oneself from deliberating or voting on certain land use applications;

806 ~~[(iv)]~~ (viii) define the authority of the planning commission;

807 ~~[(v)]~~ (ix) subject to Subsection (1)(c), [the] include rules of order and procedure for
808 use by the planning commission in a public meeting; and

809 ~~[(vi)]~~ (x) include other details relating to the organization and procedures of the
810 planning commission.

811 (c) Subsection [~~(1)(b)(v)~~] (1)(b)(ix) does not affect the planning commission's duty to
 812 comply with Title 52, Chapter 4, Open and Public Meetings Act.

813 (2) The legislative body may authorize a member to receive per diem and travel expenses
 814 for meetings actually attended, in accordance with Section 11-55-103.

815 Section 6. Section **10-20-302** is amended to read:

816 **10-20-302 . Planning commission powers and duties -- Training requirements.**

817 (1) The planning commission shall review and make a recommendation to the legislative
 818 body for:

819 (a) a general plan and amendments to the general plan;

820 (b) land use regulations, including:

821 (i) ordinances regarding the subdivision of land within the municipality; and

822 (ii) amendments to existing land use regulations;

823 (c) an appropriate delegation of power to at least one designated land use authority to
 824 hear and act on a land use application;

825 (d) an appropriate delegation of power to at least one appeal authority to hear and act on
 826 an appeal from a decision of the land use authority; and

827 (e) application processes that:

828 (i) may include a designation of routine land use matters that, upon application and
 829 proper notice, will receive informal streamlined review and action if the
 830 application is uncontested; and

831 (ii) shall protect the right of each:

832 (A) land use applicant and adversely affected party to require formal consideration
 833 of any application by a land use authority; and

834 (B) land use applicant or adversely affected party to appeal a land use authority's
 835 decision to a separate appeal authority[; and] .

836 [~~(C) participant to be heard in each public hearing on a contested application.~~]

837 (2) Before making a recommendation to a legislative body on an item described in
 838 Subsection (1)(a) or (b), the planning commission shall hold a public hearing in
 839 accordance with Section 10-20-405.

840 (3) A legislative body may adopt, modify, or reject a planning commission's
 841 recommendation to the legislative body under this section.

842 [~~(4) A legislative body may consider a planning commission's failure to make a timely
 843 recommendation as a negative recommendation.~~]

844 [~~(5)~~] (4) Nothing in this section limits the right of a municipality to initiate or propose the

845 actions described in this section.

846 [~~(6)~~] (5)(a)(i) This Subsection [~~(6)~~] (5) applies to:

847 (A) a city of the first, second, third, or fourth class; and

848 (B) a city of the fifth class with a population of 5,000 or more, if the city is located
849 within a county of the first, second, or third class.

850 (ii) The population for each city described in Subsection [~~(6)~~(a)(i)] (5)(a)(i) shall be
851 derived from:

852 (A) an estimate of the Utah Population Committee created in Section 63C-20-103;
853 or

854 (B) if the Utah Population Committee estimate is not available, the most recent
855 official census or census estimate of the United States [~~Bureau of the~~] Census
856 Bureau.

857 (b) A municipality described in Subsection [~~(6)~~(a)(i)] (5)(a)(i) shall ensure that each
858 member of the municipality's planning commission completes four hours of annual
859 land use training as follows:

860 (i) one hour of annual training on general powers and duties, including the role of the
861 planning commission in administrative, legislative, and quasi-judicial functions
862 under this chapter; and

863 (ii) three hours of annual training on a combination of land use and ethics topics,
864 which may include:

865 (A) appeals and variances;

866 (B) conditional use permits;

867 (C) exactions;

868 (D) impact fees;

869 (E) vested rights;

870 (F) subdivision regulations and improvement guarantees;

871 (G) land use referenda;

872 (H) property rights;

873 (I) real estate procedures and financing;

874 (J) zoning, including use-based and form-based; [~~and~~]

875 (K) drafting ordinances and code that complies with statute[-];

876 (L) ex parte communication; and

877 (M) conflict of interest.

878 (c) A newly appointed planning commission member may not participate in a public

- 879 meeting as an appointed member until the member completes the training described
 880 in Subsection [~~(6)(b)(i)~~] (5)(b)(i).
- 881 (d) A planning commission member may qualify for one completed hour of training
 882 required under Subsection [~~(6)(b)(ii)~~] (5)(b)(ii) if the member attends, as an appointed
 883 member, 12 public meetings of the planning commission within a calendar year.
- 884 (e) A municipality shall provide the training described in Subsection [~~(6)(b)~~] (5)(b)
 885 through:
- 886 (i) municipal staff;
 887 (ii) the Utah League of Cities and Towns; or
 888 (iii) a list of training courses selected by:
- 889 (A) the Utah League of Cities and Towns; or
 890 (B) the Division of Real Estate created in Section 61-2-201.
- 891 (f) A municipality shall, for each planning commission member:
- 892 (i) monitor compliance with the training requirements in Subsection [~~(6)(b)~~] (5)(b);
 893 and
 894 (ii) maintain a record of training completion at the end of each calendar year.

895 Section 7. Section **10-20-501** is amended to read:

896 **10-20-501 . Enactment of land use regulation, land use decision, or development**
 897 **agreement.**

- 898 (1) Only a legislative body, as the body authorized to weigh policy considerations, may
 899 enact a land use regulation.
- 900 (2)(a) Except as provided in Subsection (2)(b), a legislative body may enact a land use
 901 regulation only by ordinance.
- 902 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that
 903 imposes a fee.
- 904 (3) A legislative body shall ensure that a land use regulation is consistent with the purposes [
 905 ~~set forth in~~] of this chapter.
- 906 (4)(a) A legislative body shall adopt a land use regulation to:
- 907 (i) create or amend a zoning district under Subsection 10-20-503(1)(a); and
 908 (ii) designate general uses allowed in each zoning district.
- 909 (b) A land use authority may establish or modify other restrictions or requirements other
 910 than those described in Subsection (4)(a), including the configuration or modification
 911 of uses or density, through a land use decision that applies criteria or policy elements
 912 that a land use regulation establishes or describes.

913 (5)(a) Except as provided in Subsection (5)(b) or (5)(c), a municipality shall publish on
914 the municipality's website:

- 915 (i) all of the municipality's land use regulations; and
- 916 (ii) a fee schedule that lists all of the municipality's fees related to a land use
917 application, land use permit, or land use regulation, including development review
918 fees and impact fees.

919 (b) A municipality that does not have a maintained and active website shall provide for
920 inspection of the information described in Subsection (5)(a) at the municipality's
921 place of business during normal business hours.

922 (c) A municipality may comply with Subsection (5)(a) by:

- 923 (i) posting a link on the municipality's website to a separate webpage or third-party
924 website where the land use regulations or fee schedule described in Subsection
925 (5)(a) are posted; and
- 926 (ii) submitting a new or modified land use regulation or fee schedule described in
927 Subsection (5)(a) to the third-party website within six months after the day on
928 which the legislative body adopts the new or modified land use regulation or fee
929 schedule.

930 [~~5~~] (6) A municipality may not adopt a land use regulation[;] or development agreement, or
931 make a land use decision, that restricts the type of crop that may be grown in an area that
932 is:

- 933 (a) zoned agricultural; or
- 934 (b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

935 [~~6~~] (7) A municipal land use regulation pertaining to an airport or an airport influence area,
936 as that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4,
937 Airport Zoning Act.

938 Section 8. Section **10-20-502** is amended to read:

939 **10-20-502 . Preparation and adoption of land use regulation.**

940 (1) A planning commission shall:

- 941 (a) provide notice as required by Subsection 10-20-205(1)(a) and, if applicable,
942 Subsection 10-20-205(4);
- 943 (b) hold a public hearing on a proposed land use regulation;
- 944 (c) if applicable, consider each written objection filed in accordance with Subsection
945 10-20-205(5) before the public hearing; and
- 946 (d)(i) review and recommend to the legislative body a proposed land use regulation

947 that represents the planning commission's recommendation for regulating the use
 948 and development of land within all or any part of the area of the municipality; and
 949 (ii) forward to the legislative body all objections filed in accordance with Subsection
 950 10-20-205(5).

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

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

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

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

958 (c) ~~[A legislative body may consider a planning commission's failure to make a timely~~
 959 ~~recommendation as a negative recommendation if the legislative body has provided~~
 960 ~~for that consideration by ordinance] Beginning on September 15, 2026, and subject to~~
 961 ~~the timelines described in Subsection 10-20-905(2) or a timeline a legislative body~~
 962 ~~requires that does not conflict with Subsection 10-20-905(2), if a planning~~
 963 ~~commission fails to make a timely recommendation on a proposed land use~~
 964 ~~regulation, the legislative body shall adopt or reject the proposed land use regulation~~
 965 ~~in accordance with Subsection (2)(b) without a recommendation from the planning~~
 966 ~~commission.~~

967 Section 9. Section **10-20-507** is amended to read:

968 **10-20-507 . Classification of new and unlisted business uses.**

969 (1) As used in this section:

970 (a) "Classification request" means a request to determine whether a proposed business
 971 use aligns with an existing land use specified in a municipality's land use ordinances.

972 (b) "New or unlisted business use" means a business activity that does not align with an
 973 existing land use specified in a municipality's land use ordinances.

974 (2)(a) Each municipality shall incorporate into the municipality's land use ordinances a
 975 process for reviewing and approving a new or unlisted business use and designating
 976 an appropriate zone or zones for an approved use.

977 (b) The process described in Subsection (2)(a) shall:

978 (i) detail how an applicant may submit a classification request;

979 (ii) establish a procedure for the municipality to review a classification request,
 980 including:

- 981 (A) providing a land use authority with criteria to determine whether a proposed
982 use aligns with an existing use; ~~and]~~
- 983 (B) allowing an applicant to proceed under the regulations of an existing use if a
984 land use authority determines a proposed use aligns with that existing use; and
985 (C) providing the applicant an opportunity to appeal a land use authority's decision
986 to a land use appeal authority;
- 987 (iii) provide that if a use is determined to be a new or unlisted business use:
- 988 (A) the applicant shall submit to the legislative body for review an application ~~[for~~
989 ~~approval of the new or unlisted business use to the legislative body for review]~~
990 requesting that the legislative body adopt a land use ordinance that permits the
991 new or unlisted business as a permitted or conditional use;
- 992 (B) notwithstanding Subsection 10-20-503(2) or (3), the legislative body shall
993 consider and ~~[determine whether to-]~~approve or deny ~~[the new or unlisted~~
994 ~~business use]~~ the application described in Subsection (2)(b)(iii)(A); and
- 995 (C) the legislative body shall approve or deny ~~[the new or unlisted business use]~~
996 the application described in Subsection (2)(b)(iii)(A), within a time frame the
997 legislative body establishes by ordinance, if the applicant responds to requests
998 for additional information within a time frame established by the municipality
999 and appears at required hearings;
- 1000 (iv) provide that if the legislative body approves ~~[a proposed new or unlisted business~~
1001 ~~use]~~ the application described in Subsection (2)(b)(iii)(A), the legislative body
1002 shall designate an appropriate zone or zones for the approved use; and
- 1003 (v) provide that if the legislative body denies ~~[a proposed new or unlisted business use]~~
1004 the application described in Subsection (2)(b)(iii)(A), or if an applicant disagrees
1005 with the land use authority's classification of the proposed use, the legislative
1006 body shall:
- 1007 (A) notify the applicant in writing of each reason for the classification or denial;
1008 and
- 1009 (B) ~~[offer the applicant an opportunity to challenge the classification or denial~~
1010 ~~through an administrative appeal process established by the municipality]~~ notify
1011 the applicant of the process for appealing the legislative body's decision in
1012 accordance with Section 10-20-1109.
- 1013 (c) A municipality may not require an applicant who submits an application described in
1014 Subsection (2)(b)(iii)(A) to submit the application to the planning commission for

1015 consideration, review, or approval.

1016 (3) Each municipality shall amend each land use ordinance that contains a list of approved
1017 or prohibited business uses to include a reference to the process for petitioning to
1018 approve a new or unlisted business use, as described in Subsection (2).

1019 Section 10. Section **10-20-806** is amended to read:

1020 **10-20-806 . Review of subdivision applications and subdivision improvement**
1021 **plans.**

1022 (1) As used in this section:

1023 (a) "Review cycle" means the occurrence of:

1024 (i) the applicant's submittal of a complete subdivision application;

1025 (ii) the municipality's review of that subdivision application;

1026 (iii) the municipality's response to that subdivision application, in accordance with
1027 this section; and

1028 (iv) the applicant's reply to the municipality's response that addresses each of the
1029 municipality's required modifications or requests for additional information.

1030 (b) "Subdivision application" means a land use application for the subdivision of land.

1031 (c) "Subdivision improvement plans" means the civil engineering plans associated with
1032 required infrastructure improvements and municipally controlled utilities required for
1033 a subdivision.

1034 (d) "Subdivision ordinance review" means review by a municipality to verify that a
1035 subdivision application meets the criteria of the municipality's ordinances.

1036 (e) "Subdivision plan review" means a review of the applicant's subdivision
1037 improvement plans and other aspects of the subdivision application to verify that the
1038 application complies with municipal ordinances and applicable installation standards
1039 and inspection specifications for infrastructure improvements.

1040 (2) The review cycle restrictions and requirements of this section do not apply to the review
1041 of subdivision applications affecting property within identified geological hazard areas.

1042 (3)(a) A municipality may require a subdivision improvement plan to be submitted with
1043 a subdivision application.

1044 (b) A municipality may not require a subdivision improvement plan to be submitted with
1045 both a preliminary subdivision application and a final subdivision application.

1046 (4)(a) The review cycle requirements of this section apply:

1047 (i) to the review of a preliminary subdivision application, if the municipality requires
1048 a subdivision improvement plan to be submitted with a preliminary subdivision

- 1049 application; or
- 1050 (ii) to the review of a final subdivision application, if the municipality requires a
- 1051 subdivision improvement plan to be submitted with a final subdivision application.
- 1052 (b) A municipality may not, outside the review cycle, engage in a substantive review of
- 1053 required infrastructure improvements or a municipally controlled utility.
- 1054 (5)(a) A municipality shall complete the initial review of a complete subdivision
- 1055 application submitted for ordinance review for a residential subdivision for
- 1056 single-family dwellings, two-family dwellings, or town homes:
- 1057 (i) no later than 15 business days after the complete subdivision application is
- 1058 submitted, if the municipality has a population over 5,000; or
- 1059 (ii) no later than 30 business days after the complete subdivision application is
- 1060 submitted, if the municipality has a population of 5,000 or less.
- 1061 (b) A municipality shall maintain and publish a list of the items comprising the complete
- 1062 subdivision application, including:
- 1063 (i) the application;
- 1064 (ii) the owner's affidavit;
- 1065 (iii) an electronic copy of all plans in PDF format;
- 1066 (iv) the preliminary subdivision plat drawings; and
- 1067 (v) a breakdown of fees due upon approval of the application.
- 1068 (6) A municipality shall publish a list of the items that comprise a complete subdivision
- 1069 land use application.
- 1070 (7) A municipality shall complete a subdivision plan review of a subdivision improvement
- 1071 plan that is submitted with a complete subdivision application for a residential
- 1072 subdivision for single-family dwellings, two-family dwellings, or town homes:
- 1073 (a) within 20 business days after the complete subdivision application is submitted, if the
- 1074 municipality has a population over 5,000; or
- 1075 (b) within 40 business days after the complete subdivision application is submitted, if
- 1076 the municipality has a population of 5,000 or less.
- 1077 (8)(a) In reviewing a subdivision application, a municipality may require:
- 1078 (i) additional information relating to an applicant's plans to ensure compliance with
- 1079 municipal ordinances and approved standards and specifications for construction
- 1080 of public improvements; and
- 1081 (ii) modifications to plans that do not meet current ordinances, applicable standards
- 1082 or specifications, or do not contain complete information.

- 1083 (b) A municipality's request for additional information or modifications to plans under
1084 Subsection (8)(a)(i) or (ii) shall be specific and include citations to ordinances,
1085 standards, or specifications that require the modifications to subdivision
1086 improvement plans, and shall be logged in an index of requested modifications or
1087 additions.
- 1088 (c) A municipality may not require more than four review cycles for a subdivision
1089 improvement plan review.
- 1090 (d)(i) Subject to Subsection (8)(d)(ii), unless the change or correction is necessitated
1091 by the applicant's adjustment to a subdivision improvement plan or an update to a
1092 phasing plan that adjusts the infrastructure needed for the specific development, a
1093 change or correction not addressed or referenced in a municipality's subdivision
1094 improvement plan review is waived.
- 1095 (ii) A modification or correction necessary to protect public health and safety or to
1096 enforce state or federal law may not be waived.
- 1097 (iii) If an applicant makes a material change to a subdivision improvement plan, the
1098 municipality has the discretion to restart the review process at the first review of
1099 the subdivision improvement plan review, but only with respect to the portion of
1100 the subdivision improvement plan that the material change substantively affects.
- 1101 (e)(i) This Subsection (8)(e) applies if an applicant does not submit a revised
1102 subdivision improvement plan within :
- 1103 (A) 20 business days after the municipality requires a modification or correction,
1104 if the municipality has a population over 5,000; or
- 1105 (B) 40 business days after the municipality requires a modification or correction,
1106 if the municipality has a population of 5,000 or less.
- 1107 (ii) If an applicant does not submit a revised subdivision improvement plan within the
1108 time specified in Subsection (8)(e)(i), a municipality has an additional 20 business
1109 days after the time specified in Subsection (7) to respond to a revised subdivision
1110 improvement plan.
- 1111 (9) After the applicant has responded to the final review cycle, and the applicant has
1112 complied with each modification requested in the municipality's previous review cycle,
1113 the municipality may not require additional revisions if the applicant has not materially
1114 changed the plan, other than changes that were in response to requested modifications or
1115 corrections.
- 1116 (10)(a) In addition to revised plans, an applicant shall provide a written explanation in

- 1117 response to the municipality's review comments, identifying and explaining the
 1118 applicant's revisions and reasons for declining to make revisions, if any.
- 1119 (b) The applicant's written explanation shall be comprehensive and specific, including
 1120 citations to applicable standards and ordinances for the design and an index of
 1121 requested revisions or additions for each required correction.
- 1122 (c) If an applicant fails to address a review comment in the response, the review cycle is
 1123 not complete and the subsequent review cycle may not begin until all comments are
 1124 addressed.
- 1125 (11)[(a)] If, on the fourth or final review, a municipality fails to respond within 20
 1126 business days, the municipality shall, upon request of the property owner, and within
 1127 10 business days after the day on which the request is received:
- 1128 [(i)] (a) for a dispute arising from the subdivision improvement plans, assemble an
 1129 appeal panel in accordance with Subsection [~~10-20-911(5)(d)~~] 10-20-911(4)(d) to
 1130 review and approve or deny the final revised set of plans; or
- 1131 [(ii)] (b) for a dispute arising from the subdivision ordinance review, advise the
 1132 applicant, in writing, of the deficiency in the application and of the right to appeal the
 1133 determination to a designated appeal authority.
- 1134 Section 11. Section **10-20-807** is amended to read:
- 1135 **10-20-807 . Subdivision plat recording or development activity before required**
 1136 **landscaping or infrastructure is completed -- Improvement completion assurance --**
 1137 **Improvement warranty.**
- 1138 (1) As used in this section:
- 1139 (a) "Private landscaping plan" means a proposal:
- 1140 (i) to install landscaping on a lot owned by a private individual or entity; and
 1141 (ii) submitted to a municipality by the private individual or entity, or on behalf of a
 1142 private individual or entity, that owns the lot.
- 1143 (b) "Public landscaping improvement" means landscaping that an applicant is required to
 1144 install to comply with published installation and inspection specifications for public
 1145 improvements that:
- 1146 (i) will be dedicated to and maintained by the municipality; or
 1147 (ii) are associated with and proximate to trail improvements that connect to planned
 1148 or existing public infrastructure.
- 1149 (2) A land use authority shall establish objective inspection standards for acceptance of a
 1150 public landscaping improvement or infrastructure improvement that the land use

- 1151 authority requires.
- 1152 (3)(a) Except as provided in Subsection (3)(d) or (e), before an applicant conducts any
1153 development activity or records a plat, the applicant shall:
- 1154 (i) complete any required public landscaping improvements or infrastructure
1155 improvements; or
- 1156 (ii) post an improvement completion assurance for any required public landscaping
1157 improvements or infrastructure improvements.
- 1158 (b) If an applicant elects to post an improvement completion assurance, the applicant
1159 shall, in accordance with Subsection (5), provide completion assurance for:
- 1160 (i) completion of 100% of the required public landscaping improvements or
1161 infrastructure improvements; or
- 1162 (ii) if the municipality has inspected and accepted a portion of the public landscaping
1163 improvements or infrastructure improvements, 100% of the incomplete or
1164 unaccepted public landscaping improvements or infrastructure improvements.
- 1165 (c) A municipality shall:
- 1166 (i) establish a minimum of two acceptable forms of completion assurance;
- 1167 (ii)(A) if an applicant elects to post an improvement completion assurance, allow
1168 the applicant to post an assurance that meets the conditions of this chapter and
1169 any local ordinances; and
- 1170 (B) beginning on May 7, 2025, if a municipality accepts cash deposits as a form of
1171 completion assurance and the applicant elects to post a new cash deposit as a
1172 form of completion assurance, place the cash deposit in an interest-bearing
1173 account upon receipt and return any earned interest to the applicant with the
1174 return of the completion assurance according to the conditions of this chapter
1175 and any local ordinances;
- 1176 (iii) establish a system for the partial release of an improvement completion
1177 assurance as portions of required public landscaping improvements or
1178 infrastructure improvements are completed and accepted in accordance with local
1179 ordinance; and
- 1180 (iv) issue or deny a building permit in accordance with Section 10-20-1001 based on
1181 the installation of public landscaping improvements or infrastructure
1182 improvements.
- 1183 (d) A municipality may not require an applicant to post an improvement completion
1184 assurance for:

- 1185 (i) public landscaping improvements or an infrastructure improvement that the
1186 municipality has previously inspected and accepted;
- 1187 (ii) infrastructure improvements that are private and not essential or required to meet
1188 the building code, fire code, flood or storm water management provisions, street
1189 and access requirements, or other essential necessary public safety improvements
1190 adopted in a land use regulation;
- 1191 (iii) in a municipality where ordinances require all infrastructure improvements
1192 within the area to be private, infrastructure improvements within a development
1193 that the municipality requires to be private;
- 1194 (iv) landscaping improvements that are not public landscaping improvements, unless
1195 the landscaping improvements and completion assurance are required under the
1196 terms of a development agreement;
- 1197 (v) a private landscaping plan;
- 1198 (vi) landscaping improvements or infrastructure improvements that an applicant
1199 elects to install at the applicant's own risk:
- 1200 (A) before the plat is recorded;
- 1201 (B) in accordance with inspections required by the municipality for the
1202 infrastructure improvement; and
- 1203 (C) in accordance with final civil engineering plan approval by the municipality; or
- 1204 (vii) any individual public landscaping improvement or individual infrastructure
1205 improvement when the individual public landscaping improvement or individual
1206 infrastructure improvement is also included as part of a separate improvement
1207 completion assurance.
- 1208 (e)(i) A municipality may not:
- 1209 (A) prohibit an applicant from installing a public landscaping improvement or an
1210 infrastructure improvement when the municipality has approved final civil
1211 engineering plans for the development activity or plat for which the public
1212 landscaping improvement or infrastructure improvement is required; or
- 1213 (B) require an applicant to sign an agreement, release, or other document
1214 inconsistent with this chapter as a condition of posting an improvement
1215 completion assurance, security for an improvement warranty, or receiving a
1216 building permit.
- 1217 (ii) Notwithstanding Subsection (3)(e)(i)(A), public infrastructure improvements and
1218 infrastructure improvements that are installed by an applicant are subject to

1219 inspection by the municipality in accordance with the municipality's adopted
1220 inspection standards.

