

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.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

41 **10-2a-106**, as last amended by Laws of Utah 2023, Chapter 224 and further amended by
42 Revisor Instructions, Laws of Utah 2023, Chapter 224

43 **10-2a-206**, as last amended by Laws of Utah 2024, Chapter 518

44 **10-2a-220**, as last amended by Laws of Utah 2024, Chapter 518

45 **10-3-702**, as last amended by Laws of Utah 2025, Chapter 354

46 **10-20-102**, as renumbered and amended by Laws of Utah 2025, First Special Session,
47 Chapter 15

48 **10-20-301**, as renumbered and amended by Laws of Utah 2025, First Special Session,
49 Chapter 15

50 **10-20-302**, as renumbered and amended by Laws of Utah 2025, First Special Session,
51 Chapter 15

52 **10-20-501**, as renumbered and amended by Laws of Utah 2025, First Special Session,
53 Chapter 15

54 **10-20-502**, as renumbered and amended by Laws of Utah 2025, First Special Session,
55 Chapter 15

56 **10-20-507**, as renumbered and amended by Laws of Utah 2025, First Special Session,
57 Chapter 15

58 **10-20-806**, as renumbered and amended by Laws of Utah 2025, First Special Session,
59 Chapter 15

60 **10-20-807**, as renumbered and amended by Laws of Utah 2025, First Special Session,
61 Chapter 15

62 **10-20-902**, as renumbered and amended by Laws of Utah 2025, First Special Session,

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

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

113 ENACTS:

114 **10-20-625**, Utah Code Annotated 1953
 115 **10-20-912**, Utah Code Annotated 1953
 116 **10-21-304**, Utah Code Annotated 1953
 117 **17-79-813**, Utah Code Annotated 1953

118 REPEALS AND REENACTS:

119 **10-20-1105**, as renumbered and amended by Laws of Utah 2025, First Special Session,
 120 Chapter 15
 121 **17-79-1005**, as renumbered and amended by Laws of Utah 2025, First Special Session,
 122 Chapter 14

123

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

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

126 **10-2a-106 . Feasibility request filed before changes to law take effect.**

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

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

- 165 (ii) Notwithstanding Subsection [~~(1)(e)(i)~~] (2)(c)(i), a signature on a feasibility request
166 filed under Section 10-2a-202 may be used toward fulfilling the signature
167 requirement of Subsection 10-2a-202(1)(a) for the feasibility request as modified
168 under Subsection [~~(1)(a)~~] (2)(a), unless the modified feasibility request proposes
169 the incorporation of an area that is more than 20% larger or smaller than the area
170 described by the original feasibility request in terms of:
- 171 (A) private land area; or
 - 172 (B) assessed fair market value of private real property, as of January 1 of the
173 current year.
- 174 (d) Within 20 days after the day on which the county clerk receives the modified
175 request, the county clerk and the lieutenant governor shall follow the same procedure
176 described in Subsections 10-2a-204(1) through (6) for the modified feasibility request
177 as for an original feasibility request.
- 178 (e)(i) If a sponsor files a modified feasibility request that includes an area of land that
179 was not included in the original feasibility request, the county clerk shall, within
180 seven days after the day on which the sponsor files the modified feasibility request
181 with the lieutenant governor, identify any new specified landowners located
182 within the added area of land and mail written notice to each of the new specified
183 landowners.
- 184 (ii) The notice described in Subsection (2)(e)(i) shall:
- 185 (A) describe the added area of land; and
 - 186 (B) state that a specified landowner who owns land within the added area may
187 request exclusion of the land from the proposed incorporation boundaries by
188 filing a request for exclusion with the county clerk within 30 days after the day
189 on which the county clerk mails the notice.
- 190 (f)(i) A specified landowner who owns land within the added area described in
191 Subsection (2)(e)(i) may request exclusion of the land from the proposed
192 incorporation boundaries by filing a request for exclusion with the county clerk
193 within 30 days after the day on which the county clerk mails the notice described
194 in Subsection (2)(e)(i).
- 195 (ii) The county clerk shall process a request for exclusion filed under Subsection (
196 2)(f)(i) in accordance with Subsections 10-2a-204.5(3) through (7), except that the
197 deadlines calculated from the first public hearing in Section 10-2a-204.5 shall
198 instead be calculated from the day on which the county clerk mails notice

199 described in Subsection (2)(e)(i).