1221 (f)(i) Each improvement completion assurance and improvement warranty posted by
1222 an applicant with a municipality shall be independent of any other improvement
1223 completion assurance or improvement warranty posted by the same applicant with
1224 the municipality.

1225 (ii) Subject to Section 10-20-905, if an applicant has posted a form of security with a
1226 municipality for more than one infrastructure improvement or public landscaping
1227 improvement, the municipality may not withhold acceptance of an applicant's
1228 required subdivision improvements, public landscaping improvement,
1229 infrastructure improvements, or the performance of warranty work for the same
1230 applicant's failure to complete a separate subdivision improvement, public
1231 landscaping improvement, infrastructure improvement, or warranty work under a
1232 separate improvement completion assurance or improvement warranty.

1233 (4)(a) Except as provided in Subsection (4)(c), as a condition for increased density or
1234 other entitlement benefit not currently available under the existing zone, a
1235 municipality may require a completion assurance bond for landscaped amenities and
1236 common area that are dedicated to and maintained by a homeowners association.

1237 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)
1238 between the applicant and the municipality shall be memorialized in a development
1239 agreement.

1240 (c) A municipality may not require a completion assurance bond for or dictate who
1241 installs or is responsible for the cost of the landscaping of residential lots or the
1242 equivalent open space surrounding single-family attached homes, whether platted as
1243 lots or common area.

1244 (5) The sum of the improvement completion assurance required under Subsections (3) and
1245 (4) may not exceed the sum of:

1246 (a) 100% of the estimated cost of the public landscaping improvements or infrastructure
1247 improvements, as evidenced by an engineer's estimate or licensed contractor's bid;
1248 and

1249 (b) 10% of the amount of the bond to cover administrative costs incurred by the
1250 municipality to complete the improvements, if necessary.

1251 (6)(a) Upon an applicant's written request that the land use authority accept or reject the
1252 applicant's installation of required subdivision improvements or performance of

- 1253 warranty work as set forth in Section 10-20-905, and for the duration of each
 1254 improvement warranty period, the municipality may require the applicant to:
- 1255 (i) execute an improvement warranty for the improvement warranty period; and
 - 1256 (ii) post a cash deposit, surety bond, letter of credit, or other similar security, as
 1257 required by the municipality, in the amount of up to 10% of the lesser of the:
 1258 (A) municipal engineer's original estimated cost of completion; or
 1259 (B) applicant's reasonable proven cost of completion.
- 1260 (b) A municipality may not require the payment of the deposit of the improvement
 1261 warranty assurance described in Subsection (6)(a)(i) for an infrastructure
 1262 improvement or public landscaping improvement before the applicant indicates
 1263 through written request that the applicant has completed the infrastructure
 1264 improvement or public landscaping improvement.
- 1265 (7) When a municipality accepts an improvement completion assurance for public
 1266 landscaping improvements or infrastructure improvements for a development in
 1267 accordance with Subsection (3)(c)(ii), the municipality may not deny an applicant a
 1268 building permit if the development meets the requirements for the issuance of a building
 1269 permit under the building code and fire code.
- 1270 (8) A municipality may not require the submission of a private landscaping plan as part of
 1271 an application for a building permit.
- 1272 (9) The provisions of this section do not supersede the terms of a valid development
 1273 agreement, an adopted phasing plan, or the [~~state construction code~~] State Construction
 1274 Code.
- 1275 Section 12. Section **10-20-902** is amended to read:
- 1276 **10-20-902 . Applicant's entitlement to land use application approval --**
 1277 **Municipality's requirements and limitations -- Vesting upon submission of development**
 1278 **plan and schedule.**
- 1279 (1)(a)(i) An applicant who has submitted a complete land use application as
 1280 described in Subsection (1)(c), including the payment of all application fees, is
 1281 entitled to substantive review of the application under the land use regulations:
 1282 (A) in effect on the date that the application is complete; and
 1283 (B) applicable to the application or to the information shown on the application.
- 1284 (ii) An applicant is entitled to approval of a land use application if the application
 1285 conforms to the requirements of the applicable land use regulations, land use
 1286 decisions, and development standards in effect when the applicant submits a

- 1287 complete application and pays application fees, unless:
- 1288 (A) the land use authority, on the record, formally finds that a compelling,
- 1289 countervailing public interest would be jeopardized by approving the
- 1290 application and specifies the compelling, countervailing public interest in
- 1291 writing; or
- 1292 (B) in the manner provided by local ordinance and before the applicant submits
- 1293 the application, the municipality formally initiates proceedings to amend the
- 1294 municipality's land use regulations in a manner that would prohibit approval of
- 1295 the application as submitted.
- 1296 (b) The municipality shall process an application without regard to proceedings the
- 1297 municipality initiated to amend the municipality's ordinances as described in
- 1298 Subsection (1)(a)(ii)(B) if:
- 1299 (i) 180 days have passed since the municipality initiated the proceedings; and
- 1300 (ii)(A) the proceedings have not resulted in an enactment that prohibits approval
- 1301 of the application as submitted; or
- 1302 (B) during the 12 months before the municipality processing the application, or
- 1303 multiple applications of the same type, are impaired or prohibited under the
- 1304 terms of a temporary land use regulation adopted under Section 10-20-504.
- 1305 (c) A land use application is considered submitted and complete when the applicant
- 1306 provides the application in a form that complies with the requirements of applicable
- 1307 ordinances and pays all applicable fees.
- 1308 (d) A subsequent incorporation of a municipality or a petition that proposes the
- 1309 incorporation of a municipality does not affect a land use application approved by a
- 1310 county in accordance with Section 17-79-803.
- 1311 (e) Unless a phasing sequence is required in an executed development agreement, a
- 1312 municipality shall, without regard to any other separate and distinct land use
- 1313 application, accept and process a complete land use application.
- 1314 (f) The continuing validity of an approval of a land use application is conditioned upon
- 1315 the applicant proceeding after approval to implement the approval with reasonable
- 1316 diligence.
- 1317 (g) A municipality may not impose on an applicant who has submitted a complete
- 1318 application a requirement that is not expressed in:
- 1319 (i) this chapter;
- 1320 (ii) a municipal ordinance in effect on the date that the applicant submits a complete

- 1321 application, subject to Subsection 10-20-902(1)(a)(ii); or
1322 (iii) a municipal specification for public improvements applicable to a subdivision or
1323 development that is in effect on the date that the applicant submits an application.
- 1324 (h) A municipality may not impose on a holder of an issued land use permit or a final,
1325 unexpired subdivision plat a requirement that is not expressed:
- 1326 (i) in a land use permit;
1327 (ii) on the subdivision plat;
1328 (iii) in a document on which the land use permit or subdivision plat is based;
1329 (iv) in the written record evidencing approval of the land use permit or subdivision
1330 plat;
1331 (v) in this chapter;
1332 (vi) in a municipal ordinance; or
1333 (vii) in a municipal specification for residential roadways in effect at the time a
1334 residential subdivision was approved.
- 1335 (i) Except as provided in Subsection (1)(j) or (k), a municipality may not withhold
1336 issuance of a certificate of occupancy or acceptance of subdivision improvements
1337 because of an applicant's failure to comply with a requirement that is not expressed:
- 1338 (i) in the building permit or subdivision plat, documents on which the building permit
1339 or subdivision plat is based, or the written record evidencing approval of the land
1340 use permit or subdivision plat; or
1341 (ii) in this chapter or the municipality's ordinances.
- 1342 (j) A municipality may not unreasonably withhold issuance of a certificate of occupancy
1343 where an applicant has met all requirements essential for the public health, public
1344 safety, and general welfare of the occupants, in accordance with this chapter, unless:
- 1345 (i) the applicant and the municipality have agreed in a written document to the
1346 withholding of a certificate of occupancy; or
1347 (ii) the applicant has not provided a financial assurance for required and uncompleted
1348 public landscaping improvements or infrastructure improvements in accordance
1349 with an applicable local ordinance.
- 1350 (k) A municipality may not conduct a final inspection required before issuing a
1351 certificate of occupancy for a residential unit that is within the boundary of an
1352 infrastructure financing district, as defined in Section 17B-1-102, until the applicant
1353 for the certificate of occupancy provides adequate proof to the municipality that any
1354 lien on the unit arising from the infrastructure financing district's assessment against

1355 the unit under Title 11, Chapter 42, Assessment Area Act, has been released after
1356 payment in full of the infrastructure financing district's assessment against that unit.

1357 (l) A municipality:

1358 (i) may require the submission of a private landscaping plan, as defined in Section
1359 10-20-807, before landscaping is installed; and

1360 (ii) may not withhold an applicant's building permit or certificate of occupancy
1361 because the applicant has not submitted a private landscaping plan.

1362 (2) A municipality is bound by the terms and standards of applicable land use regulations
1363 and shall comply with mandatory provisions of those regulations.

1364 (3)(a) Beginning on October 1, 2026, and except as provided in Subsection (3)(b), a
1365 municipality shall publish on the municipality's website an application checklist for
1366 each land use application type that includes a checklist of all required plans and
1367 documents that make a complete application.

1368 (b) A municipality that does have a maintained and active website shall provide for
1369 inspection of the information described in Subsection (3)(a) at the municipality's
1370 place of business during normal business hours.

1371 [~~3~~] (4) A municipality may not, as a condition of land use application approval, require a
1372 person filing a land use application to obtain documentation regarding a school district's
1373 willingness, capacity, or ability to serve the development proposed in the land use
1374 application.

1375 [~~4~~] (5) Upon a specified public agency's submission of a development plan and schedule as
1376 required in Subsection 10-20-304(8) that complies with the requirements of that
1377 subsection, the specified public agency vests in the municipality's applicable land use
1378 maps, zoning map, hookup fees, impact fees, other applicable development fees, and
1379 land use regulations in effect on the date of submission.

1380 [~~5~~] (6)(a) If sponsors of a referendum timely challenge a project in accordance with
1381 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land
1382 use approval by delivering a written notice:

1383 (i) to the local clerk as defined in Section 20A-7-101; and

1384 (ii) no later than seven days after the day on which a petition for a referendum is
1385 determined sufficient under Subsection 20A-7-607(5).

1386 (b) Upon delivery of a written notice described in Subsection [~~5~~](a) (6)(a) the following
1387 are rescinded and are of no further force or effect:

1388 (i) the relevant land use approval; and

1389 (ii) any land use regulation enacted specifically in relation to the land use approval.

1390 [~~(6)~~] (7)(a) After issuance of a building permit, a municipality may not:

1391 (i) change or add to the requirements expressed in the building permit, unless the
1392 change or addition is:

1393 (A) requested by the building permit holder; or

1394 (B) necessary to comply with an applicable state building code; or

1395 (ii) revoke the building permit or take action that has the effect of revoking the
1396 building permit.

1397 (b) Subsection [~~(6)~~](7)(a) does not prevent a municipality from issuing a building
1398 permit that contains an expiration date defined in the building permit.

1399 Section 13. Section **10-20-910** is amended to read:

1400 **10-20-910 . Provisions applicable to a provider of culinary or secondary water.**

1401 A provider of culinary or secondary water that commits to provide a water service
1401a required

1402 by a land use application process is subject to the following as if it were a municipality:

1403 (1) Subsections 10-20-904(5) and (6);

1404 (2) Section 10-20-905; [~~and~~]

1405 (3) Section 10-20-911; and

1406 (4) Section 10-20-912.

1407 Section 14. Section **10-20-911** is amended to read:

1408 **10-20-911 . Exactions -- Requirement to offer to original owner property**

1409 **acquired by exaction -- Exaction for right-of-way improvements -- Improvement**

1410 **completion assurance requirements.**

1411 (1) A municipality may impose an exaction or exactions on development proposed in a land
1412 use application, including, subject to [~~Subsection (3)~~] Section 10-20-912, an exaction for
1413 a water interest, if:

1414 (a) an essential link exists between a legitimate governmental interest and each exaction;
1415 and

1416 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the
1417 proposed development.

1418 (2) If a land use authority imposes an exaction for another governmental entity:

1419 (a) the governmental entity shall request the exaction; and

1420 (b) the land use authority shall transfer the exaction to the governmental entity for which
1421 it was exacted.

- 1422 ~~[(3)(a)(i) Subject to the requirements of this Subsection (3), a municipality shall base~~
 1423 ~~an exaction for a water interest on the culinary water authority's established~~
 1424 ~~calculations of projected water interest requirements.]~~
- 1425 ~~[(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall~~
 1426 ~~base an exaction for a culinary water interest on:]~~
- 1427 ~~[(A) consideration of the system-wide minimum sizing standards established for~~
 1428 ~~the culinary water authority by the Division of Drinking Water in accordance~~
 1429 ~~with Section 19-4-114; and]~~
- 1430 ~~[(B) the number of equivalent residential connections associated with the culinary~~
 1431 ~~water demand for each specific development proposed in the development's~~
 1432 ~~land use application, applying lower exactions for developments with lower~~
 1433 ~~equivalent residential connections as demonstrated by at least five years of~~
 1434 ~~usage data for like land uses within the municipality.]~~
- 1435 ~~[(iii) A municipality may impose an exaction for a culinary water interest that results~~
 1436 ~~in less water being exacted than would otherwise be exacted under Subsection~~
 1437 ~~(3)(a)(ii) if the municipality, at the municipality's sole discretion, determines there~~
 1438 ~~is good cause to do so.]~~
- 1439 ~~[(iv)(A) A municipality shall make public the methodology used to comply with~~
 1440 ~~Subsection (3)(a)(ii)(B).]~~
- 1441 ~~[(B) A land use applicant may appeal to the municipality's governing body an~~
 1442 ~~exaction calculation used by the municipality under Subsection (3)(a)(ii).]~~
- 1443 ~~[(C) A land use applicant may present data and other information that illustrates a~~
 1444 ~~need for an exaction recalculation and the municipality's governing body shall~~
 1445 ~~respond with due process.]~~
- 1446 ~~[(v) Upon an applicant's request, the culinary water authority shall provide the~~
 1447 ~~applicant with the basis for the culinary water authority's calculations under~~
 1448 ~~Subsection (3)(a)(i) on which an exaction for a water interest is based.]~~
- 1449 ~~[(b) A municipality may not impose an exaction for a water interest if the culinary water~~
 1450 ~~authority's existing available water interests exceed the water interests needed to meet~~
 1451 ~~the reasonable future water requirement of the public, as determined under~~
 1452 ~~Subsection 73-1-4(2)(f).]~~
- 1453 ~~[(4)]~~ (3)(a) If a municipality plans to dispose of surplus real property that was acquired
 1454 under this section and has been owned by the municipality for less than 15 years, the
 1455 municipality shall first offer to reconvey the property, without receiving additional

- 1456 consideration, to the person who granted the property to the municipality.
- 1457 (b) A person to whom a municipality offers to reconvey property under Subsection [
1458 ~~(4)(a)~~] (3)(a) has 90 days to accept or reject the municipality's offer.
- 1459 (c) If a person to whom a municipality offers to reconvey property declines the offer, the
1460 municipality may offer the property for sale.
- 1461 (d) Subsection [~~(4)(a)~~] (3)(a) does not apply to the disposal of property acquired by
1462 exaction by a community reinvestment agency.
- 1463 [~~(5)~~] (4)(a) A municipality may not, as part of an infrastructure improvement, require the
1464 installation of pavement on a residential roadway at a width in excess of 32 feet.
- 1465 (b) Subsection [~~(5)(a)~~] (4)(a) does not apply if a municipality requires the installation of
1466 pavement in excess of 32 feet:
- 1467 (i) in a vehicle turnaround area;
- 1468 (ii) in a cul-de-sac;
- 1469 (iii) to address specific traffic flow constraints at an intersection, mid-block
1470 crossings, or other areas;
- 1471 (iv) to address an applicable general or master plan improvement, including
1472 transportation, bicycle lanes, trails, or other similar improvements that are not
1473 included within an impact fee area;
- 1474 (v) to address traffic flow constraints for service to or abutting higher density
1475 developments or uses that generate higher traffic volumes, including community
1476 centers, schools, and other similar uses;
- 1477 (vi) as needed for the installation or location of a utility which is maintained by the
1478 municipality and is considered a transmission line or requires additional roadway
1479 width;
- 1480 (vii) for third-party utility lines that have an easement preventing the installation of
1481 utilities maintained by the municipality within the roadway;
- 1482 (viii) for utilities over 12 feet in depth;
- 1483 (ix) for roadways with a design speed that exceeds 25 miles per hour;
- 1484 (x) as needed for flood and stormwater routing;
- 1485 (xi) as needed to meet fire code requirements for parking and hydrants; or
1486 (xii) as needed to accommodate street parking.
- 1487 (c) Nothing in this section shall be construed to prevent a municipality from approving a
1488 road cross section with a pavement width less than 32 feet.
- 1489 (d)(i) A land use applicant may appeal a municipal requirement for pavement in

- 1490 excess of 32 feet on a residential roadway.
- 1491 (ii) A land use applicant that has appealed a municipal specification for a residential
1492 roadway pavement width in excess of 32 feet may request that the municipality
1493 assemble a panel of qualified experts to serve as the appeal authority for purposes
1494 of determining the technical aspects of the appeal.
- 1495 (iii) Unless otherwise agreed by the applicant and the municipality, the panel
1496 described in Subsection [(5)(d)(ii)] (4)(d)(ii) shall consist of the following three
1497 experts:
- 1498 (A) one licensed engineer, designated by the municipality;
- 1499 (B) one licensed engineer, designated by the land use applicant; and
- 1500 (C) one licensed engineer, agreed upon and designated by the two designated
1501 engineers under Subsections [(5)(d)(iii)(A)] (4)(d)(iii)(A) and (B).
- 1502 (iv) A member of the panel assembled by the municipality under Subsection [
1503 (5)(d)(ii)] (4)(d)(ii) may not have an interest in the application that is the subject of
1504 the appeal.
- 1505 (v) The land use applicant shall pay:
- 1506 (A) 50% of the cost of the panel; and
- 1507 (B) the municipality's published appeal fee.
- 1508 (vi) The decision of the panel is a final decision, subject to a petition for review under
1509 Subsection [(5)(d)(vii)] (4)(d)(vii).
- 1510 (vii) In accordance with Section 10-20-1109, a land use applicant or the municipality
1511 may file a petition for review of the decision with the district court within 30 days
1512 after the date that the decision is final.

1513 [~~(6) A provider of culinary or secondary water that commits to provide a water service
1514 required by a land use application process is subject to the provisions of this section the
1515 same as if the provider were a municipality.]~~

1516 Section 15. Section **10-20-912** is enacted to read:

1517 **10-20-912 . Exactions for water rights.**

- 1518 (1) Subject to the requirements of this section, a municipality shall base an exaction for a
1519 water interest on the culinary water authority's established calculations of projected
1520 water interest requirements.
- 1521 (2) Except as provided in Subsection (3), a culinary water authority shall base an exaction
1522 for a culinary water interest on:
- 1523 (a) consideration of the system-wide minimum sizing standards established for the

1524 culinary water authority by the Division of Drinking Water under Section 19-4-114;
 1525 and

1526 (b) the number of equivalent residential connections associated with the culinary water
 1527 demand for each specific development proposed in the development's land use
 1528 application, applying lower exactions for developments with lower equivalent
 1529 residential connections as demonstrated by at least five years of usage data for like
 1530 land uses within the municipality.