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

201 landowner to request exclusion under Subsection (2)(f) expires, or if a sponsor files a

202 modified feasibility request that does not include a new area of land, within 10 days

203 after the sponsor files the modified feasibility request[~~-is filed~~], the lieutenant

204 governor shall:

205 (i) estimate the cost of a supplemental feasibility study under this section; and

206 (ii) provide the estimated cost to the feasibility request sponsors.

207 [~~(f)~~] (h) Within 20 days after the lieutenant governor provides the estimated

208 supplemental feasibility study cost, the feasibility request sponsors shall pay the

209 estimated cost to the lieutenant governor for a supplemental feasibility study

210 conducted on or after May 1, 2024.

211 [~~(2)~~] (3) The timely filing of a modified feasibility request under Subsection [~~(1)~~] (2) gives

212 the modified feasibility request the same processing priority under Subsection

213 10-2a-204(7) as the original feasibility request if the feasibility request sponsors pay the

214 estimated cost of the supplemental feasibility study as required in Subsection [~~(1)~~](e)

215 (2)(e).

216 [~~(3)~~] (4) [~~Within~~] Except as provided in Subsection (5), within 10 days after the day on

217 which the lieutenant governor receives payment of the estimated supplemental

218 feasibility study cost, the lieutenant governor shall commission the feasibility consultant

219 who conducted the feasibility study to conduct a supplemental feasibility study that

220 accounts for the modified feasibility request.

221 (5) If a modified feasibility request includes an area of land that was not included in the

222 original feasibility request, the lieutenant governor may not commission a supplemental

223 feasibility study under Subsection (4) unless:

224 (a) the deadline for filing a request for exclusion described in Subsection (2)(f) has

225 passed; and

226 (b) the county clerk and lieutenant governor have issued a final determination on any

227 request for exclusion filed in accordance with Subsection (2)(f).

228 [~~(4)~~] (6) The lieutenant governor shall require the feasibility consultant to:

229 (a) submit a draft of the supplemental feasibility study to each applicable person with

230 whom the feasibility consultant is required to consult under Subsection

231 10-2a-205(3)(c) within 30 days after the day on which the feasibility consultant is

232 engaged to conduct the supplemental study;

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

243 [~~(5)~~] (7) If the results of the supplemental feasibility study do not comply with Subsection
 244 10-2a-205(5)(a):

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

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

252 **10-2a-220 . Costs of incorporation -- Fees established by lieutenant governor.**

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

- 267 (iii) publication of notices;
- 268 (iv) public hearings;
- 269 (v) all other incorporation activities occurring after the elections; and
- 270 (vi) any other cost incurred by the lieutenant governor or county in relation to an
- 271 incorporation proceeding.
- 272 (b) A cost under Subsection (2)(a) does not include a cost incurred by a county for
- 273 holding an election under Section 10-2a-210.
- 274 (3) Subject to Subsections 10-2a-205(1)(b) and [~~10-2a-206(1)(f)~~] 10-2a-206(2)(h), the
- 275 lieutenant governor shall pay for a cost described in Subsection (2)(a) using funds from
- 276 the Municipal Incorporation Expendable Special Revenue Fund.
- 277 (4)(a) A newly incorporated municipality shall:
- 278 (i) pay to the lieutenant governor each fee established under Subsection (2) for each
- 279 cost described in Subsection (2)(a) incurred by the lieutenant governor or the
- 280 county;
- 281 (ii) pay the county for a cost described in Subsection (2)(b); and
- 282 (iii) reimburse feasibility request sponsors the cost the feasibility request sponsors
- 283 paid for:
- 284 (A) a feasibility study under Section 10-2a-205; and
- 285 (B) any supplemental feasibility study under Section 10-2a-206.
- 286 (b) The lieutenant governor shall execute a payback agreement with each new
- 287 municipality for the new municipality to pay the fees described in Subsection (4)(a)
- 288 over a period that, except as provided in Subsection (4)(c), may not exceed five years.
- 289 (c) If necessary, the lieutenant governor may extend a fee payment deadline beyond the
- 290 deadline described in Subsection (4)(b) by amending the payback agreement
- 291 described in Subsection (4)(b).
- 292 (d) The lieutenant governor shall deposit each fee the lieutenant governor collects under
- 293 Subsection (4)(a)(i) into the Municipal Incorporation Expendable Special Revenue
- 294 Fund.
- 295 (5) If the lieutenant governor expends funds from the Municipal Incorporation Expendable
- 296 Special Revenue Fund that are not repaid to the lieutenant governor under Subsection
- 297 (4)(a)(i) because an area did not incorporate as a municipality, the Legislature shall
- 298 appropriate money to the fund in an amount equal to the funds that are not repaid.
- 299 Section 4. Section **10-3-702** is amended to read:
- 300 **10-3-702 . Extent of power exercised by ordinance.**

301 ~~[(1) As used in this section, "open house" means an event held by a homeowner, including~~
 302 ~~an event in association with a real estate agent, architect, builder, or developer, to~~
 303 ~~showcase a home, including the outdoor landscaping around the home.]~~

304 ~~[(2)] (1)[(a) Except as provided in Subsection (2)(b), the] The governing body of a~~
 305 ~~municipality may pass any ordinance to regulate, require, prohibit, govern, control or~~
 306 ~~supervise any activity, business, conduct or condition authorized by this title or any~~
 307 ~~other provision of law.~~

308 ~~[(b)(i) The governing body of a municipality may not regulate an open house~~
 309 ~~differently than a residential use.]~~

310 ~~[(ii) Any ordinance regulating an open house differently than a residential use is~~
 311 ~~void.]~~

312 ~~[(3)] (2)(a) An officer of the municipality may not be convicted of a criminal offense~~
 313 ~~where the officer relied on or enforced an ordinance the officer reasonably believed~~
 314 ~~to be a valid ordinance.~~

315 (b) It shall be a defense in any action for punitive damages over the enforcement of an
 316 invalid ordinance if the official:

- 317 (i) acted in good faith in enforcing an ordinance; or
- 318 (ii) enforced an ordinance on advice of legal counsel.

319 Section 5. Section **10-20-102** is amended to read:

320 **10-20-102 . Definitions.**

321 As used in this chapter:

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

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

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

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

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

334 (a) the entity's services or facilities are likely to require expansion or significant

- 335 modification because of an intended use of land;
- 336 (b) the entity has filed with the municipality a copy of the entity's general or long-range
337 plan; or
- 338 (c) the entity has filed with the municipality a request for notice during the same
339 calendar year and before the municipality provides notice to an affected entity in
340 compliance with a requirement imposed under this chapter.
- 341 (4) "Affected owner" means the owner of real property that is:
- 342 (a) a single project; and
- 343 (b) the subject of a land use approval that:
- 344 (i) sponsors of a referendum timely challenged in accordance with Section 20A-7-601;
345 and
- 346 [~~(e)~~] (ii) is determined to be legally referable under Section 20A-7-602.8.
- 347 (5) "Appeal authority" means the person, board, commission, agency, or other body
348 designated by ordinance to decide an appeal of a decision of a land use application or a
349 variance.
- 350 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
351 residential property if the sign is designed or intended to direct attention to a business,
352 product, or service that is not sold, offered, or existing on the property where the sign is
353 located.
- 354 (7)(a) "Boundary adjustment" means an agreement between adjoining property owners
355 to relocate a common boundary that results in a conveyance of property between the
356 adjoining lots, adjoining parcels, or adjoining lots and parcels.
- 357 (b) "Boundary adjustment" does not mean a modification of a lot or parcel boundary that:
- 358 (i) creates an additional lot or parcel; or
359 (ii) is made by the Department of Transportation.
- 360 (8)(a) "Boundary establishment" means an agreement between adjoining property
361 owners to clarify the location of an ambiguous, uncertain, or disputed common
362 boundary.
- 363 (b) "Boundary establishment" does not mean a modification of a lot or parcel boundary
364 that:
- 365 (i) creates an additional lot or parcel; or
366 (ii) is made by the Department of Transportation.
- 367 (9) "Building code adoption cycle" means the period of time beginning the day on which a
368 specific edition of a construction code from a nationally recognized code authority is

369 adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day
370 before a new edition of a construction code is adopted and effective in Title 15A, State
371 Construction and Fire Codes Act.