1531 (3) If a municipality determines, in the sole discretion of the municipality, that good cause
 1532 exists, the municipality may impose an exaction for a culinary water interest that results
 1533 in less water being exacted than would otherwise be exacted under Subsection (2).

1534 (4)(a) A municipality shall make public the methodology used to comply with
 1535 Subsection (2)(b).

1536 (b) A land use applicant may submit a request to the municipality's legislative body to
 1537 review an exaction calculation used by the municipality under Subsection (2).

1538 (c) A land use applicant may present data and other information that illustrates a need
 1539 for an exaction recalculation and the municipality's legislative body shall respond
 1540 with due process.

1541 (5) Upon an applicant's request, the culinary water authority shall provide the applicant
 1542 with the basis for the culinary water authority's calculations under Subsection (2) on
 1543 which an exaction for a water interest is based.

1544 (6) A municipality may not impose an exaction for a water interest if the culinary water
 1545 authority's existing available water interests exceed the water interests needed to meet
 1546 the reasonable future water requirement of the public, as determined under Subsection
 1547 73-1-4(2)(f).

1548 (7) A provider of culinary or secondary water that commits to provide a water service
 1549 required by a land use application process is subject to the provisions of this section and
 1550 Section 10-20-911 the same as if the provider were a municipality.

1551 Section 16. Section **10-20-1001** is amended to read:

1552 **10-20-1001 . Enforcement -- Limitations on a municipality's ability to enforce an**
 1553 **ordinance by withholding a permit or certificate.**

1554 (1)(a) A municipality or [~~an adversely affected party~~] a land use applicant may, in
 1555 addition to other remedies provided by law, institute:

1556 (i) injunctions, mandamus, abatement, or any other appropriate actions; or

1557 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

- 1558 (b) A municipality need only establish the violation to obtain the injunction.
- 1559 (2)(a) Except as provided in Subsections (3) [~~though~~] through (6), a municipality may
- 1560 enforce the municipality's ordinance by withholding a building permit or certificate
- 1561 of occupancy.
- 1562 (b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any
- 1563 building or other structure within a municipality without approval of a building
- 1564 permit.
- 1565 (c) A municipality may not issue a building permit unless the plans of and for the
- 1566 proposed erection, construction, reconstruction, alteration, or use fully conform to all
- 1567 regulations then in effect.
- 1568 (d) A municipality may require an applicant to maintain and repair a temporary fire
- 1569 apparatus road during the construction of a structure accessed by the temporary fire
- 1570 apparatus road in accordance with the municipality's adopted standards.
- 1571 (e) A municipality may require temporary signs to be installed at each street intersection
- 1572 once construction of a new roadway allows passage by a motor vehicle.
- 1573 (f) A municipality may adopt and enforce any appendix of the International Fire Code,
- 1574 2021 Edition.
- 1575 (3)(a) A municipality may not deny an applicant a building permit or certificate of
- 1576 occupancy because the applicant has not completed an infrastructure improvement:
- 1577 (i) unless the infrastructure improvement is essential to meet the requirements for the
- 1578 issuance of a building permit or certificate of occupancy under Title 15A, State
- 1579 Construction and Fire Codes Act; and
- 1580 (ii) for which the municipality has accepted an improvement completion assurance
- 1581 for a public landscaping improvement, as defined in Section 10-20-807, or an
- 1582 infrastructure improvement for the development.
- 1583 (b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6,
- 1584 infrastructure improvement that is essential means:
- 1585 (i) for a building permit:
- 1586 (A) operable fire hydrants installed in a manner that is consistent with the
- 1587 municipality's adopted engineering standards; and
- 1588 (B) for temporary roads used during construction, a properly compacted road base
- 1589 installed in a manner consistent with the municipality's adopted engineering
- 1590 standards;
- 1591 (ii) for a certificate of occupancy, at the discretion of the municipality, at least one of

- 1592 the following:
- 1593 (A) a permanent road;
- 1594 (B) a temporary road covered with asphalt or concrete; or
- 1595 (C) another method for accessing a structure consistent with Appendix D of the
- 1596 International Fire Code; and
- 1597 (iii) public infrastructure necessary for the health, life, and safety of the occupant.
- 1598 (c) A municipality may not adopt an engineering standard that requires an applicant to
- 1599 install a permanent road or a temporary road with asphalt or concrete before
- 1600 receiving a building permit.
- 1601 (4) A municipality may not deny an applicant a building permit or certificate of occupancy
- 1602 for failure to:
- 1603 (a) submit a private landscaping plan, as defined in Section 10-20-807; or
- 1604 (b) complete a landscaping improvement that is not a public landscaping improvement,
- 1605 as defined in Section 10-20-807.
- 1606 (5) A municipality may not withhold a building permit based on the lack of completion of a
- 1607 portion of a public sidewalk to be constructed within a public right-of-way serving a lot
- 1608 where a single-family or two-family residence or town home is proposed in a building
- 1609 permit application if an improvement completion assurance has been posted for the
- 1610 incomplete portion of the public sidewalk.
- 1611 (6) A municipality may not prohibit the construction of a single-family or two-family
- 1612 residence or town home, withhold recording a plat, or withhold acceptance of a public
- 1613 landscaping improvement, as defined in Section 10-20-807, or an infrastructure
- 1614 improvement based on the lack of installation of a public sidewalk if an improvement
- 1615 completion assurance has been posted for the public sidewalk.
- 1616 (7) A municipality may not redeem an improvement completion assurance securing the
- 1617 installation of a public sidewalk sooner than 18 months after the date the improvement
- 1618 completion assurance is posted.
- 1619 (8) A municipality shall allow an applicant to post an improvement completion assurance
- 1620 for a public sidewalk separate from an improvement completion assurance for:
- 1621 (a) another infrastructure improvement; or
- 1622 (b) a public landscaping improvement, as defined in Section 10-20-807.
- 1623 (9) A municipality may withhold a certificate of occupancy for a single-family or
- 1624 two-family residence or town home until the portion of the public sidewalk to be
- 1625 constructed within a public right-of-way and located immediately adjacent to the

1626 single-family or two-family residence or town home is completed and accepted by the
1627 municipality.

1628 Section 17. Section **10-20-1101** is amended to read:

1629 **10-20-1101 . Appeal authority required -- Condition precedent to judicial review**
1630 **-- Appeal authority duties.**

1631 (1)(a) ~~[Each]~~ Subject to Subsection (1)(d), each municipality adopting a land use
1632 ordinance shall, by ordinance, establish one or more appeal authorities.

1633 (b) An appeal authority described in Subsection (1)(a) shall hear and decide:

1634 (i) requests for ~~[variances]~~ a variance from ~~[the terms of]~~ a land use ~~[ordinances]~~
1635 ordinance;

1636 (ii) appeals from a land use ~~[decisions]~~ decision applying a land use ~~[ordinances]~~
1637 ordinance; and

1638 (iii) appeals from a fee charged in accordance with Section 10-20-904.

1639 (c) An appeal authority described in Subsection (1)(a) may not hear an appeal from the
1640 enactment of a land use regulation.

1641 (d) Beginning on July 1, 2026, a city described in Subsection 10-20-302(6)(a)(i) may not
1642 designate the city's legislative body as an appeal authority.

1643 (e) Notwithstanding Subsection (1)(d), a legislative body shall continue to be the appeal
1644 authority for an appeal if:

1645 (i) a land use ordinance designated the legislative body as the appeal authority when
1646 the appellant filed the appeal; and

1647 (ii) the appellant filed the appeal on or before June 30, 2026.

1648 (2) As a condition precedent to judicial review, each adversely affected party or land use
1649 applicant shall timely and specifically challenge a land use authority's land use decision,
1650 in accordance with local ordinance.

1651 (3) An appeal authority described in Subsection (1)(a):

1652 (a) shall:

1653 (i) act in a quasi-judicial manner; and

1654 (ii) serve as the final arbiter of issues involving the interpretation or application of a
1655 land use [ordinances] ordinance; and

1656 (b) may not entertain an appeal of a matter in which the appeal authority, or any
1657 participating member, had first acted as the land use authority.

1658 (4) By ordinance, a municipality may:

1659 (a) designate a separate appeal authority to hear requests for variances than the appeal

- 1660 authority the municipality designates to hear appeals;
- 1661 (b) designate one or more separate appeal authorities to hear distinct types of appeals of
- 1662 land use authority decisions;
- 1663 (c) require an adversely affected party to present to an appeal authority every theory of
- 1664 relief that the adversely affected party can raise in district court; and
- 1665 ~~[(d) not require a land use applicant or adversely affected party to pursue duplicate or~~
- 1666 ~~successive appeals before the same or separate appeal authorities as a condition of an~~
- 1667 ~~appealing party's duty to exhaust administrative remedies; and]~~
- 1668 ~~[(e)]~~ (d) provide that specified types of land use decisions may be appealed directly to the
- 1669 district court.
- 1670 (5) A municipality may not:
- 1671 (a) require a public hearing for a request for a variance or land use appeal[-] ; or
- 1672 (b) require a land use applicant or adversely affected party to pursue successive appeals
- 1673 before the same or separate appeal authorities as a condition of an appealing party's
- 1674 duty to exhaust administrative remedies.
- 1675 (6) If the municipality establishes or, before the effective date of this chapter, has
- 1676 established a multiperson board, body, or panel to act as an appeal authority, at a
- 1677 minimum the board, body, or panel shall:
- 1678 (a) notify each of the members of the board, body, or panel of any meeting or hearing of
- 1679 the board, body, or panel;
- 1680 (b) provide each of the members of the board, body, or panel with the same information
- 1681 and access to municipal resources as any other member;
- 1682 (c) convene only if a quorum of the members of the board, body, or panel is present; and
- 1683 (d) act only upon the vote of a majority of the convened members of the board, body, or
- 1684 panel.
- 1685 Section 18. Section **10-20-1105** is repealed and reenacted to read:
- 1686 **10-20-1105 . Burden of proof.**
- 1687 In an appeal described in this part:
- 1688 (1) if the appellant is a land use applicant, the appellant has the burden of proving that the
- 1689 land use authority's land use decision:
- 1690 (a) is arbitrary, capricious, or illegal; or
- 1691 (b) is not supported by a preponderance of the evidence; or
- 1692 (2) if the appellant is an adversely affected party, the appellant has the burden of proving
- 1693 that the land use authority's land use decision:

- 1694 (a) is arbitrary, capricious, or illegal; or
 1695 (b) is not supported by substantial evidence.

1696 Section 19. Section **10-20-1106** is amended to read:

1697 **10-20-1106 . Due process.**

- 1698 (1) [~~Each~~] An appeal authority shall conduct each appeal and variance request as provided
 1699 in local ordinance.
- 1700 (2) [~~Each~~] An appeal authority shall respect the due process rights of [~~each of the~~
 1701 ~~participants~~] an appeal participant.
- 1702 (3) An appeal authority may only allow the following people to present or speak during an
 1703 appeal hearing:
- 1704 (a) the appellant or the appellant's representatives;
 1705 (b) the land use applicant or the land use applicant's representatives; and
 1706 (c) the municipality's representatives.

1707 Section 20. Section **10-20-1107** is amended to read:

1708 **10-20-1107 . Scope of review of factual matters on appeal -- Appeal authority**
 1709 **requirements.**

- 1710 (1) A municipality may, by ordinance, designate the scope of review of factual matters for
 1711 appeals of land use authority decisions.
- 1712 (2) If the municipality fails to designate a scope of review of factual matters, the appeal
 1713 authority shall review the [~~matter~~] factual matters de novo, without deference to the land
 1714 use authority's determination of the factual matters.
- 1715 (3) If the scope of review of factual matters is on the record, the appeal authority shall
 1716 determine whether the record on appeal includes substantial evidence for each essential
 1717 finding of fact.
- 1718 (4) The appeal authority shall:
- 1719 (a) determine the correctness of the land use authority's interpretation and application of
 1720 the plain meaning of the land use regulations; and
- 1721 (b) interpret and apply a land use regulation to favor a land use application unless the
 1722 land use regulation plainly restricts the land use application.
- 1723 (5)(a) An appeal authority's land use decision is a quasi-judicial act.
- 1724 (b) [~~A~~] Except as provided in Subsection (5)(c), a legislative body may act as an appeal
 1725 authority unless both the legislative body and the appealing party agree to allow a
 1726 third party to act as the appeal authority.
- 1727 (c) Beginning on July 1, 2026, the legislative body of a city described in Subsection

- 1728 10-20-302(6)(a)(i) may not act as an appeal authority unless:
 1729 (i) a land use ordinance designated the legislative body as the appeal authority when
 1730 the appellant filed the appeal; and
 1731 (ii) the appellant filed the appeal on or before June 30, 2026.
- 1732 (6) Only a decision in which a land use authority has applied a land use regulation to a
 1733 particular land use application, person, or parcel may be appealed to an appeal authority.
 1734 Section 21. Section **10-20-1109** is amended to read:
- 1735 **10-20-1109 . No district court review until administrative remedies exhausted --**
 1736 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**
 1737 **-- Staying of decision.**
- 1738 (1) ~~[Nø]~~ A person may challenge in district court a land use decision ~~[until that]~~ if the person
 1739 has exhausted the person's administrative remedies as provided in this part, if applicable.
- 1740 (2)(a) Subject to Subsection (1), a land use applicant or adversely affected party may file
 1741 a petition for review of a land use decision with the district court within 30 days after
 1742 the decision is final.
- 1743 (b)(i) The time under Subsection (2)(a) to file a petition is tolled from the date a
 1744 property owner files a request for arbitration of a constitutional taking issue with
 1745 the property rights ombudsman under Section 13-43-204 until 30 days after:
 1746 (A) the arbitrator issues a final award; or
 1747 (B) the property rights ombudsman issues a written statement under Subsection
 1748 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.
- 1749 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
 1750 taking issue that is the subject of the request for arbitration filed with the property
 1751 rights ombudsman by a property owner.
- 1752 (iii) A request for arbitration filed with the property rights ombudsman after the time
 1753 under Subsection (2)(a) to file a petition has expired does not affect the time to
 1754 file a petition.
- 1755 (3)(a) A court shall:
- 1756 (i) presume that a land use regulation properly enacted under the authority of this
 1757 chapter is valid; and
 1758 (ii) determine only whether:
 1759 (A) the land use regulation is expressly preempted by, or was enacted contrary to,
 1760 state or federal law; and
 1761 (B) it is reasonably debatable that the land use regulation is consistent with this

- 1762 chapter.
- 1763 (b) A court shall presume that a final land use decision of a land use authority or an
1764 appeal authority is valid unless the land use decision is:
- 1765 (i) arbitrary and capricious; or
1766 (ii) illegal.
- 1767 (c)(i) A land use decision is arbitrary and capricious if the land use decision is not
1768 supported by substantial evidence in the record.
- 1769 (ii) A land use decision is illegal if the land use decision:
1770 (A) is based on an incorrect interpretation of a land use regulation;
1771 (B) conflicts with the authority granted by this title; or
1772 (C) is contrary to law.
- 1773 (d)(i) A court may affirm or reverse a land use decision.
1774 (ii) If the court reverses a land use decision, the court shall remand the matter to the
1775 land use authority with instructions to issue a land use decision consistent with the
1776 court's ruling.
- 1777 (4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes
1778 final action on a land use application, if the municipality conformed with the notice
1779 provisions of Part 2, Notice, or for any person who had actual notice of the pending land
1780 use decision.
- 1781 (5) If the municipality has complied with Section 10-20-205, a challenge to the enactment
1782 of a land use regulation~~[-or]~~, general plan, or specified land use law may not be filed
1783 with the district court more than 30 days after the enactment.
- 1784 (6) A challenge to a land use decision is barred unless the challenge is filed within 30 days
1785 after the land use decision is final.
- 1786 (7)(a) The land use authority or appeal authority, as the case may be, shall transmit to
1787 the reviewing court the record of the proceedings of the land use authority or appeal
1788 authority, including the minutes, findings, orders, and, if available, a true and correct
1789 transcript of the proceedings.
- 1790 (b) If the proceeding was recorded, a transcript of that recording is a true and correct
1791 transcript for purposes of this Subsection (7).
- 1792 (8)(a)(i) If there is a record, the district court's review is limited to the record
1793 provided by the land use authority or appeal authority, as the case may be.
1794 (ii) The court may not accept or consider any evidence outside the record of the land
1795 use authority or appeal authority, as the case may be, unless that evidence was

1796 offered to the land use authority or appeal authority, respectively, and the court
1797 determines that the evidence was improperly excluded.

1798 (b) If there is no record, the court may call witnesses and take evidence.

1799 (9)(a) The filing of a petition does not stay the land use decision of the land use
1800 authority or appeal authority, as the case may be.

1801 (b)(i) Before filing a petition under this section or a request for mediation or
1802 arbitration of a constitutional taking issue under Section 13-43-204, a land use
1803 applicant may petition the appeal authority to stay the appeal authority's land use
1804 decision.

1805 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal
1806 authority's land use decision stayed pending district court review if the appeal
1807 authority finds the order to be in the best interest of the municipality.

1808 (iii) After a petition is filed under this section or a request for mediation or arbitration
1809 of a constitutional taking issue is filed under Section 13-43-204, the petitioner
1810 may seek an injunction staying the appeal authority's land use decision.

1811 (10) If the court determines that a party initiated or pursued a challenge to a land use
1812 decision on a land use application in bad faith, the court may award attorney fees.

1813 Section 22. Section **10-21-101** is amended to read:

1814 **10-21-101 . Definitions.**

1815 As used in this part:

1816 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
1817 detached from a single-family dwelling and contained on one lot or parcel.

1818 (2) "Accessory structure" means a detached structure located on the same lot or parcel as a
1819 principal structure and is incidental and subordinate to the size and use of the principal
1820 structure.

1821 (3) "Affordable housing" means housing offered for sale at 80% or less of the median
1822 county home price for housing of that type.

1823 [(2)] (4) "Agency" means the same as that term is defined in Section 17C-1-102.

1824 [(3)] (5) "Applicable metropolitan planning organization" means the metropolitan planning
1825 organization that has jurisdiction over the area in which a fixed guideway public transit
1826 station is located.

1827 [(4)] (6) "Applicable public transit district" means the public transit district, as defined in
1828 Section 17B-2a-802, of which a fixed guideway public transit station is included.

1829 [(5)] (7) "Base taxable value" means a property's taxable value as shown upon the

- 1830 assessment roll last equalized during the base year.
- 1831 [(6)] (8) "Base year" means, for a proposed home ownership promotion zone area, a year
1832 beginning the first day of the calendar quarter determined by the last equalized tax roll
1833 before the adoption of the home ownership promotion zone.
- 1834 (9) "Detached accessory dwelling unit" means an accessory dwelling unit that is not
1835 attached to or within a primary detached single-family dwelling and located on the same
1836 lot or parcel as the primary detached single-family dwelling.
- 1837 [(7)] (10) "Division" means the Housing and Community Development Division within the
1838 Department of Workforce Services.
- 1839 [(8)] (11) "Existing fixed guideway public transit station" means a fixed guideway public
1840 transit station for which construction begins before June 1, 2022.
- 1841 [(9)] (12) "Fixed guideway" means the same as that term is defined in Section 59-12-102.
- 1842 [(10)] (13) "Home ownership promotion zone" means a home ownership promotion zone
1843 created in accordance with this part.
- 1844 [(11)] (14) "Implementation plan" means the implementation plan adopted as part of the
1845 moderate income housing element of a specified municipality's general plan as provided
1846 in Subsection 10-21-201(4).
- 1847 [(12)] (15) "Initial report" or "initial moderate income housing report" means the one-time
1848 report described in Subsection 10-21-202(1).
- 1849 [(13)] (16) "Internal accessory dwelling unit" means an accessory dwelling unit created:
1850 (a) within a primary dwelling;
1851 (b) within the footprint of the primary dwelling described in [~~Subsection (13)(a)]~~
1852 Subsection (16)(a) at the time the internal accessory dwelling unit is created; and
1853 (c) for the purpose of offering a long-term rental of 30 consecutive days or longer.
- 1854 [(14)] (17) "Moderate income housing strategy" means a strategy described in Subsection
1855 10-21-201(3)(a)(iii).
- 1856 [(15)] (18) "New fixed guideway public transit station" means a fixed guideway public
1857 transit station for which construction begins on or after June 1, 2022.
- 1858 [(16)] (19) "Participant" means the same as that term is defined in Section 17C-1-102.
- 1859 [(17)] (20) "Participation agreement" means the same as that term is defined in Section
1860 17C-1-102.
- 1861 [(18)] (21)(a) "Primary dwelling" means a single-family dwelling that:
1862 (i) is detached; and
1863 (ii) is occupied as the primary residence of the owner of record.