372 [(9)] (10)(a) "Charter school" means:

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

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

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

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

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

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

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

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

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

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

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

402 (17) "Development activity" means:

- 403 (a) any construction or expansion of a building, structure, or use that creates additional
404 demand and need for public facilities;
- 405 (b) any change in use of a building or structure that creates additional demand and need
406 for public facilities; or
- 407 (c) any change in the use of land that creates additional demand and need for public
408 facilities.
- 409 (18)(a) "Development agreement" means a written agreement or amendment to a written
410 agreement between a municipality and one or more parties that regulates or controls
411 the use or development of a specific area of land.
- 412 (b) "Development agreement" does not include an improvement completion assurance.
- 413 (19)(a) "Disability" means a physical or mental impairment that substantially limits one
414 or more of a person's major life activities, including a person having a record of such
415 an impairment or being regarded as having such an impairment.
- 416 (b) "Disability" does not include current illegal use of, or addiction to, any federally
417 controlled substance, as defined in the Controlled Substances Act, 21 U.S.C. Sec. 802.
- 418 (20) "Document" means the same as that term is defined in Section 57-1-1.
- 419 (21) "Educational facility":
- 420 (a) means:
- 421 (i) a school district's building at which pupils assemble to receive instruction in a
422 program for any combination of grades from preschool through grade 12,
423 including kindergarten and a program for children with disabilities;
- 424 (ii) a structure or facility:
- 425 (A) located on the same property as a building described in Subsection (21)(a)(i);
426 and
427 (B) used in support of the use of that building; and
- 428 (iii) a building to provide office and related space to a school district's administrative
429 personnel; and
- 430 (b) does not include:
- 431 (i) land or a structure, including land or a structure for inventory storage, equipment
432 storage, food processing or preparing, vehicle storage or maintenance, or similar
433 use that is:
- 434 (A) not located on the same property as a building described in Subsection
435 (21)(a)(i); and
436 (B) used in support of the purposes of a building described in Subsection (21)(a)(i);

- 437 or
- 438 (ii) a therapeutic school.
- 439 (22) "Establishment document" means an instrument that:
- 440 (a) meets the definition of "document" in Section 57-1-1; and
- 441 (b) meets the requirements of Section 57-1-45.
- 442 [~~(23) "Full boundary adjustment" means a boundary adjustment that is not a simple~~
- 443 ~~boundary adjustment.~~]
- 444 [(24)] (23) "Fire authority" means the department, agency, or public entity with
- 445 responsibility to review and approve the feasibility of fire protection and suppression
- 446 services for the subject property.
- 447 [(25)] (24) "Flood plain" means land that:
- 448 (a) is within the 100-year flood plain designated by the Federal Emergency Management
- 449 Agency; or
- 450 (b) has not been studied or designated by the Federal Emergency Management Agency
- 451 but presents a likelihood of experiencing chronic flooding or a catastrophic flood
- 452 event because the land has characteristics that are similar to those of a 100-year flood
- 453 plain designated by the Federal Emergency Management Agency.
- 454 (25) "Full boundary adjustment" means a boundary adjustment that is not a simple
- 455 boundary adjustment.
- 456 (26) "General plan" means a document that a municipality adopts that sets forth general
- 457 guidelines for proposed future development of the land within the municipality.
- 458 (27) "Geologic hazard" means:
- 459 (a) a surface fault rupture;
- 460 (b) shallow groundwater;
- 461 (c) liquefaction;
- 462 (d) a landslide;
- 463 (e) a debris flow;
- 464 (f) unstable soil;
- 465 (g) a rock fall; or
- 466 (h) any other geologic condition that presents a risk:
- 467 (i) to life;
- 468 (ii) of substantial loss of real property; or
- 469 (iii) of substantial damage to real property.
- 470 (28) "Historic preservation authority" means a person, board, commission, or other body