- 1864 (b) "Primary dwelling" includes a garage if the garage:
1865 (i) is a habitable space; and
1866 (ii) is connected to the primary dwelling by a common wall.
- 1867 [(19)] (22) "Project improvements" means the same as that term is defined in Section
1868 11-36a-102.
- 1869 [(20)] (23) "Qualifying land use petition" means a petition:
1870 (a) that involves land located within a station area for an existing public transit station
1871 that provides rail services;
1872 (b) that involves land located within a station area for which the municipality has not yet
1873 satisfied the requirements of Subsection 10-21-203(1)(a);
1874 (c) that proposes the development of an area greater than five contiguous acres, with no
1875 less than 51% of the acreage within the station area;
1876 (d) that would require the municipality to amend the municipality's general plan or
1877 change a zoning designation for the land use application to be approved;
1878 (e) that would require a higher density than the density currently allowed by the
1879 municipality;
1880 (f) that proposes the construction of new residential units, at least 10% of which are
1881 dedicated to moderate income housing; and
1882 (g) for which the land use applicant requests the municipality to initiate the process of
1883 satisfying the requirements of Subsection 10-21-203(1)(a) for the station area in
1884 which the development is proposed, subject to Subsection 10-21-203(2)(d).
- 1885 [(21)] (24) "Report" means an initial report or a subsequent progress report.
- 1886 [(22)] (25) "Specified municipality" means:
1887 (a) a city of the first, second, third, or fourth class; or
1888 (b) a city of the fifth class with a population of 5,000 or more, if the city is located
1889 within a county of the first, second, or third class.
- 1890 [(23)] (26)(a) "Station area" means:
1891 (i) for a fixed guideway public transit station that provides rail services, the area
1892 within a one-half mile radius of the center of the fixed guideway public transit
1893 station platform; or
1894 (ii) for a fixed guideway public transit station that provides bus services only, the
1895 area within a one-fourth mile radius of the center of the fixed guideway public
1896 transit station platform.
- 1897 (b) "Station area" includes any parcel bisected by the radius limitation described in [

- 1898 ~~Subsection (a)(i)] Subsection (26)(a)(i) or (ii).~~
- 1899 [(24)] (27) "Station area plan" means a plan that:
- 1900 (a) establishes a vision, and the actions needed to implement that vision, for the
- 1901 development of land within a station area; and
- 1902 (b) is developed and adopted in accordance with this section.
- 1903 [(25)] (28) "Subsequent progress report" means the annual report described in Subsection
- 1904 10-21-202(2).
- 1905 [(26)] (29) "System improvements" means the same as that term is defined in Section
- 1906 11-36a-102.
- 1907 [(27)] (30) "Tax commission" means the State Tax Commission created in Section 59-1-201.
- 1908 [(28)] (31)(a) "Tax increment" means the difference between:
- 1909 (i) the amount of property tax revenue generated each tax year by a taxing entity from
- 1910 the area within a home ownership promotion zone, using the current assessed
- 1911 value and each taxing entity's current certified tax rate as defined in Section
- 1912 59-2-924; and
- 1913 (ii) the amount of property tax revenue that would be generated from that same area
- 1914 using the base taxable value and each taxing entity's current certified tax rate as
- 1915 defined in Section 59-2-924.
- 1916 (b) "Tax increment" does not include property revenue from:
- 1917 (i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2);
- 1918 or
- 1919 (ii) a county additional property tax described in Subsection 59-2-1602(4).
- 1920 [(29)] (32) "Taxing entity" means the same as that term is defined in Section 17C-1-102.
- 1921 Section 23. Section **10-21-304** is enacted to read:
- 1922 **10-21-304 . Detached accessory dwelling units.**
- 1923 (1)(a) A specified municipality shall adopt a land use regulation that permits a detached
- 1924 accessory dwelling unit on any lot or parcel that is 10,000 square feet or larger and
- 1925 contains a single-family dwelling, if the single-family dwelling is a permitted use on
- 1926 the lot or parcel.
- 1927 (b) This section does not prohibit a municipality from adopting a land use regulation that
- 1928 permits a detached accessory dwelling unit on a lot or parcel that is smaller than
- 1929 10,000 square feet.
- 1930 (2) A land use regulation described in Subsection (1) shall:
- 1931 (a) require that a detached accessory dwelling unit comply with all applicable building,

- 1932 health, and fire codes; and
- 1933 (b) include a process for the owner of a legally constructed accessory structure to
- 1934 convert the accessory structure to a detached accessory dwelling unit subject to
- 1935 applicable:
- 1936 (i) dwelling and accessory structure setback requirements; and
- 1937 (ii) building, health, and fire codes.
- 1938 (3) A land use regulation described in Subsection (1) may not:
- 1939 (a) require a conditional use permit for a detached accessory dwelling unit if the
- 1940 proposed detached accessory dwelling unit is located in a primarily residential zone;
- 1941 (b) require more than two on-site parking spaces assigned to a detached accessory
- 1942 dwelling unit that is 650 square feet or larger;
- 1943 (c) require more than one on-site parking space assigned to a detached accessory
- 1944 dwelling unit that is smaller than 650 square feet; or
- 1945 (d) include design standards for a detached accessory dwelling unit that conflict with
- 1946 Section 10-20-618.
- 1947 (4) A land use regulation described in Subsection (1) may:
- 1948 (a) require a detached accessory dwelling unit to:
- 1949 (i) conform to applicable land use regulations that regulate structure size, dimension,
- 1950 height, and maximum lot coverage;
- 1951 (ii) conform to setback requirements, that may take into account proximity to
- 1952 property lines and other structures, easements, window orientation, massing, or
- 1953 other elements; and
- 1954 (iii) be designed consistent with the design of the single-family dwelling;
- 1955 (b) prohibit a detached accessory dwelling unit from being:
- 1956 (i) larger in size than the single-family dwelling located on the same lot or parcel;
- 1957 (ii) located within a public utility easement or other recorded easement;
- 1958 (iii) located in a front-yard area of a lot or parcel; or
- 1959 (iv) rented for less than 90 consecutive days;
- 1960 (c) require that the owner of a lot or parcel where a detached accessory dwelling unit is
- 1961 located reside in the detached single-family dwelling or detached accessory dwelling
- 1962 unit located on the lot or parcel;
- 1963 (d) require that when a detached garage is converted to a detached accessory dwelling
- 1964 unit, any parking spaces required for the single-family dwelling that were located
- 1965 with the detached garage are replaced on-site;

- 1966 (e) prohibit more than one accessory dwelling unit on a lot or parcel; and
- 1967 (f) prohibit a detached accessory dwelling unit if:
- 1968 (i) the detached accessory dwelling unit will not have adequate access to a required
- 1969 utility service that is a project improvement, including sanitary sewer, culinary
- 1970 water, electrical, or storm water; or
- 1971 (ii) a utility service that is a system improvement, including sanitary sewer, culinary
- 1972 water, electrical, or storm water, to which the detached accessory dwelling unit is
- 1973 required to connect does not have sufficient capacity to support the addition of the
- 1974 detached accessory dwelling unit to the utility service system improvements.

1975 (5) This section does not supersede:

- 1976 (a) a land use regulation that regulates a detached accessory building that is not a
- 1977 detached accessory dwelling unit;
- 1978 (b) prohibitions or restrictions on detached accessory dwelling units in a development
- 1979 agreement signed by a municipality on or before May 6, 2026; or
- 1980 (c) a land use regulation or administrative action that:
- 1981 (i) is not prohibited by law; and
- 1982 (ii) relates to a detached accessory dwelling unit.

1983 Section 24. Section **13-43-205** is amended to read:

1984 **13-43-205 . Advisory opinion.**

- 1985 (1) A local government, private entity, or a potentially aggrieved person may, in accordance
- 1986 with Section 13-43-206, request a written advisory opinion:
- 1987 (a) from a neutral third party to determine compliance with:
- 1988 (i) Sections 10-20-506, 10-20-507, 10-20-602, 10-20-604, 10-20-605, 10-20-902,
- 1989 10-20-904, 10-20-905, 10-20-910, 10-20-911, 10-20-912, and 10-20-1003;
- 1990 (ii) Sections 17-79-506, 17-79-507, 17-79-601, 17-79-602, 17-79-603, 17-79-803,
- 1991 17-79-804, 17-79-805, 17-79-811, 17-79-812, 17-79-813, and 17-79-903; and
- 1992 (iii) Title 11, Chapter 36a, Impact Fees Act; and
- 1993 (b) at any time before:
- 1994 (i) a final decision on a land use application by a local appeal authority under Title
- 1995 11, Chapter 36a, Impact Fees Act, or Section 10-20-1108 or 17-79-1008;
- 1996 (ii) the deadline for filing an appeal with the district court under Title 11, Chapter
- 1997 36a, Impact Fees Act, or Section 10-20-1109 or 17-79-1009, if no local appeal
- 1998 authority is designated to hear the issue that is the subject of the request for an
- 1999 advisory opinion; or

2000 (iii) the enactment of an impact fee, if the request for an advisory opinion is a request
 2001 to review and comment on a proposed impact fee facilities plan or a proposed
 2002 impact fee analysis as defined in Section 11-36a-102.

2003 (2) A private property owner may, in accordance with Section 13-43-206, request a written
 2004 advisory opinion from a neutral third party to determine if a condemning entity:

2005 (a) is in occupancy of the owner's property;

2006 (b) is occupying the property:

2007 (i) for a public use authorized by law; and

2008 (ii) without colorable legal or equitable authority; and

2009 (c) continues to occupy the property without the owner's consent, the occupancy would
 2010 constitute a taking of private property for a public use without just compensation.

2011 (3) An advisory opinion issued under Subsection (2) may justify an award of attorney fees
 2012 against a condemning entity in accordance with Section 13-43-206 only if the court
 2013 finds that the condemning entity:

2014 (a) does not have a colorable claim or defense for the entity's actions; and

2015 (b) continued occupancy without payment of just compensation and in disregard of the
 2016 advisory opinion.

2017 Section 25. Section **17-79-102** is amended to read:

2018 **17-79-102 . Definitions.**

2019 As used in this chapter:

2020 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
 2021 detached from a primary single-family dwelling and contained on one lot.

2022 (2) "Adversely affected party" means a person other than a land use applicant who:

2023 (a) owns real property adjoining the property that is the subject of a land use application
 2024 or land use decision; or

2025 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
 2026 general community as a result of the land use decision.

2027 (3) "Affected entity" means a county, municipality, special district, special service district
 2028 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
 2029 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
 2030 specified property owner, property owner's association, public utility, or the Department
 2031 of Transportation, if:

2032 (a) the entity's services or facilities are likely to require expansion or significant
 2033 modification because of an intended use of land;

- 2034 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
 2035 or
- 2036 (c) the entity has filed with the county a request for notice during the same calendar year
 2037 and before the county provides notice to an affected entity in compliance with a
 2038 requirement imposed under this chapter.
- 2039 (4) "Affected owner" means the owner of real property that is:
- 2040 (a) a single project; and
- 2041 (b) the subject of a land use approval that:
- 2042 (i) sponsors of a referendum timely challenged in accordance with Subsection
 2043 20A-7-601(6); and
- 2044 ~~[(e)]~~ (ii) is determined to be legally referable under Section 20A-7-602.8.
- 2045 (5) "Appeal authority" means the person, board, commission, agency, or other body
 2046 designated by ordinance to decide an appeal of a decision of a land use application or a
 2047 variance.
- 2048 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
 2049 residential property if the sign is designed or intended to direct attention to a business,
 2050 product, or service that is not sold, offered, or existing on the property where the sign is
 2051 located.
- 2052 ~~[(7) "Building code adoption cycle" means the period of time beginning the day on which a
 2053 specific edition of a construction code from a nationally recognized code authority is
 2054 adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day
 2055 before a new edition of a construction code is adopted and effective in Title 15A, State
 2056 Construction and Fire Codes Act.]~~
- 2057 ~~[(8)]~~ (7)(a) "Boundary adjustment" means an agreement between adjoining property
 2058 owners to relocate a common boundary that results in a conveyance of property
 2059 between the adjoining lots, adjoining parcels, or adjoining lots and parcels.
- 2060 (b) "Boundary adjustment" does not mean a modification of a lot or parcel boundary that:
- 2061 (i) creates an additional lot or parcel; or
- 2062 (ii) is made by the Department of Transportation.
- 2063 ~~[(9)]~~ (8)(a) "Boundary establishment" means an agreement between adjoining property
 2064 owners to clarify the location of an ambiguous, uncertain, or disputed common
 2065 boundary.
- 2066 (b) "Boundary establishment" does not mean a modification of a lot or parcel boundary
 2067 that:

- 2068 (i) creates an additional lot or parcel; or
- 2069 (ii) is made by the Department of Transportation.
- 2070 (9) "Building code adoption cycle" means the period of time beginning the day on which a
- 2071 specific edition of a construction code from a nationally recognized code authority is
- 2072 adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day
- 2073 before a new edition of a construction code is adopted and effective in Title 15A, State
- 2074 Construction and Fire Codes Act.
- 2075 (10)(a) "Charter school" means:
- 2076 (i) an operating charter school;
- 2077 (ii) a charter school applicant that a charter school authorizer approves in accordance
- 2078 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
- 2079 (iii) an entity that is working on behalf of a charter school or approved charter
- 2080 applicant to develop or construct a charter school building.
- 2081 (b) "Charter school" does not include a therapeutic school.
- 2082 (11) "Chief executive officer" means the person or body that exercises the executive powers
- 2083 of the county.
- 2084 (12) "Conditional use" means a land use that, because of the unique characteristics or
- 2085 potential detrimental impact of the land use on the county, surrounding neighbors, or
- 2086 adjacent land uses, may not be compatible in some areas or may be compatible only if
- 2087 certain conditions are required that mitigate or eliminate the detrimental impacts.
- 2088 (13) "Constitutional taking" means a governmental action that results in a taking of private
- 2089 property [~~so that~~] where compensation to the property owner [~~of the property~~] is required
- 2090 by the:
- 2091 (a) Fifth or Fourteenth Amendment [øf] to the Constitution of the United States; or
- 2092 (b) Utah Constitution, Article I, Section 22.
- 2093 (14) "Conveyance document" means an instrument that:
- 2094 (a) meets the definition of "document" in Section 57-1-1; and
- 2095 (b) meets the requirements of Section 57-1-45.5.
- 2096 (15) "Conveyance of property" means the transfer of ownership of any portion of real
- 2097 property from one person to another person.
- 2098 (16) "County utility easement" means an easement that:
- 2099 (a) a plat recorded in a county recorder's office described as a county utility easement or
- 2100 otherwise as a utility easement;
- 2101 (b) is not a protected utility easement or a public utility easement as defined in Section

- 2102 54-3-27;
- 2103 (c) the county or the county's affiliated governmental entity owns or creates; and
- 2104 (d)(i) either:
- 2105 (A) no person uses or occupies; or
- 2106 (B) the county or the county's affiliated governmental entity uses and occupies to
- 2107 provide a utility service, including sanitary sewer, culinary water, electrical,
- 2108 storm water, or communications or data lines; or
- 2109 (ii) a person uses or occupies with or without an authorized franchise or other
- 2110 agreement with the county.
- 2111 (17) "Culinary water authority" means the department, agency, or public entity with
- 2112 responsibility to review and approve the feasibility of the culinary water system and
- 2113 sources for the subject property.
- 2114 (18) "Department of Transportation" means the entity created in Section 72-1-201.
- 2115 (19) "Development activity" means:
- 2116 (a) any construction or expansion of a building, structure, or use that creates additional
- 2117 demand and need for public facilities;
- 2118 (b) any change in use of a building or structure that creates additional demand and need
- 2119 for public facilities; or
- 2120 (c) any change in the use of land that creates additional demand and need for public
- 2121 facilities.
- 2122 (20)(a) "Development agreement" means a written agreement or amendment to a written
- 2123 agreement between a county and one or more parties that regulates or controls the use
- 2124 or development of a specific area of land.
- 2125 (b) "Development agreement" does not include an improvement completion assurance.
- 2126 (21)(a) "Disability" means a physical or mental impairment that substantially limits one
- 2127 or more of a person's major life activities, including a person having a record of such
- 2128 an impairment or being regarded as having such an impairment.
- 2129 (b) "Disability" does not include current illegal use of, or addiction to, any federally
- 2130 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21
- 2131 U.S.C. Sec. 802.
- 2132 (22) "Document" means the same as that term is defined in Section 57-1-1.
- 2133 (23) "Educational facility":
- 2134 (a) means:
- 2135 (i) a school district's building at which pupils assemble to receive instruction in a

- 2136 program for any combination of grades from preschool through grade 12,
 2137 including kindergarten and a program for children with disabilities;
- 2138 (ii) a structure or facility:
- 2139 (A) located on the same property as a building described in Subsection (23)(a)(i);
 2140 and
- 2141 (B) used in support of the use of that building; and
- 2142 (iii) a building to provide office and related space to a school district's administrative
 2143 personnel; and
- 2144 (b) does not include:
- 2145 (i) land or a structure, including land or a structure for inventory storage, equipment
 2146 storage, food processing or preparing, vehicle storage or maintenance, or similar
 2147 use that is:
- 2148 (A) not located on the same property as a building described in Subsection
 2149 (23)(a)(i); and
- 2150 (B) used in support of the purposes of a building described in Subsection (23)(a)(i);
 2151 or
- 2152 (ii) a therapeutic school.
- 2153 (24) "Establishment document" means an instrument that:
- 2154 (a) meets the definition of "document" in Section 57-1-1; and
- 2155 (b) meets the requirements of Section 57-1-45.
- 2156 [~~(25) "Full boundary adjustment" means a boundary adjustment that is not a simple~~
 2157 ~~boundary adjustment.~~]
- 2158 [~~(26)~~ (25) "Fire authority" means the department, agency, or public entity with
 2159 responsibility to review and approve the feasibility of fire protection and suppression
 2160 services for the subject property.
- 2161 [~~(27)~~ (26) "Flood plain" means land that:
- 2162 (a) is within the 100-year flood plain designated by the Federal Emergency Management
 2163 Agency; or
- 2164 (b) has not been studied or designated by the Federal Emergency Management Agency
 2165 but presents a likelihood of experiencing chronic flooding or a catastrophic flood
 2166 event because the land has characteristics that are similar to those of a 100-year flood
 2167 plain designated by the Federal Emergency Management Agency.
- 2168 (27) "Full boundary adjustment" means a boundary adjustment that is not a simple
 2169 boundary adjustment.

- 2170 (28) "Gas corporation" has the same meaning as defined in Section 54-2-1.
- 2171 (29) "General plan" means a document that a county adopts that sets forth general
2172 guidelines for proposed future development of:
2173 (a) the unincorporated land within the county; or
2174 (b) for a mountainous planning district, the land within the mountainous planning
2175 district.
- 2176 (30) "Geologic hazard" means:
2177 (a) a surface fault rupture;
2178 (b) shallow groundwater;
2179 (c) liquefaction;
2180 (d) a landslide;
2181 (e) a debris flow;
2182 (f) unstable soil;
2183 (g) a rock fall; or
2184 (h) any other geologic condition that presents a risk:
2185 (i) to life;
2186 (ii) of substantial loss of real property; or
2187 (iii) of substantial damage to real property.
- 2188 (31) "Home-based microschool" means the same as that term is defined in Section
2189 53G-6-201.
- 2190 (32) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter,
2191 or appurtenance to connect to a county water, sewer, storm water, power, or other utility
2192 system.
- 2193 (33)(a) "Identical plans" means floor plans submitted to a county that:
2194 (i) are submitted within the same building code adoption cycle as floor plans that
2195 were previously approved by the county;
2196 (ii) have no structural differences from floor plans that were previously approved by
2197 the county; and
2198 (iii) describe a building that:
2199 (A) is located on land zoned the same as the land on which the building described
2200 in the previously approved plans is located;
2201 (B) has a substantially identical floor plan to a floor plan previously approved by
2202 the county; and
2203 (C) does not require any engineering or analysis beyond a review to confirm the

2204 submitted floor plans are substantially identical to a floor plan previously
2205 approved by the county or a review of the site plan and associated geotechnical
2206 reports for the site.

2207 (b) "Identical plans" include floor plans that are oriented differently as the floor plan that
2208 was previously approved by the county.

2209 (34) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact
2210 Fees Act.

2211 (35) "Improvement completion assurance" means a surety bond, letter of credit, financial
2212 institution bond, cash, assignment of rights, lien, or other equivalent security required by
2213 a county to guaranty the proper completion of landscaping or an infrastructure
2214 improvement required as a condition precedent to:

2215 (a) recording a subdivision plat; or

2216 (b) development of a commercial, industrial, mixed use, or multifamily project.

2217 (36) "Improvement warranty" means an applicant's unconditional warranty that the
2218 applicant's installed and accepted landscaping or infrastructure improvement:

2219 (a) complies with the county's written standards for design, materials, and workmanship;
2220 and

2221 (b) will not fail in any material respect, as a result of poor workmanship or materials,
2222 within the improvement warranty period.

2223 (37) "Improvement warranty period" means a period:

2224 (a) no later than one year after a county's acceptance of required public landscaping; or

2225 (b) no later than one year after a county's acceptance of required infrastructure, unless
2226 the county:

2227 (i) determines, based on accepted industry standards and for good cause, that a
2228 one-year period would be inadequate to protect the public health, safety, and
2229 welfare; and

2230 (ii) has substantial evidence, on record:

2231 (A) of prior poor performance by the applicant; or

2232 (B) that the area upon which the infrastructure will be constructed contains
2233 suspect soil and the county has not otherwise required the applicant to mitigate
2234 the suspect soil.

2235 (38) "Infrastructure improvement" means permanent infrastructure that is essential for the
2236 public health and safety or that:

2237 (a) is required for human consumption; and

- 2238 (b) an applicant shall install:
- 2239 (i) in accordance with published installation and inspection specifications for public
- 2240 improvements; and
- 2241 (ii) as a condition of:
- 2242 (A) recording a subdivision plat;
- 2243 (B) obtaining a building permit; or
- 2244 (C) developing a commercial, industrial, mixed use, condominium, or multifamily
- 2245 project.
- 2246 (39) "Internal lot restriction" means a platted note, platted demarcation, or platted
- 2247 designation that:
- 2248 (a) runs with the land; and
- 2249 (b)(i) creates a restriction that is enclosed within the perimeter of a lot described on
- 2250 the plat; or
- 2251 (ii) designates a development condition that is enclosed within the perimeter of a lot
- 2252 described on the plat.
- 2253 (40) "Interstate pipeline company" means a person or entity engaged in natural gas
- 2254 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
- 2255 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 2256 (41) "Intrastate pipeline company" means a person or entity engaged in natural gas
- 2257 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
- 2258 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 2259 (42) "Land use applicant" means a property owner, or the property owner's designee, who
- 2260 submits a land use application regarding the property owner's land.
- 2261 (43) "Land use application":
- 2262 (a) means an application that is:
- 2263 (i) required by a county; and
- 2264 (ii) submitted by a land use applicant to obtain a land use decision; and
- 2265 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 2266 (44) "Land use authority" means:
- 2267 (a) a person, board, commission, agency, or body, including the local legislative body,
- 2268 designated by the local legislative body to act upon a land use application; or
- 2269 (b) if the local legislative body has not designated a person, board, commission, agency,
- 2270 or body, the local legislative body.
- 2271 (45) "Land use decision" means an administrative decision of a land use authority or appeal

- 2272 authority regarding:
- 2273 (a) a land use permit;
- 2274 (b) a land use application; or
- 2275 (c) the enforcement of a land use regulation, land use permit, or development agreement.
- 2276 (46) "Land use permit" means a permit issued by a land use authority.
- 2277 (47) "Land use regulation":
- 2278 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
- 2279 engineering or development standard, specification for public improvement, fee, or
- 2280 rule that governs the use or development of land;
- 2281 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
- 2282 and
- 2283 (c) does not include:
- 2284 (i) a land use decision of the legislative body acting as the land use authority, even if
- 2285 the decision is expressed in a resolution or ordinance; or
- 2286 (ii) a temporary revision to an engineering specification that does not materially:
- 2287 (A) increase a land use applicant's cost of development compared to the existing
- 2288 specification; or
- 2289 (B) impact a land use applicant's use of land.
- 2290 (48) "Legislative body" means the county legislative body, or for a county that has adopted
- 2291 an alternative form of government, the body exercising legislative powers.
- 2292 (49) "Lot" means a tract of land, regardless of any label, that is created by and shown on a
- 2293 subdivision plat that has been recorded in the office of the county recorder.
- 2294 (50) "Major transit investment corridor" means public transit service that uses or occupies:
- 2295 (a) public transit rail right-of-way;
- 2296 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
- 2297 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
- 2298 municipality or county and:
- 2299 (i) a public transit district as defined in Section 17B-2a-802; or
- 2300 (ii) an eligible political subdivision as defined in Section 59-12-2202.
- 2301 (51) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.
- 2302 (52) "Moderate income housing" means housing occupied or reserved for occupancy by
- 2303 households with a gross household income equal to or less than 80% of the median gross
- 2304 income for households of the same size in the county in which the housing is located.
- 2305 (53) "Mountainous planning district" means an area designated by a county legislative body

- 2306 in accordance with Section 17-79-408.
- 2307 (54) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and
2308 expenses incurred in:
- 2309 (a) verifying that building plans are identical plans; and
2310 (b) reviewing and approving those minor aspects of identical plans that differ from the
2311 previously reviewed and approved building plans.
- 2312 (55) "Noncomplying structure" means a structure that:
- 2313 (a) legally existed before the structure's current land use designation; and
2314 (b) because of one or more subsequent land use ordinance changes, does not conform to
2315 the setback, height restrictions, or other regulations, excluding those regulations that
2316 govern the use of land.
- 2317 (56) "Nonconforming use" means a use of land that:
- 2318 (a) legally existed before the land's current land use designation;
2319 (b) has been maintained continuously since the time the land use ordinance regulation
2320 governing the land changed; and
2321 (c) because of one or more subsequent land use ordinance changes, does not conform to
2322 the regulations that now govern the use of the land.
- 2323 (57) "Official map" means a map drawn by county authorities and recorded in the county
2324 recorder's office that:
- 2325 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
2326 highways and other transportation facilities;
2327 (b) provides a basis for restricting development in designated rights-of-way or between
2328 designated setbacks to allow the government authorities time to purchase or
2329 otherwise reserve the land; and
2330 (c) has been adopted as an element of the county's general plan.
- 2331 (58) "Parcel" means any real property that is not a lot.
- 2332 (59) "Person" means an individual, corporation, partnership, organization, association, trust,
2333 governmental agency, or any other legal entity.
- 2334 (60) "Plan for moderate income housing" means a written document adopted by a county
2335 legislative body that includes:
- 2336 (a) an estimate of the existing supply of moderate income housing located within the
2337 county;
2338 (b) an estimate of the need for moderate income housing in the county for the next five
2339 years;

- 2340 (c) a survey of total residential land use;
- 2341 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
- 2342 income housing; and
- 2343 (e) a description of the county's program to encourage an adequate supply of moderate
- 2344 income housing.
- 2345 (61) "Planning advisory area" means a contiguous, geographically defined portion of the
- 2346 unincorporated area of a county established under this part with planning and zoning
- 2347 functions as exercised through the planning advisory area planning commission, as
- 2348 provided in this chapter, but with no legal or political identity separate from the county
- 2349 and no taxing authority.
- 2350 (62) "Plat" means an instrument subdividing property into lots as depicted on a map or
- 2351 other graphical representation of lands that a licensed professional land surveyor makes
- 2352 and prepares in accordance with Section 17-79-703 or 57-8-13.
- 2353 (63) "Potential geologic hazard area" means an area that:
- 2354 (a) is designated by a Utah Geological Survey map, county geologist map, or other
- 2355 relevant map or report as needing further study to determine the area's potential for
- 2356 geologic hazard; or
- 2357 (b) has not been studied by the Utah Geological Survey or a county geologist but
- 2358 presents the potential of geologic hazard because the area has characteristics similar
- 2359 to those of a designated geologic hazard area.
- 2360 (64) "Property owner" means a person that holds legal title in real property.
- 2361 [~~64~~] (65) "Public agency" means:
- 2362 (a) the federal government;
- 2363 (b) the state;
- 2364 (c) a county, municipality, school district, special district, special service district, or
- 2365 other political subdivision of the state; or
- 2366 (d) a charter school.
- 2367 [~~65~~] (66) "Public hearing" means a hearing at which members of the public are provided a
- 2368 reasonable opportunity to comment on the subject of the hearing.
- 2369 [~~66~~] (67) "Public meeting" means a meeting that is required to be open to the public under
- 2370 Title 52, Chapter 4, Open and Public Meetings Act.
- 2371 [~~67~~] (68) "Public street" means a public right-of-way, including a public highway, public
- 2372 avenue, public boulevard, public parkway, public road, public lane, public alley, public
- 2373 viaduct, public subway, public tunnel, public bridge, public byway, other public

- 2374 transportation easement, or other public way.
- 2375 [(68)] (69) "Receiving zone" means an unincorporated area that a county designates, by
2376 ordinance, as an area in which an owner of land may receive a transferable development
2377 right.
- 2378 [(69)] (70) "Record of survey map" means a map of a survey of land prepared in accordance
2379 with Section 17-73-504.
- 2380 [(70)] (71) "Residential facility for persons with a disability" means a residence:
2381 (a) in which more than one person with a disability resides; and
2382 (b) which is licensed or certified by the Department of Health and Human Services
2383 under:
2384 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or
2385 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 2386 [(71)] (72) "Residential roadway" means a public local residential road that:
2387 (a) will serve primarily to provide access to adjacent primarily residential areas and
2388 property;
2389 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;
2390 (c) is not identified as a supplementary to a collector or other higher system classified
2391 street in an approved municipal street or transportation master plan;
2392 (d) has a posted speed limit of 25 miles per hour or less;
2393 (e) does not have higher traffic volumes resulting from connecting previously separated
2394 areas of the municipal road network;
2395 (f) cannot have a primary access, but can have a secondary access, and does not abut lots
2396 intended for high volume traffic or community centers, including schools, recreation
2397 centers, sports complexes, or libraries; and
2398 (g) primarily serves traffic within a neighborhood or limited residential area and is not
2399 necessarily continuous through several residential areas.
- 2400 [(72)] (73) "Rules of order and procedure" means a set of rules that govern and prescribe in
2401 a public meeting:
2402 (a) parliamentary order and procedure;
2403 (b) ethical behavior; and
2404 (c) civil discourse.
- 2405 [(73)] (74) "Sanitary sewer authority" means the department, agency, or public entity with
2406 responsibility to review and approve the feasibility of sanitary sewer services or onsite
2407 wastewater systems.

- 2408 [~~74~~] (75) "Sending zone" means an unincorporated area that a county designates, by
2409 ordinance, as an area from which an owner of land may transfer a transferable
2410 development right.
- 2411 [~~75~~] (76) "Simple boundary adjustment" means a boundary adjustment that does not:
2412 (a) affect a public right-of-way, county utility easement, or other public property;
2413 (b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or
2414 (c) result in a lot or parcel out of conformity with land use regulations.
- 2415 [~~76~~] (77) "Site plan" means a document or map that may be required by a county during a
2416 preliminary review before the issuance of a building permit to demonstrate that an
2417 owner's or developer's proposed development activity meets a land use requirement.
- 2418 [~~77~~] (78)(a) "Special district" means an entity under Title 17B, Limited Purpose Local
2419 Government Entities - Special Districts.
- 2420 (b) "Special district" includes a governmental or quasi-governmental entity that is not a
2421 county, municipality, school district, or the state.
- 2422 (79) "Specific land use law" means a requirement or restriction on the use of a specific
2423 parcel in a development agreement that a legislative body approves with the consent of
2424 an affected property owner.
- 2425 [~~78~~] (80) "Specified public agency" means:
2426 (a) the state;
2427 (b) a school district; or
2428 (c) a charter school.
- 2429 [~~79~~] (81) "Specified public utility" means an electrical corporation, gas corporation, or
2430 telephone corporation, as those terms are defined in Section 54-2-1.
- 2431 [~~80~~] (82) "State" includes any department, division, or agency of the state.
- 2432 [~~81~~] (83)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to
2433 be divided into two or more lots or other division of land for the purpose, whether
2434 immediate or future, for offer, sale, lease, or development either on the installment
2435 plan or upon any and all other plans, terms, and conditions.
- 2436 (b) "Subdivision" includes:
2437 (i) the division or development of land, whether by deed, metes and bounds
2438 description, devise and testacy, map, plat, or other recorded instrument, regardless
2439 of whether the division includes all or a portion of a parcel or lot; and
2440 (ii) except as provided in Subsection [~~81~~](e)] (83)(c), divisions of land for residential
2441 and nonresidential uses, including land used or to be used for commercial,

- 2442 agricultural, and industrial purposes.
- 2443 (c) "Subdivision" does not include:
- 2444 (i) a bona fide division or partition of agricultural land for agricultural purposes;
- 2445 (ii) a recorded conveyance document:
- 2446 (A) consolidating multiple lots or parcels into one legal description encompassing
- 2447 all lots by reference to a recorded plat and all parcels by metes and bounds
- 2448 description; or
- 2449 (B) joining a lot to a parcel;
- 2450 (iii) a bona fide division or partition of land in a county other than a first class county
- 2451 for the purpose of siting, on one or more of the resulting separate parcels:
- 2452 (A) an electrical transmission line or a substation;
- 2453 (B) a natural gas pipeline or a regulation station; or
- 2454 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
- 2455 utility service regeneration, transformation, retransmission, or amplification
- 2456 facility;
- 2457 (iv) a bona fide division of land by deed or other instrument if the deed or other
- 2458 instrument states in writing that the division:
- 2459 (A) is in anticipation of future land use approvals on the parcel or parcels;
- 2460 (B) does not confer any land use approvals; and
- 2461 (C) has not been approved by the land use authority;
- 2462 (v) a boundary adjustment;
- 2463 (vi) a boundary establishment;
- 2464 (vii) a road, street, or highway dedication plat;
- 2465 (viii) a deed or easement for a road, street, or highway purpose; or
- 2466 (ix) any other division of land authorized by law.
- 2467 [~~(82)~~] (84)(a) "Subdivision amendment" means an amendment to a recorded subdivision
- 2468 in accordance with Section 17-79-711 that:
- 2469 (i) vacates all or a portion of the subdivision;
- 2470 (ii) increases the number of lots within the subdivision;
- 2471 (iii) alters a public right-of-way, a public easement, or public infrastructure within the
- 2472 subdivision; or
- 2473 (iv) alters a common area or other common amenity within the subdivision.
- 2474 (b) "Subdivision amendment" does not include a simple boundary adjustment.
- 2475 [~~(83)~~] (85) "Substantial evidence" means evidence that:

- 2476 (a) is beyond a scintilla; and
- 2477 (b) a reasonable mind would accept as adequate to support a conclusion.
- 2478 [~~(84)~~] (86) "Suspect soil" means soil that has:
- 2479 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 2480 3% swell potential;
- 2481 (b) bedrock units with high shrink or swell susceptibility; or
- 2482 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 2483 commonly associated with dissolution and collapse features.
- 2484 [~~(85)~~] (87) "Therapeutic school" means a residential group living facility:
- 2485 (a) for four or more individuals who are not related to:
- 2486 (i) the owner of the facility; or
- 2487 (ii) the primary service provider of the facility;
- 2488 (b) that serves students who have a history of failing to function:
- 2489 (i) at home;
- 2490 (ii) in a public school; or
- 2491 (iii) in a nonresidential private school; and
- 2492 (c) that offers:
- 2493 (i) room and board; and
- 2494 (ii) an academic education integrated with:
- 2495 (A) specialized structure and supervision; or
- 2496 (B) services or treatment related to a disability, an emotional development, a
- 2497 behavioral development, a familial development, or a social development.
- 2498 [~~(86)~~] (88) "Transferable development right" means a right to develop and use land that
- 2499 originates by an ordinance that authorizes a [~~land~~] property owner in a designated
- 2500 sending zone to transfer land use rights from a designated sending zone to a designated
- 2501 receiving zone.
- 2502 [~~(87)~~] (89) "Unincorporated" means the area outside of the incorporated area of a
- 2503 municipality.
- 2504 [~~(88)~~] (90) "Water interest" means any right to the beneficial use of water, including:
- 2505 (a) each of the rights listed in Section 73-1-11; and
- 2506 (b) an ownership interest in the right to the beneficial use of water represented by:
- 2507 (i) a contract; or
- 2508 (ii) a share in a water company, as defined in Section 73-3-3.5.
- 2509 [~~(89)~~] (91) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts

2510 land use zones, overlays, or districts.

2511 Section 26. Section **17-79-205** is amended to read:

2512 **17-79-205 . Notice of public hearings and public meetings on adoption or**
2513 **modification of land use regulation.**

2514 (1) Each county shall give:

2515 (a) notice of the date, time, and place of the first public hearing to consider the adoption
2516 or modification of a land use regulation; and

2517 (b) notice of each public meeting on the subject.

2518 (2) Each notice of a public hearing under Subsection (1)(a) shall be:

2519 (a) mailed to each affected entity at least 10 calendar days before the public hearing; and

2520 (b)(i) provided for the area affected by the land use ordinance changes, as a class B
2521 notice under Section 63G-30-102, for at least 10 calendar days before the day of
2522 the public hearing; or

2523 (ii) if the proposed land use ordinance adoption or modification is ministerial in
2524 nature, as described in Subsections (6)(a) and (b), provided as a class A notice
2525 under Section 63G-30-102 for at least 10 calendar days before the day of the
2526 public hearing.

2527 (3) In addition to the notice requirements described in Subsections (1) and (2), for any
2528 proposed modification to the text of a zoning code, the notice posted in accordance with
2529 Subsection (2) shall:

2530 (a) include:

2531 (i) a summary of the effect of the proposed modifications to the text of the zoning
2532 code designed to be understood by a lay person; or

2533 (ii) a direct link to the county's webpage where a person can find a summary of the
2534 effect of the proposed modifications to the text of the zoning code designed to be
2535 understood by a lay person; and

2536 (b) be provided to any person upon written request.

2537 (4) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before
2538 the hearing and shall be published for the county, as a class A notice under Section
2539 63G-30-102, for at least 24 hours.

2540 (5)(a) A county shall send a courtesy notice to each owner of private real property
2541 whose property is located entirely or partially within the proposed zoning map
2542 enactment or amendment at least 10 days before the scheduled day of the public
2543 hearing.

- 2544 (b) The notice shall:
- 2545 (i) identify with specificity each owner of record of real property that will be affected
- 2546 by the proposed zoning map or map amendments;
- 2547 (ii) state the current zone in which the real property is located;
- 2548 (iii) state the proposed new zone for the real property;
- 2549 (iv) provide information regarding or a reference to the proposed regulations,
- 2550 prohibitions, and permitted uses that the property will be subject to if the zoning
- 2551 map or map amendment is adopted;
- 2552 (v) state that the owner of real property may no later than 10 days after the day of the
- 2553 first public hearing file a written objection to the inclusion of the owner's property
- 2554 in the proposed zoning map or map amendment;
- 2555 (vi) state the address where the property owner should file the protest;
- 2556 (vii) notify the property owner that each written objection filed with the county will
- 2557 be provided to the county legislative body; and
- 2558 (viii) state the location, date, and time of the public hearing described in Section
- 2559 17-79-502.
- 2560 (c) If a county mails notice to a property owner under Subsection (2)(b)(i) for a public
- 2561 hearing on a zoning map or map amendment, the notice required in this Subsection
- 2562 (5) may be included in or part of the notice described in Subsection (2)(b)(i) rather
- 2563 than sent separately.
- 2564 (6)(a) [A] For purposes of the notice requirements in Subsection (2)(b) only, a proposed
- 2565 land use ordinance is ministerial in nature if the proposed land use ordinance change
- 2566 is to:
- 2567 (i) bring the county's land use ordinances into compliance with a state or federal law;
- 2568 (ii) adopt a county land use update that affects:
- 2569 (A) an entire zoning district; or
- 2570 (B) multiple zoning districts;
- 2571 (iii) adopt a non-substantive, clerical text amendment to an existing land use
- 2572 ordinance;
- 2573 (iv) recodify the county's existing land use ordinances; or
- 2574 (v) designate or define an affected area for purposes of a boundary adjustment or
- 2575 annexation.
- 2576 (b) A proposed land use ordinance may include more than one of the purposes described
- 2577 in Subsection (6)(a) and remain ministerial in nature.

- 2578 (c) If a proposed land use ordinance includes an adoption or modification not described
2579 in Subsection (6)(a):
2580 (i) the proposed land use ordinance is not ministerial in nature, even if the proposed
2581 land use ordinance also includes a change or modification described in Subsection
2582 (6)(a); and
2583 (ii) the notice requirements of Subsection (2)(b)(i) apply.