- 471 designated by a legislative body to:
- 472 (a) recommend land use regulations to preserve local historic districts or areas; and
- 473 (b) administer local historic preservation land use regulations within a local historic
- 474 district or area.
- 475 (29) "Home-based microschool" means the same as that term is defined in Section
- 476 53G-6-201.
- 477 (30) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter,
- 478 or appurtenance that connects to a municipal water, sewer, storm water, power, or other
- 479 utility system.
- 480 (31)(a) "Identical plans" means floor plans submitted to a municipality that:
- 481 (i) are submitted within the same building code adoption cycle as floor plans that
- 482 were previously approved by the municipality;
- 483 (ii) have no structural differences from floor plans that were previously approved by
- 484 the municipality; and
- 485 (iii) describe a building that:
- 486 (A) is located on land zoned the same as the land on which the building described
- 487 in the previously approved plans is located;
- 488 (B) has a substantially identical floor plan to a floor plan previously approved by
- 489 the municipality; and
- 490 (C) does not require any engineering or analysis beyond a review to confirm the
- 491 submitted floor plans are substantially identical to a floor plan previously
- 492 approved by the municipality or a review of the site plan and associated
- 493 geotechnical reports for the site.
- 494 (b) "Identical plans" include floor plans that are oriented differently as the floor plan that
- 495 was previously approved by the municipality.
- 496 (32) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact
- 497 Fees Act.
- 498 (33) "Improvement completion assurance" means a surety bond, letter of credit, financial
- 499 institution bond, cash, assignment of rights, lien, or other equivalent security required by
- 500 a municipality to guaranty the proper completion of landscaping or an infrastructure
- 501 improvement required as a condition precedent to:
- 502 (a) recording a subdivision plat; or
- 503 (b) development of a commercial, industrial, mixed use, or multifamily project.
- 504 (34) "Improvement warranty" means an applicant's unconditional warranty that the

- 505 applicant's installed and accepted landscaping or infrastructure improvement:
- 506 (a) complies with the municipality's written standards for design, materials, and
- 507 workmanship; and
- 508 (b) will not fail in any material respect, as a result of poor workmanship or materials,
- 509 within the improvement warranty period.
- 510 (35) "Improvement warranty period" means a period:
- 511 (a) no later than one year after a municipality's acceptance of required public
- 512 landscaping; or
- 513 (b) no later than one year after a municipality's acceptance of required infrastructure,
- 514 unless the municipality:
- 515 (i) determines, based on accepted industry standards and for good cause, that a
- 516 one-year period would be inadequate to protect the public health, safety, and
- 517 welfare; and
- 518 (ii) has substantial evidence, on record:
- 519 (A) of prior poor performance by the applicant; or
- 520 (B) that the area upon which the infrastructure will be constructed contains
- 521 suspect soil and the municipality has not otherwise required the land use
- 522 applicant to mitigate the suspect soil.
- 523 (36) "Infrastructure improvement" means permanent infrastructure that is essential for the
- 524 public health and safety or that:
- 525 (a) is required for human occupation; and
- 526 (b) an applicant shall install:
- 527 (i) in accordance with published installation and inspection specifications for public
- 528 improvements; and
- 529 (ii) whether the improvement is public or private, as a condition of:
- 530 (A) recording a subdivision plat;
- 531 (B) obtaining a building permit; or
- 532 (C) development of a commercial, industrial, mixed use, condominium, or
- 533 multifamily project.
- 534 (37) "Internal lot restriction" means a platted note, platted demarcation, or platted
- 535 designation that:
- 536 (a) runs with the land; and
- 537 (b)(i) creates a restriction that is enclosed within the perimeter of a lot described on
- 538 the plat; or

- 539 (ii) designates a development condition that is enclosed within the perimeter of a lot
540 described on the plat.
- 541 (38) "Land use applicant" means: a property owner, or the property owner's designee, who
542 submits a land use application regarding the property owner's land.
- 543 (39) "Land use application":
- 544 (a) means an application that is:
- 545 (i) required by a municipality; and
- 546 (ii) submitted by a land use applicant to obtain a land use decision; and
- 547 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 548 (40) "Land use authority" means:
- 549 (a) a person, board, commission, agency, or body, including the local legislative body,
550 designated by the local legislative body to act upon a land use application; or
- 551 (b) if the local legislative body has not designated a person, board, commission, agency,
552 or body, the local legislative body.
- 553 (41) "Land use decision" means an administrative decision of a land use authority or appeal
554 authority regarding:
- 555 (a) a land use permit; or
- 556 (b) a land use application.
- 557 (42) "Land use permit" means a permit issued by a land use authority.
- 558 (43) "Land use regulation":
- 559 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
560 engineering or development standard, specification for public improvement, fee, or
561 rule that governs the use or development of land;
- 562 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
563 and
- 564 (c) does not include:
- 565 (i) a land use decision of the legislative body acting as the land use authority, even if
566 the decision is expressed in a resolution or ordinance; or
- 567 (ii) a temporary revision to an engineering specification that does not materially:
- 568 (A) increase a land use applicant's cost of development compared to the existing
569 specification; or
- 570 (B) impact a land use applicant's use of land.
- 571 (44) "Legislative body" means the municipal council.
- 572 (45) "Local historic district or area" means a geographically definable area that:

- 573 (a) contains any combination of buildings, structures, sites, objects, landscape features,
574 archeological sites, or works of art that contribute to the historic preservation goals of
575 a legislative body; and
- 576 (b) is subject to land use regulations to preserve the historic significance of the local
577 historic district or area.
- 578 (46) "Lot" means a tract of land, regardless of any label, that is created by and shown on a
579 subdivision plat that has been recorded in the office of the county recorder.
- 580 (47) "Major transit investment corridor" means public transit service that uses or occupies:
- 581 (a) public transit rail right-of-way;
- 582 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
- 583 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
584 municipality or county and:
- 585 (i) a public transit district as defined in Section 17B-2a-802; or
- 586 (ii) an eligible political subdivision as defined in Section 59-12-2202.
- 587 (48) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.
- 588 (49) "Moderate income housing" means housing occupied or reserved for occupancy by
589 households with a gross household income equal to or less than 80% of the median gross
590 income for households of the same size in the county in which the city is located.
- 591 (50) "Municipal utility easement" means an easement that:
- 592 (a) is created or depicted on a plat recorded in a county recorder's office and is described
593 as a municipal utility easement granted for public use;
- 594 (b) is not a protected utility easement or a public utility easement as defined in Section
595 54-3-27;
- 596 (c) the municipality or the municipality's affiliated governmental entity uses and
597 occupies to provide a utility service, including sanitary sewer, culinary water,
598 electrical, storm water, or communications or data lines;
- 599 (d) is used or occupied with the consent of the municipality in accordance with an
600 authorized franchise or other agreement;
- 601 (e)(i) is used or occupied by a specified public utility in accordance with an
602 authorized franchise or other agreement; and
- 603 (ii) is located in a utility easement granted for public use; or
- 604 (f) is described in Section 10-20-615 and is used by a specified public utility.
- 605 (51) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
606 spent and expenses incurred in:

- 607 (a) verifying that building plans are identical plans; and
608 (b) reviewing and approving those minor aspects of identical plans that differ from the
609 previously reviewed and approved building plans.
- 610 (52) "Noncomplying structure" means a structure that:
611 (a) legally existed before the structure's current land use designation; and
612 (b) because of one or more subsequent land use ordinance changes, does not conform to
613 the setback, height restrictions, or other regulations, excluding those regulations,
614 which govern the use of land.
- 615 (53) "Nonconforming use" means a use of land that:
616 (a) legally existed before [its] the land's current land use designation;
617 (b) has been maintained continuously since the time the land use ordinance governing
618 the land changed; and
619 (c) because of one or more subsequent land use ordinance changes, does not conform to
620 the regulations that now govern the use of the land.
- 621 (54) "Official map" means a map drawn by municipal authorities and recorded in a county
622 recorder's office that:
623 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
624 highways and other transportation facilities;
625 (b) provides a basis for restricting development in designated rights-of-way or between
626 designated setbacks to allow the government authorities time to purchase or
627 otherwise reserve the land; and
628 (c) has been adopted as an element of the municipality's general plan.
- 629 (55) "Parcel" means any real property that is not a lot.
- 630 (56) "Person" means an individual, corporation, partnership, organization, association, trust,
631 governmental agency, or any other legal entity.
- 632 (57) "Plan for moderate income housing" means a written document adopted by a
633 municipality's legislative body that includes:
634 (a) an estimate of the existing supply of moderate income housing located within the
635 municipality;
636 (b) an estimate of the need for moderate income housing in the municipality for the next
637 five years;
638 (c) a survey of total residential land use;
639 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
640 income housing; and