2584 Section 27. Section **17-79-301** is amended to read:

2585 **17-79-301 . Ordinance establishing planning commission required -- Exception --**
2586 **Ordinance requirements -- Planning advisory area planning commission --**
2587 **Compensation.**

- 2588 (1)(a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
2589 establishing a countywide planning commission for the unincorporated areas of the
2590 county not within a planning advisory area.
2591 (b) Subsection (1)(a) does not apply if all of the county is included within any
2592 combination of:
2593 (i) municipalities;
2594 (ii) planning advisory areas each with a separate planning commission; and
2595 (iii) mountainous planning districts.
2596 (c)(i) Notwithstanding Subsection (1)(a), a county that designates a mountainous
2597 planning district shall enact an ordinance, subject to Subsection (1)(c)(ii),
2598 establishing a planning commission that has jurisdiction over the entire
2599 mountainous planning district.
2600 (ii) A planning commission described in Subsection (1)(c)(i) has jurisdiction subject
2601 to a local health department exercising the local health department's authority in
2602 accordance with Title 26A, Chapter 1, Local Health Departments, and a
2603 municipality exercising the municipality's authority in accordance with Section
2604 10-8-15.
2605 (iii) The ordinance shall require that members of the planning commission be
2606 appointed by the county executive with the advice and consent of the county
2607 legislative body.
2608 (2)(a) Notwithstanding Subsection (1)(b), the county legislative body of a county of the
2609 first or second class that includes more than one planning advisory area each with a
2610 separate planning commission may enact an ordinance that:
2611 (i) dissolves each planning commission within the county; and

- 2612 (ii) establishes a countywide planning commission that has jurisdiction over:
- 2613 (A) each planning advisory area within the county; and
- 2614 (B) the unincorporated areas of the county not within a planning advisory area.
- 2615 (b) A countywide planning commission established under Subsection (2)(a) shall assume
- 2616 the duties of each dissolved planning commission.
- 2617 (3)(a) The ordinance described in Subsection (1)(a), (1)(c), or (2)(a) shall~~[-define]~~:
- 2618 (i) include the number and terms of the planning commission members and, if the
- 2619 county chooses, alternate members;
- 2620 (ii) ~~[the mode of appointment]~~ provide procedures for appointing a planning
- 2621 commission member;
- 2622 (iii) ~~[the]~~ provide procedures for filling vacancies on the planning commission;
- 2623 (iv) ~~[-and removal from office]~~ provide procedures for removing a planning
- 2624 commission member from the planning commission;
- 2625 (v) except as provided in Subsection (3)(a)(vi), describe the causes for which a
- 2626 planning commission member may be removed from the planning commission,
- 2627 which shall include:
- 2628 (A) using public funds for a political purpose under Title 20A, Chapter 11, Part
- 2629 12, Political Activities of Public Entities Act;
- 2630 (B) violating a provision of Title 10, Chapter 3, Part 13, Municipal Officers' and
- 2631 Employees' Ethics Act; and
- 2632 (C) acting with the intent to influence a land use decision or an appeal of a
- 2633 pending land use application in a manner that creates actual impermissible bias
- 2634 or an unacceptable risk of impermissible bias in the planning commission
- 2635 member's administrative or quasi-judicial duties;
- 2636 (vi) provide that a planning commission member deliberating about a specific
- 2637 pending land use application in a planning commission meeting with municipal
- 2638 staff, an elected official, or the land use applicant is not cause for removing a
- 2639 planning commission member from the planning commission;
- 2640 (vii) provide requirements for when a planning commission member shall recuse
- 2641 oneself from deliberating or voting on certain land use applications;
- 2642 ~~[(iv)]~~ (viii) define the authority of the planning commission;
- 2643 ~~[(v)]~~ (ix) subject to Subsection (3)(b), [the] include rules of order and procedure for
- 2644 use by the planning commission in a public meeting; and
- 2645 ~~[(vi)]~~ (x) include other details relating to the organization and procedures of the

- 2646 planning commission.
- 2647 (b) Subsection [~~(3)(a)(v)~~] (3)(a)(ix) does not affect the planning commission's duty to
- 2648 comply with Title 52, Chapter 4, Open and Public Meetings Act.
- 2649 (4)(a)(i) If the county establishes a planning advisory area planning commission, the
- 2650 county legislative body shall enact an ordinance that defines:
- 2651 (A) appointment procedures;
- 2652 (B) procedures for filling vacancies and removing members from office;
- 2653 (C) subject to Subsection (4)(a)(ii), the rules of order and procedure for use by the
- 2654 planning advisory area planning commission in a public meeting; and
- 2655 (D) details relating to the organization and procedures of each planning advisory
- 2656 area planning commission.
- 2657 (ii) Subsection (4)(a)(i)(C) does not affect the planning advisory area planning
- 2658 commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings
- 2659 Act.
- 2660 (b) The planning commission for each planning advisory area shall consist of seven
- 2661 members who shall be appointed by:
- 2662 (i) in a county operating under a form of government in which the executive and
- 2663 legislative functions of the governing body are separated, the county executive
- 2664 with the advice and consent of the county legislative body; or
- 2665 (ii) in a county operating under a form of government in which the executive and
- 2666 legislative functions of the governing body are not separated, the county
- 2667 legislative body.
- 2668 (c)(i) Members shall serve four-year terms and until their successors are appointed
- 2669 and qualified.
- 2670 (ii) Notwithstanding the provisions of Subsection (4)(c)(i), members of the first
- 2671 planning commissions shall be appointed so that, for each commission, the terms
- 2672 of at least one member and no more than two members expire each year.
- 2673 (d)(i) Each member of a planning advisory area planning commission shall be a
- 2674 registered voter residing within the planning advisory area.
- 2675 (ii) Subsection (4)(d)(i) does not apply to a member described in Subsection (5)(a) if
- 2676 that member was, before May 12, 2015, authorized to reside outside of the
- 2677 planning advisory area.
- 2678 (5)(a) A member of a planning commission who was elected to and served on a planning
- 2679 commission on May 12, 2015, shall serve out the term to which the member was

- 2680 elected.
- 2681 (b) Upon the expiration of an elected term described in Subsection (5)(a), the vacant seat
2682 shall be filled by appointment in accordance with this section.
- 2683 (6) Upon the appointment of all members of a planning advisory area planning commission,
2684 each planning advisory area planning commission under this section shall begin to
2685 exercise the powers and perform the duties provided in Section 17-79-302 with respect
2686 to all matters then pending that previously had been under the jurisdiction of the
2687 countywide planning commission or planning advisory area planning and zoning board.
- 2688 (7) The legislative body may authorize a member of a planning commission to receive per
2689 diem and travel expenses for meetings actually attended, in accordance with Section
2690 11-55-103.
- 2691 Section 28. Section **17-79-302** is amended to read:
- 2692 **17-79-302 . Planning commission powers and duties -- Training requirements.**
- 2693 (1) Each countywide, planning advisory area, or mountainous planning district planning
2694 commission shall, with respect to the unincorporated area of the county, the planning
2695 advisory area, or the mountainous planning district, review and make a recommendation
2696 to the county legislative body for:
- 2697 (a) a general plan and amendments to the general plan;
- 2698 (b) land use regulations, including:
- 2699 (i) ordinances regarding the subdivision of land within the county; and
2700 (ii) amendments to existing land use regulations;
- 2701 (c) an appropriate delegation of power to at least one designated land use authority to
2702 hear and act on a land use application;
- 2703 (d) an appropriate delegation of power to at least one appeal authority to hear and act on
2704 an appeal from a decision of the land use authority; and
- 2705 (e) application processes that:
- 2706 (i) may include a designation of routine land use matters that, upon application and
2707 proper notice, will receive informal streamlined review and action if the
2708 application is uncontested; and
- 2709 (ii) shall protect the right of each:
- 2710 (A) land use applicant and adversely affected party to require formal consideration
2711 of any application by a land use authority; and
- 2712 (B) land use applicant or adversely affected party to appeal a land use authority's
2713 decision to a separate appeal authority[; ~~and~~] .

- 2714 ~~[(C) participant to be heard in each public hearing on a contested application.]~~
- 2715 (2) Before making a recommendation to a legislative body on an item described in
- 2716 Subsection (1)(a) or (b), the planning commission shall hold a public hearing in
- 2717 accordance with Section 17-79-404.
- 2718 (3) A legislative body may adopt, modify, or reject a planning commission's
- 2719 recommendation to the legislative body under this section.
- 2720 ~~[(4) A legislative body may consider a planning commission's failure to make a timely~~
- 2721 ~~recommendation as a negative recommendation.]~~
- 2722 ~~[(5)]~~ (4) Nothing in this section limits the right of a county to initiate or propose the actions
- 2723 described in this section.
- 2724 ~~[(6)]~~ (5)(a)(i) This Subsection ~~[(6)]~~ (5) applies to a county that:
- 2725 (A) is a county of the first, second, or third class; and
- 2726 (B) has a population in the county's unincorporated areas of 5,000 or more.
- 2727 (ii) The population for each county described in Subsection ~~[(6)(a)(i)]~~ (5)(a)(i) shall
- 2728 be derived from:
- 2729 (A) an estimate of the Utah Population Committee created in Section 63C-20-103;
- 2730 or
- 2731 (B) if the Utah Population Committee estimate is not available, the most recent
- 2732 official census or census estimate of the United States ~~[Bureau of the]~~Census
- 2733 Bureau.
- 2734 (b) A county described in Subsection ~~[(6)(a)(i)]~~ (5)(a)(i) shall ensure that each member
- 2735 of the county's planning commission completes four hours of annual land use training
- 2736 as follows:
- 2737 (i) one hour of annual training on general powers and duties, including the role of the
- 2738 planning commission in administrative, legislative, and quasi-judicial functions
- 2739 under [Title 17, Chapter 27a, County Land Use, Development, and Management
- 2740 Act] this chapter; and
- 2741 (ii) three hours of annual training on a combination of land use and ethics, which may
- 2742 include:
- 2743 (A) appeals and variances;
- 2744 (B) conditional use permits;
- 2745 (C) exactions;
- 2746 (D) impact fees;
- 2747 (E) vested rights;

- 2748 (F) subdivision regulations and improvement guarantees;
 2749 (G) land use referenda;
 2750 (H) property rights;
 2751 (I) real estate procedures and financing;
 2752 (J) zoning, including use-based and form-based;[-and]
 2753 (K) drafting ordinances and code that complies with statute[-] ;
 2754 (L) ex parte communication; and
 2755 (M) conflict of interest.
- 2756 (c) A newly appointed planning commission member may not participate in a public
 2757 meeting as an appointed member until the member completes the training described
 2758 in Subsection [~~(6)(b)(i)~~] (5)(b)(i).
- 2759 (d) A planning commission member may qualify for one completed hour of training
 2760 required under Subsection [~~(6)(b)(ii)~~] (5)(b)(ii) if the member attends, as an appointed
 2761 member, 12 public meetings of the planning commission within a calendar year.
- 2762 (e) A county shall provide the training described in Subsection [~~(6)(b)~~] (5)(b) through:
 2763 (i) county staff;
 2764 (ii) the Utah Association of Counties; or
 2765 (iii) a list of training courses selected by:
 2766 (A) the Utah Association of Counties; or
 2767 (B) the Division of Real Estate created in Section 61-2-201.
- 2768 (f) A county shall, for each planning commission member:
 2769 (i) monitor compliance with the training requirements in Subsection [~~(6)(b)~~] (5)(b);
 2770 and
 2771 (ii) maintain a record of training completion at the end of each calendar year.
- 2772 Section 29. Section **17-79-501** is amended to read:
 2773 **17-79-501 . Enactment of land use regulation.**
- 2774 (1) Only a legislative body, as the body authorized to weigh policy considerations, may
 2775 enact a land use regulation.
- 2776 (2)(a) Except as provided in Subsection (2)(b), a legislative body may enact a land use
 2777 regulation only by ordinance.
- 2778 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that
 2779 imposes a fee.
- 2780 (3) A land use regulation shall be consistent with the purposes [~~set forth in~~] of this chapter.
- 2781 (4)(a) A legislative body shall adopt a land use regulation to:

- 2782 (i) create or amend a zoning district under Subsection 17-79-503(1)(a); and
 2783 (ii) designate general uses allowed in each zoning district.
 2784 (b) A land use authority may establish or modify other restrictions or requirements other
 2785 than those described in Subsection (4)(a), including the configuration or modification
 2786 of uses or density, through a land use decision that applies criteria or policy elements
 2787 that a land use regulation establishes or describes.

2788 (5)(a) A county shall publish on the county's website:

- 2789 (i) all of the county's land use regulations; and
 2790 (ii) a fee schedule that lists all of the county's fees related to a land use application,
 2791 land use permit, or land use regulation, including development review fees and
 2792 impact fees.

2793 (b) A county may comply with Subsection (5)(a) by:

- 2794 (i) posting a link on the county's website to a separate webpage or third-party website
 2795 where the land use regulations or fee schedule described in Subsection (5)(a) are
 2796 posted; and
 2797 (ii) submitting a new or modified land use regulation or fee schedule described in
 2798 Subsection (5)(a) to the third-party website within six months after the day on
 2799 which the legislative body adopts the new or modified land use regulation or fee
 2800 schedule.

2801 ~~[(5)]~~ (6) A county may not adopt a land use regulation[;] or development agreement, or
 2802 make a land use decision that restricts the type of crop that may be grown in an area that
 2803 is:

- 2804 (a) zoned agricultural; or
 2805 (b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

2806 ~~[(6)]~~ (7) A county land use regulation pertaining to an airport or an airport influence area, as
 2807 that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4,
 2808 Airport Zoning Act.

2809 Section 30. Section **17-79-502** is amended to read:

2810 **17-79-502 . Preparation and adoption of land use regulation.**

2811 (1) A planning commission shall:

- 2812 (a) provide notice as required by Subsection 17-79-205(1)(a) and, if applicable,
 2813 Subsection 17-79-205(4);
 2814 (b) hold a public hearing on a proposed land use regulation;
 2815 (c) if applicable, consider each written objection filed in accordance with Subsection

2816 17-79-205(4) before the public hearing; and
 2817 (d)(i) review and recommend to the legislative body a proposed land use regulation
 2818 that represents the planning commission's recommendation for regulating the use
 2819 and development of land within:
 2820 (A) all or any part of the unincorporated area of the county; or
 2821 (B) for a mountainous planning district, all or any part of the area in the
 2822 mountainous planning district; and
 2823 (ii) forward to the legislative body all objections filed in accordance with Subsection
 2824 17-79-205(4).

2825 (2)(a) The legislative body shall consider each proposed land use regulation that the
 2826 planning commission recommends to the legislative body.

2827 (b) After providing notice as required by Subsection 17-79-205(1)(b) and holding a
 2828 public meeting, the legislative body may adopt or reject the proposed land use
 2829 regulation described in Subsection (2)(a):

2830 (i) as proposed by the planning commission; or

2831 (ii) after making any revision the legislative body considers appropriate.

2832 (c) ~~[A legislative body may consider a planning commission's failure to make a timely~~
 2833 ~~recommendation as a negative recommendation if the legislative body has provided~~
 2834 ~~for that consideration by ordinance]~~ Beginning on September 15, 2026, and subject to
 2835 the timelines described in Subsection 10-20-905(2) or a timeline a legislative body
 2836 requires that does not conflict with Subsection 10-20-905(2), if a planning
 2837 commission fails to make a timely recommendation on a proposed land use
 2838 regulation, the legislative body shall adopt or reject the proposed land use regulation
 2839 in accordance with Subsection (2)(b) without a recommendation from the planning
 2840 commission.

2841 Section 31. Section **17-79-507** is amended to read:

2842 **17-79-507 . Classification of new and unlisted business uses.**

2843 (1) As used in this section:

2844 (a) "Classification request" means a request to determine whether a proposed business
 2845 use aligns with an existing land use specified in a county's land use ordinances.

2846 (b) "New or unlisted business use" means a business activity that does not align with an
 2847 existing land use specified in a county's land use ordinances.

2848 (2)(a) Each county shall incorporate into the county's land use ordinances a process for
 2849 reviewing and approving a new or unlisted business use and designating an

- 2850 appropriate zone or zones for an approved use.
- 2851 (b) The process described in Subsection (2)(a) shall:
- 2852 (i) detail how an applicant may submit a classification request;
- 2853 (ii) establish a procedure for the county to review a classification request, including:
- 2854 (A) providing a land use authority with criteria to determine whether a proposed
- 2855 use aligns with an existing use; ~~and~~
- 2856 (B) allowing an applicant to proceed under the regulations of an existing use if a
- 2857 land use authority determines a proposed use aligns with that existing use; and
- 2858 (C) providing the applicant an opportunity to appeal a land use authority's decision
- 2859 to the land use appeal authority;
- 2860 (iii) provide that if a use is determined to be a new or unlisted business use:
- 2861 (A) the applicant shall submit to the legislative body for review an application [~~for~~
- 2862 ~~approval of the new or unlisted business use to the legislative body for review~~]
- 2863 requesting that the legislative body adopt a land use ordinance that permits the
- 2864 new or unlisted business as a permitted or conditional use;
- 2865 (B) notwithstanding Subsection 17-79-503(2) or (3), the legislative body shall
- 2866 consider and [~~determine whether to~~] approve or deny [~~the new or unlisted~~
- 2867 ~~business use~~] the application described in Subsection (2)(b)(iii)(A); and
- 2868 (C) the legislative body shall approve or deny [~~the new or unlisted business use~~]
- 2869 the application described in Subsection (2)(b)(iii)(A), within a time frame the
- 2870 legislative body establishes by ordinance, if the applicant responds to requests
- 2871 for additional information within a time frame established by the county and
- 2872 appears at required hearings;
- 2873 (iv) provide that if the legislative body approves [~~a proposed new or unlisted business~~
- 2874 ~~use~~] the application described in Subsection (2)(b)(iii)(A), the legislative body
- 2875 shall designate an appropriate zone or zones for the approved use; and
- 2876 (v) provide that if the legislative body denies [~~a proposed new or unlisted business use~~]
- 2877 the application described in Subsection (2)(b)(iii)(A), or if an applicant disagrees
- 2878 with a land use authority's classification of the proposed use, the legislative body
- 2879 shall:
- 2880 (A) notify the applicant in writing of each reason for the classification or denial;
- 2881 and
- 2882 (B) [~~offer the applicant an opportunity to challenge the classification or denial~~
- 2883 ~~through an administrative appeal process established by the county~~] notify the

2884 applicant of the process for appealing the legislative body's decision in
2885 accordance with Section 17-79-1009.

2886 (c) A county may not require an applicant who submits an application described in
2887 Subsection (2)(b)(iii)(A) to submit the application to the planning commission for
2888 consideration, review, or approval.

2889 (3) Each county shall amend each land use ordinance that contains a list of approved or
2890 prohibited business uses to include a reference to the process for petitioning to approve a
2891 new or unlisted business use, as described in Subsection (2).

2892 Section 32. Section **17-79-706** is amended to read:

2893 **17-79-706 . Review of subdivision applications and subdivision improvement**
2894 **plans.**

2895 (1) As used in this section:

2896 (a) "Review cycle" means the occurrence of:

2897 (i) the applicant's submittal of a complete subdivision application;

2898 (ii) the county's review of that subdivision application;

2899 (iii) the county's response to that subdivision application, in accordance with this
2900 section; and

2901 (iv) the applicant's reply to the county's response that addresses each of the county's
2902 required modifications or requests for additional information.

2903 (b) "Subdivision application" means a land use application for the subdivision of land
2904 located within the unincorporated area of a county.

2905 (c) "Subdivision improvement plans" means the civil engineering plans associated with
2906 required infrastructure improvements and county-controlled utilities required for a
2907 subdivision.

2908 (d) "Subdivision ordinance review" means review by a county to verify that a
2909 subdivision application meets the criteria of the county's ordinances.

2910 (e) "Subdivision plan review" means a review of the applicant's subdivision
2911 improvement plans and other aspects of the subdivision application to verify that the
2912 application complies with county ordinances and applicable installation standards and
2913 inspection specifications for infrastructure improvements.

2914 (2) The review cycle restrictions and requirements of this section do not apply to the review
2915 of subdivision applications affecting property within identified geological hazard areas.

2916 (3)(a) A county may require a subdivision improvement plan to be submitted with a
2917 subdivision application.

2918 (b) A county may not require a subdivision improvement plan to be submitted with both
2919 a preliminary subdivision application and a final subdivision application.

2920 (4)(a) The review cycle requirements of this section apply:

2921 (i) to the review of a preliminary subdivision application, if the county requires a
2922 subdivision improvement plan to be submitted with a preliminary subdivision
2923 application; or

2924 (ii) to the review of a final subdivision application, if the county requires a
2925 subdivision improvement plan to be submitted with a final subdivision application.

2926 (b) A county may not, outside the review cycle, engage in a substantive review of
2927 required infrastructure improvements or a county controlled utility.

2928 (5)(a) A county shall complete the initial review of a complete subdivision application
2929 submitted for ordinance review for a residential subdivision for single-family
2930 dwellings, two-family dwellings, or town homes:

2931 (i) no later than 15 business days after the complete subdivision application is
2932 submitted, if the county has a population over 5,000; or

2933 (ii) no later than 30 business days after the complete subdivision application is
2934 submitted, if the county has a population of 5,000 or less.

2935 (b) A county shall maintain and publish a list of the items comprising the complete
2936 subdivision application, including:

2937 (i) the application;

2938 (ii) the owner's affidavit;

2939 (iii) an electronic copy of all plans in PDF format;

2940 (iv) the preliminary subdivision plat drawings; and

2941 (v) a breakdown of fees due upon approval of the application.

2942 (6) A county shall publish a list of the items that comprise a complete subdivision land use
2943 application.

2944 (7) A county shall complete a subdivision plan review of a subdivision improvement plan
2945 that is submitted with a complete subdivision application for a residential subdivision for
2946 single-family dwellings, two-family dwellings, or town homes:

2947 (a) within 20 business days after the complete subdivision application is submitted, if the
2948 county has a population over 5,000; or

2949 (b) within 40 business days after the complete subdivision application is submitted, if
2950 the county has a population of 5,000 or less.

2951 (8)(a) In reviewing a subdivision application, a county may require:

- 2952 (i) additional information relating to an applicant's plans to ensure compliance with
2953 county ordinances and approved standards and specifications for construction of
2954 public improvements; and
- 2955 (ii) modifications to plans that do not meet current ordinances, applicable standards,
2956 or specifications or do not contain complete information.
- 2957 (b) A county's request for additional information or modifications to plans under
2958 Subsection (8)(a)(i) or (ii) shall be specific and include citations to ordinances,
2959 standards, or specifications that require the modifications to subdivision
2960 improvement plans, and shall be logged in an index of requested modifications or
2961 additions.
- 2962 (c) A county may not require more than four review cycles for a subdivision
2963 improvement plan review.
- 2964 (d)(i) Subject to Subsection (8)(d)(ii), unless the change or correction is necessitated
2965 by the applicant's adjustment to a subdivision improvement plan or an update to a
2966 phasing plan that adjusts the infrastructure needed for the specific development, a
2967 change or correction not addressed or referenced in a county's subdivision
2968 improvement plan review is waived.
- 2969 (ii) A modification or correction necessary to protect public health and safety or to
2970 enforce state or federal law may not be waived.
- 2971 (iii) If an applicant makes a material change to a subdivision improvement plan, the
2972 county has the discretion to restart the review process at the first review of the
2973 subdivision improvement plan review, but only with respect to the portion of the
2974 subdivision improvement plan that the material change substantively affects.
- 2975 (e)(i) This Subsection (8) applies if an applicant does not submit a revised
2976 subdivision improvement plan within:
- 2977 (A) 20 business days after the county requires a modification or correction, if the
2978 county has a population over 5,000; or
- 2979 (B) 40 business days after the county requires a modification or correction, if the
2980 county has a population of 5,000 or less.
- 2981 (ii) If an applicant does not submit a revised subdivision improvement plan within the
2982 time specified in Subsection (8)(e)(i), a county has an additional 20 business days
2983 after the time specified in Subsection (7) to respond to a revised subdivision
2984 improvement plan.
- 2985 (9) After the applicant has responded to the final review cycle, and the applicant has

2986 complied with each modification requested in the county's previous review cycle, the
 2987 county may not require additional revisions if the applicant has not materially changed
 2988 the plan, other than changes that were in response to requested modifications or
 2989 corrections.

2990 (10)(a) In addition to revised plans, an applicant shall provide a written explanation in
 2991 response to the county's review comments, identifying and explaining the applicant's
 2992 revisions and reasons for declining to make revisions, if any.

2993 (b) The applicant's written explanation shall be comprehensive and specific, including
 2994 citations to applicable standards and ordinances for the design and an index of
 2995 requested revisions or additions for each required correction.

2996 (c) If an applicant fails to address a review comment in the response, the review cycle is
 2997 not complete and the subsequent review cycle may not begin until all comments are
 2998 addressed.

2999 (11)~~(a)~~ If, on the fourth or final review, a county fails to respond within 20 business
 3000 days, the county shall, upon request of the property owner, and within 10 business
 3001 days after the day on which the request is received:

3002 ~~(i)~~ (a) for a dispute arising from the subdivision improvement plans, assemble an
 3003 appeal panel in accordance with Subsection ~~[17-79-812(5)(d)]~~ 17-79-812(4)(d) to
 3004 review and approve or deny the final revised set of plans; or

3005 ~~(ii)~~ (b) for a dispute arising from the subdivision ordinance review, advise the
 3006 applicant, in writing, of the deficiency in the application and of the right to appeal the
 3007 determination to a designated appeal authority.

3008 Section 33. Section **17-79-707** is amended to read:

3009 **17-79-707 . Subdivision plat recording or development activity before required**
 3010 **infrastructure is completed -- Improvement completion assurance -- Improvement**
 3011 **warranty.**

3012 (1) As used in this section:

3013 (a) "Private landscaping plan" means a proposal:

3014 (i) to install landscaping on a lot owned by a private individual or entity; and
 3015 (ii) submitted to a county by the private individual or entity, or on behalf of a private
 3016 individual or entity, that owns the lot.

3017 (b) "Public landscaping improvement" means landscaping that an applicant is required to
 3018 install to comply with published installation and inspection specifications for public
 3019 improvements that:

- 3020 (i) will be dedicated to and maintained by the county; or
3021 (ii) are associated with and proximate to trail improvements that connect to planned
3022 or existing public infrastructure.
- 3023 (2) A land use authority shall establish objective inspection standards for acceptance of a
3024 required public landscaping improvement or infrastructure improvement.
- 3025 (3)(a) Except as provided in Subsection (3)(d) or (3)(e), before an applicant conducts
3026 any development activity or records a plat, the applicant shall:
- 3027 (i) complete any required public landscaping improvements or infrastructure
3028 improvements; or
3029 (ii) post an improvement completion assurance for any required public landscaping
3030 improvements or infrastructure improvements.
- 3031 (b) If an applicant elects to post an improvement completion assurance, the applicant
3032 shall, in accordance with Subsection (5), provide completion assurance for:
- 3033 (i) completion of 100% of the required public landscaping improvements or
3034 infrastructure improvements; or
3035 (ii) if the county has inspected and accepted a portion of the public landscaping
3036 improvements or infrastructure improvements, 100% of the incomplete or
3037 unaccepted public landscaping improvements or infrastructure improvements.
- 3038 (c) A county shall:
- 3039 (i) establish a minimum of two acceptable forms of completion assurance;
3040 (ii)(A) if an applicant elects to post an improvement completion assurance, allow
3041 the applicant to post an assurance that meets the conditions of this chapter and
3042 any local ordinances; and
3043 (B) beginning on May 7, 2025, if a county accepts cash deposits as a form of
3044 completion assurance and an applicant elects to post a new cash deposit as a
3045 form of completion assurance, place the cash deposit in an interest-bearing
3046 account upon receipt and return any earned interest to the applicant with the
3047 return of the completion assurance according to the conditions of this chapter
3048 and any local ordinances;
- 3049 (iii) establish a system for the partial release of an improvement completion
3050 assurance as portions of required public landscaping improvements or
3051 infrastructure improvements are completed and accepted in accordance with local
3052 ordinance; and
3053 (iv) issue or deny a building permit in accordance with Section 17-79-901 based on

3054 the installation of public landscaping improvements or infrastructure
3055 improvements.

3056 (d) A county may not require an applicant to post an improvement completion assurance
3057 for:

3058 (i) public landscaping improvements or infrastructure improvements that the county
3059 has previously inspected and accepted;

3060 (ii) infrastructure improvements that are private and not essential or required to meet
3061 the building code, fire code, flood or storm water management provisions, street
3062 and access requirements, or other essential necessary public safety improvements
3063 adopted in a land use regulation;

3064 (iii) in a county where ordinances require all infrastructure improvements within the
3065 area to be private, infrastructure improvements within a development that the
3066 county requires to be private;

3067 (iv) landscaping improvements that are not public landscaping improvements, unless
3068 the landscaping improvements and completion assurance are required under the
3069 terms of a development agreement;

3070 (v) a private landscaping plan;

3071 (vi) landscaping improvements or infrastructure improvements that an applicant
3072 elects to install at the applicant's own risk:

3073 (A) before the plat is recorded;

3074 (B) pursuant to inspections required by the county for the infrastructure
3075 improvement; and

3076 (C) pursuant to final civil engineering plan approval by the county; or

3077 (vii) any individual public landscaping improvement or individual infrastructure
3078 improvement when the individual public landscaping improvement or individual
3079 infrastructure improvement is also included as part of a separate improvement
3080 completion assurance.

3081 (e)(i) A county may not:

3082 (A) prohibit an applicant from installing a public landscaping improvement or an
3083 infrastructure improvement when the [municipality] county has approved final
3084 civil engineering plans for the development activity or plat for which the public
3085 landscaping improvement or infrastructure improvement is required; or

3086 (B) require an applicant to sign an agreement, release, or other document
3087 inconsistent with this chapter as a condition of posting an improvement

3088 completion assurance, security for an improvement warranty, or receiving a
3089 building permit.

3090 (ii) Notwithstanding Subsection (3)(e)(i)(A), public infrastructure improvements and
3091 infrastructure improvements that are installed by an applicant are subject to
3092 inspection by the county in accordance with the county's adopted inspection
3093 standards.

3094 (f)(i) Each improvement completion assurance and improvement warranty posted by
3095 an applicant with a county shall be independent of any other improvement
3096 completion assurance or improvement warranty posted by the same applicant with
3097 the county.

3098 (ii) Subject to Section 17-79-805, if an applicant has posted a form of security with a
3099 county for more than one infrastructure improvement or public landscaping
3100 improvement, the county may not withhold acceptance of an applicant's required
3101 subdivision improvements, public landscaping improvement, infrastructure
3102 improvements, or the performance of warranty work for the same applicant's
3103 failure to complete a separate subdivision improvement, public landscaping
3104 improvement, infrastructure improvement, or warranty work under a separate
3105 improvement completion assurance or improvement warranty.

3106 (4)(a) Except as provided in Subsection (4)(c), as a condition for increased density or
3107 other entitlement benefit not currently available under the existing zone, a county
3108 may require a completion assurance bond for landscaped amenities and common area
3109 that are dedicated to and maintained by a homeowners association.

3110 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)
3111 between the applicant and the county shall be memorialized in a development
3112 agreement.

3113 (c) A county may not require a completion assurance bond for or dictate who installs or
3114 is responsible for the cost of the landscaping of residential lots or the equivalent open
3115 space surrounding single-family attached homes, whether platted as lots or common
3116 area.

3117 (5) The sum of the improvement completion assurance required under Subsections (3) and
3118 (4) may not exceed the sum of:

3119 (a) 100% of the estimated cost of the public landscaping improvements or infrastructure
3120 improvements, as evidenced by an engineer's estimate or licensed contractor's bid;
3121 and

- 3122 (b) 10% of the amount of the bond to cover administrative costs incurred by the county
 3123 to complete the improvements, if necessary.
- 3124 (6)(a) Upon an applicant's written request that the land use authority accept or reject the
 3125 applicant's installation of required subdivision improvements or performance of
 3126 warranty work as set forth in Section 17-79-805, and for the duration of each
 3127 improvement warranty period, the land use authority may require the applicant to:
- 3128 (i) execute an improvement warranty for the improvement warranty period; and
 3129 (ii) post a cash deposit, surety bond, letter of credit, or other similar security, as
 3130 required by the county, in the amount of up to 10% of the lesser of the:
- 3131 (A) county engineer's original estimated cost of completion; or
 3132 (B) applicant's reasonable proven cost of completion.
- 3133 (b) A county may not require the payment of the deposit of the improvement warranty
 3134 assurance described in Subsection (6)(a) for an infrastructure improvement or public
 3135 landscaping improvement before the applicant indicates through written request that
 3136 the applicant has completed the infrastructure improvement or public landscaping
 3137 improvement.
- 3138 (7) When a county accepts an improvement completion assurance for public landscaping
 3139 improvements or infrastructure improvements for a development in accordance with
 3140 Subsection (3)(c)(ii)(A), the county may not deny an applicant a building permit if the
 3141 development meets the requirements for the issuance of a building permit under the
 3142 building code and fire code.
- 3143 (8) A county may not require the submission of a private landscaping plan as part of an
 3144 application for a building permit.
- 3145 (9) The provisions of this section do not supersede the terms of a valid development
 3146 agreement, an adopted phasing plan, or the ~~[state construction code]~~ State Construction
 3147 Code.

3148 Section 34. Section **17-79-803** is amended to read:

3149 **17-79-803 . Applicant's entitlement to land use application approval --**
 3150 **Application relating to land in a high priority transportation corridor -- County's**
 3151 **requirements and limitations -- Vesting upon submission of development plan and**
 3152 **schedule.**

- 3153 (1)(a)(i) Subject to Subsection ~~[(7)]~~ (8), an applicant who has submitted a complete
 3154 land use application, including the payment of all application fees, is entitled to
 3155 substantive review of the application under the land use regulations:

- 3156 (A) in effect on the date that the application is complete; and
3157 (B) applicable to the application or to the information shown on the submitted
3158 application.
- 3159 (ii) An applicant is entitled to approval of a land use application if the application
3160 conforms to the requirements of the applicable land use regulations, land use
3161 decisions, and development standards in effect when the applicant submits a
3162 complete application and pays all application fees, unless:
- 3163 (A) the land use authority, on the record, formally finds that a compelling,
3164 countervailing public interest would be jeopardized by approving the
3165 application and specifies the compelling, countervailing public interest in
3166 writing; or
- 3167 (B) in the manner provided by local ordinance and before the applicant submits
3168 the application, the county formally initiates proceedings to amend the county's
3169 land use regulations in a manner that would prohibit approval of the
3170 application as submitted.
- 3171 (b) The county shall process an application without regard to proceedings the county
3172 initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:
- 3173 (i) 180 days have passed since the county initiated the proceedings; and
3174 (ii)(A) the proceedings have not resulted in an enactment that prohibits approval
3175 of the application as submitted; or
- 3176 (B) during the 12 months before the county processing the application or multiple
3177 applications of the same type, the application is impaired or prohibited under
3178 the terms of a temporary land use regulation adopted under Section 17-79-504.
- 3179 (c) A land use application is considered submitted and complete when the applicant
3180 provides the application in a form that complies with the requirements of applicable
3181 ordinances and pays all applicable fees.
- 3182 (d) Unless a phasing sequence is required in an executed development agreement, a
3183 county shall, without regard to any other separate and distinct land use application,
3184 accept and process a complete land use application in accordance with this chapter.
- 3185 (e) The continuing validity of an approval of a land use application is conditioned upon
3186 the applicant proceeding after approval to implement the approval with reasonable
3187 diligence.
- 3188 (f) Subject to Subsection [~~(7)~~] (8), a county may not impose on an applicant who has
3189 submitted a complete application a requirement that is not expressed in:

- 3190 (i) this chapter;
- 3191 (ii) a county ordinance in effect on the date that the applicant submits a complete
3192 application, subject to Subsection (1)(a)(ii); or
- 3193 (iii) a county specification for public improvements applicable to a subdivision or
3194 development that is in effect on the date that the applicant submits an application.
- 3195 (g) A county may not impose on a holder of an issued land use permit or a final,
3196 unexpired subdivision plat a requirement that is not expressed:
- 3197 (i) in a land use permit;
- 3198 (ii) on the subdivision plat;
- 3199 (iii) in a document on which the land use permit or subdivision plat is based;
- 3200 (iv) in the written record evidencing approval of the land use permit or subdivision
3201 plat;
- 3202 (v) in this chapter;
- 3203 (vi) in a county ordinance; or
- 3204 (vii) in a county specification for residential roadways in effect at the time a
3205 residential subdivision was approved.
- 3206 (h) Except as provided in Subsection (1)(i) or (j), a county may not withhold issuance of
3207 a certificate of occupancy or acceptance of subdivision improvements because of an
3208 applicant's failure to comply with a requirement that is not expressed:
- 3209 (i) in the building permit or subdivision plat, documents on which the building permit
3210 or subdivision plat is based, or the written record evidencing approval of the
3211 building permit or subdivision plat; or
- 3212 (ii) in this chapter or the county's ordinances.
- 3213 (i) A county may not unreasonably withhold issuance of a certificate of occupancy
3214 where an applicant has met all requirements essential for the public health, public
3215 safety, and general welfare of the occupants, in accordance with this chapter, unless:
- 3216 (i) the applicant and the county have agreed in a written document to the withholding
3217 of a certificate of occupancy; or
- 3218 (ii) the applicant has not provided a financial assurance for required and uncompleted
3219 public landscaping improvements or infrastructure improvements in accordance
3220 with an applicable local ordinance.
- 3221 (j) A county may not conduct a final inspection required before issuing a certificate of
3222 occupancy for a residential unit that is within the boundary of an infrastructure
3223 financing district, as defined in Section 17B-1-102, until the applicant for the

3224 certificate of occupancy provides adequate proof to the county that any lien on the
 3225 unit arising from the infrastructure financing district's assessment against the unit
 3226 under Title 11, Chapter 42, Assessment Area Act, has been released after payment in
 3227 full of the infrastructure financing district's assessment against that unit.

3228 (k) A county:

3229 (i) may require the submission of a private landscaping plan, as defined in Section
 3230 17-79-707, before landscaping is installed; and

3231 (ii) may not withhold an applicant's building permit or certificate of occupancy
 3232 because the applicant has not submitted a private landscaping plan.

3233 (2) A county is bound by the terms and standards of applicable land use regulations and
 3234 shall comply with mandatory provisions of those regulations.

3235 (3) Beginning on October 1, 2026, a county shall publish on the county's website an
 3236 application checklist for each land use application type that includes a checklist of all
 3237 required plans and documents that make a complete application.

3238 [~~(3)~~] (4) A county may not, as a condition of land use application approval, require a person
 3239 filing a land use application to obtain documentation regarding a school district's
 3240 willingness, capacity, or ability to serve the development proposed in the land use
 3241 application.

3242 [~~(4)~~] (5) Subject to Subsection [~~(7)~~] (8), a specified public agency's submission of a
 3243 development plan and schedule as required in Subsection 17-79-305(8) that complies
 3244 with the requirements of that subsection, the specified public agency vests in the
 3245 county's applicable land use maps, zoning map, hookup fees, impact fees, other
 3246 applicable development fees, and land use regulations in effect on the date of submission.

3247 [~~(5)~~] (6)(a) If sponsors of a referendum timely challenge a project in accordance with
 3248 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land
 3249 use approval by delivering a written notice:

3250 (i) to the local clerk as defined in Section 20A-7-101; and

3251 (ii) no later than seven days after the day on which a petition for a referendum is
 3252 determined sufficient under Subsection 20A-7-607(4).

3253 (b) Upon delivery of a written notice described in Subsection [~~(5)(a)~~] (6)(a) the following
 3254 are rescinded and are of no further force or effect:

3255 (i) the relevant land use approval; and

3256 (ii) any land use regulation enacted specifically in relation to the land use approval.

3257 [~~(6)~~] (7)(a) After issuance of a building permit, a county may not:

3258 (i) change or add to the requirements expressed in the building permit, unless the
3259 change or addition is:

3260 (A) requested by the building permit holder; or

3261 (B) necessary to comply with an applicable state building code; or

3262 (ii) revoke the building permit or take action that has the effect of revoking the
3263 building permit.

3264 (b) Subsection ~~[(6)(a)]~~ (7)(a) does not prevent a county from issuing a building permit
3265 that contains an expiration date defined in the building permit.

3266 ~~[(7)]~~ (8) A county shall comply with the provisions of this chapter regarding all pending
3267 land use applications and new land use applications submitted under this chapter.

3268 Section 35. Section **17-79-811** is amended to read:

3269 **17-79-811 . Provisions applicable to a provider of culinary or secondary water.**

3270 A provider of culinary or secondary water that commits to provide a water service
3270a required

3271 by a land use application process is subject to the following provisions the same as if the
3272 provider were a county:

3273 (1) Subsections 17-79-804(5) and (6);

3274 (2) Section 17-79-805;~~and~~

3275 (3) Section 17-79-812; and

3276 (4) Section 17-79-813.

3277 Section 36. Section **17-79-812** is amended to read:

3278 **17-79-812 . Exactions -- Requirement to offer to original owner property**

3279 **acquired by exaction -- Exaction for right-of-way improvements -- Improvement**
3280 **completion assurance requirements.**

3281 (1) A county may impose an exaction or exactions on development proposed in a land use
3282 application, including, subject to ~~[Subsection (3)]~~ Section 17-79-813, an exaction for a
3283 water interest, if:

3284 (a) an essential link exists between a legitimate governmental interest and each exaction;
3285 and

3286 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the
3287 proposed development.

3288 (2) If a land use authority imposes an exaction for another governmental entity:

3289 (a) the governmental entity shall request the exaction; and

3290 (b) the land use authority shall transfer the exaction to the governmental entity for which

3291 it was exacted.

3292 ~~[(3)(a)(i) Subject to the requirements of this Subsection (3), a county or, if~~
3293 ~~applicable, the county's culinary water authority shall base any exaction for a~~
3294 ~~water interest on the culinary water authority's established calculations of~~
3295 ~~projected water interest requirements.]~~

3296 ~~[(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall~~
3297 ~~base an exaction for a culinary water interest on:]~~

3298 ~~[(A) consideration of the system-wide minimum sizing standards established for~~
3299 ~~the culinary water authority by the Division of Drinking Water in accordance~~
3300 ~~with Section 19-4-114; and]~~

3301 ~~[(B) the number of equivalent residential connections associated with the culinary~~
3302 ~~water demand for each specific development proposed in the development's~~
3303 ~~land use application, applying lower exactions for developments with lower~~
3304 ~~equivalent residential connections as demonstrated by at least five years of~~
3305 ~~usage data for like land uses within the county.]~~

3306 ~~[(iii) A county or culinary water authority may impose an exaction for a culinary~~
3307 ~~water interest that results in less water being exacted than would otherwise be~~
3308 ~~exacted under Subsection (3)(a)(ii) if the county or culinary water authority, at the~~
3309 ~~county's or culinary water authority's sole discretion, determines there is good~~
3310 ~~cause to do so.]~~

3311 ~~[(iv) A county shall make public the methodology used to comply with Subsection~~
3312 ~~(3)(a)(ii)(B). A land use applicant may appeal to the county's governing body an~~
3313 ~~exaction calculation used by the county or the county's culinary water authority~~
3314 ~~under Subsection (3)(a)(ii). A land use applicant may present data and other~~
3315 ~~information that illustrates a need for an exaction recalculation and the county's~~
3316 ~~governing body shall respond with due process.]~~

3317 ~~[(v) Upon an applicant's request, the culinary water authority shall provide the~~
3318 ~~applicant with the basis for the culinary water authority's calculations under~~
3319 ~~Subsection (3)(a)(i) on which an exaction for a water interest is based.]~~

3320 ~~[(b) A county or the county's culinary water authority may not impose an exaction for a~~
3321 ~~water interest if the culinary water authority's existing available water interests~~
3322 ~~exceed the water interests needed to meet the reasonable future water requirement of~~
3323 ~~the public, as determined under Subsection 73-1-4(2)(f).]~~

3324 ~~[(4)] (3)(a) If a county plans to dispose of surplus real property under Section 17-78-103~~

- 3325 that was acquired under this section and has been owned by the county for less than
3326 15 years, the county shall first offer to reconvey the property, without receiving
3327 additional consideration, to the person who granted the property to the county.
- 3328 (b) A person to whom a county offers to reconvey property under Subsection [~~(4)~~(a)]
3329 (3)(a) has 90 days to accept or reject the county's offer.
- 3330 (c) If a person to whom a county offers to reconvey property declines the offer, the
3331 county may offer the property for sale.
- 3332 (d) Subsection [~~(4)~~(a)] (3)(a) does not apply to the disposal of property acquired by
3333 exaction by a community development or urban renewal agency.
- 3334 [~~(5)~~] (4)(a) A county may not, as part of an infrastructure improvement, require the
3335 installation of pavement on a residential roadway at a width in excess of 32 feet.
- 3336 (b) Subsection [~~(5)~~(a)] (4)(a) does not apply if a county requires the installation of
3337 pavement in excess of 32 feet:
- 3338 (i) in a vehicle turnaround area;
- 3339 (ii) in a cul-de-sac;
- 3340 (iii) to address specific traffic flow constraints at an intersection, mid-block
3341 crossings, or other areas;
- 3342 (iv) to address an applicable general or master plan improvement, including
3343 transportation, bicycle lanes, trails, or other similar improvements that are not
3344 included within an impact fee area;
- 3345 (v) to address traffic flow constraints for service to or abutting higher density
3346 developments or uses that generate higher traffic volumes, including community
3347 centers, schools, and other similar uses;
- 3348 (vi) as needed for the installation or location of a utility which is maintained by the
3349 county and is considered a transmission line or requires additional roadway width;
- 3350 (vii) for third-party utility lines that have an easement preventing the installation of
3351 utilities maintained by the county within the roadway;
- 3352 (viii) for utilities over 12 feet in depth;
- 3353 (ix) for roadways with a design speed that exceeds 25 miles per hour;
- 3354 (x) as needed for flood and stormwater routing;
- 3355 (xi) as needed to meet fire code requirements for parking and hydrants; or
3356 (xii) as needed to accommodate street parking.
- 3357 (c) Nothing in this section shall be construed to prevent a county from approving a road
3358 cross section with a pavement width less than 32 feet.

- 3359 (d)(i) A land use applicant may appeal a municipal requirement for pavement in
 3360 excess of 32 feet on a residential roadway.
- 3361 (ii) A land use applicant that has appealed a municipal specification for a residential
 3362 roadway pavement width in excess of 32 feet may request that the county
 3363 assemble a panel of qualified experts to serve as the appeal authority for purposes
 3364 of determining the technical aspects of the appeal.
- 3365 (iii) Unless otherwise agreed by the applicant and the county, the panel described in
 3366 Subsection [~~(5)(d)(ii)~~] (4)(d)(ii) shall consist of the following three experts:
 3367 (A) one licensed engineer, designated by the county;
 3368 (B) one licensed engineer, designated by the land use applicant; and
 3369 (C) one licensed engineer, agreed upon and designated by the two designated
 3370 engineers under Subsections [~~(5)(d)(iii)(A)~~] (4)(d)(iii)(A) and (B).
- 3371 (iv) A member of the panel assembled by the county under Subsection [~~(5)(d)(ii)~~]
 3372 (4)(d)(ii) may not have an interest in the application that is the subject of the
 3373 appeal.
- 3374 (v) The land use applicant shall pay:
 3375 (A) 50% of the cost of the panel; and
 3376 (B) the county's published appeal fee.
- 3377 (vi) The decision of the panel is a final decision, subject to a petition for review under
 3378 Subsection [~~(5)(d)(vii)~~] (4)(d)(vii).
- 3379 (vii) In accordance with Section 17-79-1009, a land use applicant or the county may
 3380 file a petition for review of the decision with the district court within 30 days after
 3381 the date that the decision is final.

3382 Section 37. Section **17-79-813** is enacted to read:

3383 **17-79-813 . Exactions for water rights.**

- 3384 (1) Subject to the requirements of this section, a county or, if applicable, the county's
 3385 culinary water authority shall base any exaction for a water interest on the culinary water
 3386 authority's established calculations of projected water interest requirements.
- 3387 (2) Except as described in Subsection (3), a culinary water authority shall base an exaction
 3388 for a culinary water interest on:
- 3389 (a) consideration of the system-wide minimum sizing standards established for the
 3390 culinary water authority by the Division of Drinking Water in accordance with
 3391 Section 19-4-114; and
- 3392 (b) the number of equivalent residential connections associated with the culinary water

3393 demand for each specific development proposed in the development's land use
 3394 application, applying lower exactions for developments with lower equivalent
 3395 residential connections as demonstrated by at least five years of usage data for like
 3396 land uses within the county.

3397 (3) If a county or culinary water authority determines, in the sole discretion of the county or
 3398 culinary water authority, that good cause exists, the county or culinary water authority
 3399 may impose an exaction for a culinary water interest that results in less water being
 3400 exacted than would otherwise be exacted under Subsection (2).

3401 (4)(a) A county shall make public the methodology used to comply with Subsection
 3402 (2)(b).

3403 (b) A land use applicant may submit a request to the county's governing body an
 3404 exaction calculation used by the county or the county's culinary water authority under
 3405 Subsection (2).

3406 (c) A land use applicant may present data and other information that illustrates a need
 3407 for an exaction recalculation and the county's governing body shall respond with due
 3408 process.

3409 (5) Upon an applicant's request, the culinary water authority shall provide the applicant
 3410 with the basis for the culinary water authority's calculations under Subsection (2) on
 3411 which an exaction for a water interest is based.

3412 (6) A county or the county's culinary water authority may not impose an exaction for a
 3413 water interest if the culinary water authority's existing available water interests exceed
 3414 the water interests needed to meet the reasonable future water requirement of the public,
 3415 as determined under Subsection 73-1-4(2)(f).

3416 Section 38. Section **17-79-901** is amended to read:

3417 **17-79-901 . Enforcement -- Limitations on a county's ability to enforce an**
 3418 **ordinance by withholding a permit or certificate.**

3419 (1)(a) A county or [~~an adversely affected party~~] a land use applicant may, in addition to
 3420 other remedies provided by law, institute:

3421 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
 3422 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

3423 (b) A county need only establish the violation to obtain the injunction.

3424 (2)(a) Except as provided in Subsections (3) through (6), a county may enforce the
 3425 county's ordinance by withholding a building permit or certificate of occupancy.

3426 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building

- 3427 or other structure within a county without approval of a building permit.
- 3428 (c) The county may not issue a building permit unless the plans of and for the proposed
3429 erection, construction, reconstruction, alteration, or use fully conform to all
3430 regulations then in effect.
- 3431 (d) A county may require an applicant to install a permanent road, cover a temporary
3432 road with asphalt or concrete, or create another method for servicing a structure that
3433 is consistent with Appendix D of the International Fire Code, before receiving a
3434 certificate of occupancy for that structure.
- 3435 (e) A county may require an applicant to maintain and repair a temporary fire apparatus
3436 road during the construction of a structure accessed by the temporary fire apparatus
3437 road in accordance with the county's adopted standards.
- 3438 (f) A county may require temporary signs to be installed at each street intersection once
3439 construction of new roadway allows passage by a motor vehicle.
- 3440 (g) A county may adopt and enforce any appendix of the International Fire Code, 2021
3441 Edition.
- 3442 (3)(a) A county may not deny an applicant a building permit or certificate of occupancy
3443 because the applicant has not completed an infrastructure improvement:
- 3444 (i) unless the infrastructure improvement is essential to meet the requirements for the
3445 issuance of a building permit or certificate of occupancy under Title 15A, State
3446 Construction and Fire Codes Act; and
- 3447 (ii) for which the county has accepted an improvement completion assurance for a
3448 public landscaping improvement, as defined in Section 17-79-707, or an
3449 infrastructure improvement for the development.
- 3450 (b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6,
3451 infrastructure improvement that is essential means:
- 3452 (i) for a building permit:
- 3453 (A) operable fire hydrants installed in a manner that is consistent with the county's
3454 adopted engineering standards; and
- 3455 [(H)] (B) for temporary roads used during construction, a properly compacted road
3456 base installed in a manner consistent with the county's adopted engineering
3457 standards[-] ;
- 3458 (ii) for a certificate of occupancy, at the discretion of the county, at least one of the
3459 following:
- 3460 (A) a permanent road;

- 3461 (B) a temporary road covered with asphalt or concrete; or
3462 (C) another method for accessing a structure consistent with Appendix D of the
3463 International Fire Code; and
3464 (iii) public infrastructure necessary for the health, life, and safety of the occupant.
3465 (c) A county may not adopt an engineering standard that requires an applicant to install a
3466 permanent road or a temporary road with asphalt or concrete before receiving a
3467 building permit.
- 3468 (4) A county may not deny an applicant a building permit or certificate of occupancy for
3469 failure to:
3470 (a) submit a private landscaping plan, as defined in Section 17-79-707; or
3471 (b) complete a landscaping improvement that is not a public landscaping improvement,
3472 as defined in Section 17-79-707.
- 3473 (5) A county may not withhold a building permit based on the lack of completion of a
3474 portion of a public sidewalk to be constructed within a public right-of-way serving a lot
3475 where a single-family or two-family residence or town home is proposed in a building
3476 permit application if an improvement completion assurance has been posted for the
3477 incomplete portion of the public sidewalk.
- 3478 (6) A county may not prohibit the construction of a single-family or two-family residence
3479 or town home, withhold recording a plat, or withhold acceptance of a public landscaping
3480 improvement, as defined in Section 17-79-707, or an infrastructure improvement based
3481 on the lack of installation of a public sidewalk if an improvement completion assurance
3482 has been posted for the public sidewalk.
- 3483 (7) A county may not redeem an improvement completion assurance securing the
3484 installation of a public sidewalk sooner than 18 months after the date the improvement
3485 completion assurance is posted.
- 3486 (8) A county shall allow an applicant to post an improvement completion assurance for a
3487 public sidewalk separate from an improvement completion assurance for:
3488 (a) another infrastructure improvement; or
3489 (b) a public landscaping improvement, as defined in Section 17-79-707.
- 3490 (9) A county may withhold a certificate of occupancy for a single-family or two-family
3491 residence or town home until the portion of the public sidewalk to be constructed within
3492 a public right-of-way and located immediately adjacent to the single-family or
3493 two-family residence or town home is completed and accepted by the county.

3494 Section 39. Section **17-79-1001** is amended to read:

- 3495 **17-79-1001 . Appeal authority required -- Condition precedent to judicial review**
 3496 **-- Appeal authority duties.**
- 3497 (1)(a) ~~[Each]~~ Subject to Subsection (1)(d), each county adopting a land use ordinance
 3498 shall, by ordinance, establish one or more appeal authorities.
- 3499 (b) An appeal authority shall hear and decide:
- 3500 (i) requests for ~~[variances]~~ a variance from ~~[the terms of]~~ a land use ~~[ordinances]~~
 3501 ordinance;
- 3502 (ii) appeals from a land use ~~[decisions]~~ decision applying a land use ~~[ordinances]~~
 3503 ordinance; and
- 3504 (iii) appeals from a fee charged in accordance with Section 17-79-802.
- 3505 (c) An appeal authority may not hear an appeal from the enactment of a land use
 3506 regulation.
- 3507 (d) Beginning on July 1, 2026, a county described in Subsection 17-79-302(6)(a)(i) may
 3508 not designate the county's legislative body as an appeal authority.
- 3509 (e) Notwithstanding Subsection (1)(d), a legislative body shall continue to be the appeal
 3510 authority for an appeal if:
- 3511 (i) a land use ordinance designated the legislative body as the appeal authority when
 3512 the appellant filed the appeal: and
- 3513 (ii) the appellant filed the appeal on or before June 30, 2026.
- 3514 (2) As a condition precedent to judicial review, each adversely affected party or land use
 3515 applicant shall timely and specifically challenge a land use authority's land use decision,
 3516 in accordance with local ordinance.
- 3517 (3) An appeal authority described in Subsection (1)(a):
- 3518 (a) shall:
- 3519 (i) act in a quasi-judicial manner; and
- 3520 (ii) serve as the final arbiter of issues involving the interpretation or application of a
 3521 land use ~~[ordinances]~~ ordinance; and
- 3522 (b) may not entertain an appeal of a matter in which the appeal authority, or any
 3523 participating member, had first acted as the land use authority.
- 3524 (4) By ordinance, a county may:
- 3525 (a) designate a separate appeal authority to hear requests for variances than the appeal
 3526 authority the county designates to hear appeals;
- 3527 (b) designate one or more separate appeal authorities to hear distinct types of appeals of
 3528 land use authority decisions;

3529 (c) require an adversely affected party to present to an appeal authority every theory of
 3530 relief that the adversely affected party can raise in district court; and
 3531 ~~[(d) not require a land use applicant or adversely affected party to pursue duplicate or~~
 3532 ~~successive appeals before the same or separate appeal authorities as a condition of an~~
 3533 ~~appealing party's duty to exhaust administrative remedies; and]~~
 3534 [(e)] (d) provide that specified types of land use decisions may be appealed directly to the
 3535 district court.

3536 (5) A county may not:

3537 (a) require a public hearing for a request for a variance or land use appeal[-] ; or
 3538 (b) require a land use applicant or adversely affected party to pursue successive appeals
 3539 before the same or separate appeal authorities as a condition of an appealing party's
 3540 duty to exhaust administrative remedies.

3541 (6) If the county establishes or, before May 2, 2005, has established a multiperson board,
 3542 body, or panel to act as an appeal authority, at a minimum the board, body, or panel
 3543 shall:

3544 (a) notify each of the members of the board, body, or panel of any meeting or hearing of
 3545 the board, body, or panel;
 3546 (b) provide each of the members of the board, body, or panel with the same information
 3547 and access to municipal resources as any other member;
 3548 (c) convene only if a quorum of the members of the board, body, or panel is present; and
 3549 (d) act only upon the vote of a majority of the convened members of the board, body, or
 3550 panel.

3551 Section 40. Section **17-79-1005** is repealed and reenacted to read:

3552 **17-79-1005 . Burden of proof.**

3553 In an appeal described in this part:

3554 (1) if the appellant is a land use applicant, the appellant has the burden of proving that the
 3555 land use authority's land use decision:

3556 (a) is arbitrary, capricious, or illegal; or
 3557 (b) is not supported by a preponderance of the evidence; or

3558 (2) if the appellant is an adversely affected party, the appellant has the burden of proving
 3559 that the land use authority's land use decision:

3560 (a) is arbitrary, capricious, or illegal; or
 3561 (b) is not supported by substantial evidence.

3562 Section 41. Section **17-79-1006** is amended to read:

3563 **17-79-1006 . Due process.**

3564 (1) ~~[Each]~~ An appeal authority shall conduct each appeal and variance request as described
 3565 by local ordinance.

3566 (2) ~~[Each]~~ An appeal authority shall respect the due process rights of ~~[each of the~~
 3567 participants] an appeal participant.

3568 (3) An appeal authority may only allow the following people to participate, present, or
 3569 speak during an appeal or variance hearing:

3570 (a) the appellant or the appellant's representatives;

3571 (b) the land use applicant or the land use applicant's representatives; and

3572 (c) the county's representatives.

3573 Section 42. Section **17-79-1007** is amended to read:

3574 **17-79-1007 . Scope of review of factual matters on appeal -- Appeal authority**
 3575 **requirements.**

3576 (1) A county may, by ordinance, designate the scope of review of factual matters for
 3577 appeals of land use authority decisions.

3578 (2) If the county fails to designate a scope of review of factual matters, the appeal authority
 3579 shall review the ~~[matter]~~ factual matters de novo, without deference to the land use
 3580 authority's determination of the factual matters.

3581 (3) If the scope of review of factual matters is on the record, the appeal authority shall
 3582 determine whether the record on appeal includes substantial evidence for each essential
 3583 finding of fact.

3584 (4) The appeal authority shall:

3585 (a) determine the correctness of the land use authority's interpretation and application of
 3586 the plain meaning of the land use regulations; and

3587 (b) interpret and apply a land use regulation to favor a land use application unless the
 3588 land use regulation plainly restricts the land use application.

3589 (5)(a) An appeal authority's land use decision is a quasi-judicial act.

3590 (b) ~~[A]~~ Except as provided in Subsection (5)(c), a legislative body may not act as an
 3591 appeal authority unless both the legislative body and the appealing party agree to
 3592 allow a third party to act as the appeal authority.

3593 (c) Beginning on July 1, 2026, the legislative body of a county described in Subsection
 3594 17-79-302(6)(a)(i) may not act as an appeal authority unless:

3595 (i) a land use ordinance designated the legislative body as the appeal authority when
 3596 the appellant filed the appeal; and

3597 (ii) the appellant filed the appeal on or before June 30, 2026.

3598 (6) Only a decision in which a land use authority has applied a land use regulation to a
3599 particular land use application, person, or parcel may be appealed to an appeal authority.

3600 Section 43. Section **17-79-1009** is amended to read:

3601 **17-79-1009 . No district court review until administrative remedies exhausted --**

3602 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**

3603 **-- Staying of decision.**

3604 (1) ~~[Nø]~~ A person may challenge in district court a land use decision ~~[until that]~~ if the person
3605 has exhausted the person's administrative remedies as provided in [Part 7, Appeal
3606 Authority and Variances] this part, if applicable.

3607 (2)(a) Subject to Subsection (1), a land use applicant or adversely affected party may file
3608 a petition for review of a land use decision with the district court within 30 days after
3609 the decision is final.

3610 (b)(i) The time under Subsection (2)(a) to file a petition is tolled from the date a
3611 property owner files a request for arbitration of a constitutional taking issue with
3612 the property rights ombudsman under Section 13-43-204 until 30 days after:

3613 (A) the arbitrator issues a final award; or

3614 (B) the property rights ombudsman issues a written statement under Subsection
3615 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

3616 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
3617 taking issue that is the subject of the request for arbitration filed with the property
3618 rights ombudsman by a property owner.

3619 (iii) A request for arbitration filed with the property rights ombudsman after the time
3620 under Subsection (2)(a) to file a petition has expired does not affect the time to
3621 file a petition.

3622 (3)(a) A court shall:

3623 (i) presume that a land use regulation properly enacted under the authority of this
3624 chapter is valid; and

3625 (ii) determine only whether:

3626 (A) the land use regulation is expressly preempted by, or was enacted contrary to,
3627 state or federal law; and

3628 (B) it is reasonably debatable that the land use regulation is consistent with this
3629 chapter.

3630 (b) A court shall presume that a final land use decision of a land use authority or an

- 3631 appeal authority is valid unless the land use decision is:
- 3632 (i) arbitrary and capricious; or
- 3633 (ii) illegal.
- 3634 (c)(i) A land use decision is arbitrary and capricious if the land use decision is not
- 3635 supported by substantial evidence in the record.
- 3636 (ii) A land use decision is illegal if the land use decision:
- 3637 (A) is based on an incorrect interpretation of a land use regulation;
- 3638 (B) conflicts with the authority granted by this title; or
- 3639 (C) is contrary to law.
- 3640 (d)(i) A court may affirm or reverse a land use decision.
- 3641 (ii) If the court reverses a land use decision, the court shall remand the matter to the
- 3642 land use authority with instructions to issue a land use decision consistent with the
- 3643 court's decision.
- 3644 (4) The provisions of Subsection (2)(a) apply from the date on which the county takes final
- 3645 action on a land use application, if the county conformed with the notice provisions of
- 3646 Part 2, Notice, or for any person who had actual notice of the pending land use decision.
- 3647 (5) If the county has complied with Section 17-79-205, a challenge to the enactment of a
- 3648 land use regulation[-øŕ] , general plan, or specified land use law may not be filed with the
- 3649 district court more than 30 days after the enactment.
- 3650 (6) A challenge to a land use decision is barred unless the challenge is filed within 30 days
- 3651 after the land use decision is final.
- 3652 (7)(a) The land use authority or appeal authority, as the case may be, shall transmit to
- 3653 the reviewing court the record of the proceedings of the land use authority or appeal
- 3654 authority, including the minutes, findings, orders and, if available, a true and correct
- 3655 transcript of the proceedings.
- 3656 (b) If the proceeding was recorded, a transcript of that recording is a true and correct
- 3657 transcript for purposes of this Subsection (7).
- 3658 (8)(a)(i) If there is a record, the district court's review is limited to the record
- 3659 provided by the land use authority or appeal authority, as the case may be.
- 3660 (ii) The court may not accept or consider any evidence outside the record of the land
- 3661 use authority or appeal authority, as the case may be, unless that evidence was
- 3662 offered to the land use authority or appeal authority, respectively, and the court
- 3663 determines that the evidence was improperly excluded.
- 3664 (b) If there is no record, the court may call witnesses and take evidence.

- 3665 (9)(a) The filing of a petition does not stay the land use decision of the land use
3666 authority or appeal authority, as the case may be.
- 3667 (b)(i) Before filing a petition under this section or a request for mediation or
3668 arbitration of a constitutional taking issue under Section 13-43-204, a land use
3669 applicant may petition the appeal authority to stay the appeal authority's decision.
- 3670 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal
3671 authority's decision stayed pending district court review if the appeal authority
3672 finds the order to be in the best interest of the county.
- 3673 (iii) After a petition is filed under this section or a request for mediation or arbitration
3674 of a constitutional taking issue is filed under Section 13-43-204, the petitioner
3675 may seek an injunction staying the appeal authority's land use decision.
- 3676 (10) If the court determines that a party initiated or pursued a challenge to a land use
3677 decision on a land use application in bad faith, the court may award attorney fees.
- 3678 Section 44. **Effective Date.**
- 3679 This bill takes effect on May 6, 2026.