- 641 (e) a description of the municipality's program to encourage an adequate supply of
642 moderate income housing.
- 643 (58) "Planning commission" means the commission established under Section 10-20-301.
- 644 (59) "Plat" means an instrument subdividing property into lots as depicted on a map or
645 other graphical representation of lands that a licensed professional land surveyor makes
646 and prepares in accordance with Section 10-20-803 or 57-8-13.
- 647 (60) "Potential geologic hazard area" means an area that:
- 648 (a) is designated by a Utah Geological Survey map, county geologist map, or other
649 relevant map or report as needing further study to determine the area's potential for
650 geologic hazard; or
- 651 (b) has not been studied by the Utah Geological Survey or a county geologist but
652 presents the potential of geologic hazard because the area has characteristics similar
653 to those of a designated geologic hazard area.
- 654 (61) "Property owner" means a person that holds legal title in real property.
- 655 [~~61~~] (62) "Public agency" means:
- 656 (a) the federal government;
- 657 (b) the state;
- 658 (c) a county, municipality, school district, special district, special service district, or
659 other political subdivision of the state; or
- 660 (d) a charter school.
- 661 [~~62~~] (63) "Public hearing" means a hearing at which members of the public are provided a
662 reasonable opportunity to comment on the subject of the hearing.
- 663 [~~63~~] (64) "Public meeting" means a meeting that is required to be open to the public under
664 Title 52, Chapter 4, Open and Public Meetings Act.
- 665 [~~64~~] (65) "Public street" means a public right-of-way, including a public highway, public
666 avenue, public boulevard, public parkway, public road, public lane, public alley, public
667 viaduct, public subway, public tunnel, public bridge, public byway, other public
668 transportation easement, or other public way.
- 669 [~~65~~] (66) "Receiving zone" means an area that a municipality designates, by ordinance, as
670 an area in which an owner of land may receive a transferable development right.
- 671 [~~66~~] (67) "Record of survey map" means a map of a survey of land prepared in accordance
672 with Section 17-73-504.
- 673 [~~67~~] (68) "Residential facility for persons with a disability" means a residence:
- 674 (a) in which more than one person with a disability resides; and

- 675 (b) which is licensed or certified by the Department of Health and Human Services
 676 under:
- 677 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or
 678 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 679 [(68)] (69) "Residential roadway" means a public local residential road that:
- 680 (a) will serve primarily to provide access to adjacent primarily residential areas and
 681 property;
- 682 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;
- 683 (c) is not identified as a supplementary to a collector or other higher system classified
 684 street in an approved municipal street or transportation master plan;
- 685 (d) has a posted speed limit of 25 miles per hour or less;
- 686 (e) does not have higher traffic volumes resulting from connecting previously separated
 687 areas of the municipal road network;
- 688 (f) cannot have a primary access, but can have a secondary access, and does not abut lots
 689 intended for high volume traffic or community centers, including schools, recreation
 690 centers, sports complexes, or libraries; and
- 691 (g) primarily serves traffic within a neighborhood or limited residential area and is not
 692 necessarily continuous through several residential areas.
- 693 [(69)] (70) "Rules of order and procedure" means a set of rules that govern and prescribe in
 694 a public meeting:
- 695 (a) parliamentary order and procedure;
- 696 (b) ethical behavior; and
- 697 (c) civil discourse.
- 698 [(70)] (71) "Sanitary sewer authority" means the department, agency, or public entity with
 699 responsibility to review and approve the feasibility of sanitary sewer services or onsite
 700 wastewater systems.
- 701 [(71)] (72) "Sending zone" means an area that a municipality designates, by ordinance, as an
 702 area from which an owner of land may transfer a transferable development right.
- 703 [(72)] (73) "Simple boundary adjustment" means a boundary adjustment that does not:
- 704 (a) affect a public right-of-way, municipal utility easement, or other public property;
- 705 (b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or
- 706 (c) result in a lot or parcel out of conformity with land use regulations.
- 707 [(73)] (74) "Special district" means an entity under Title 17B, Limited Purpose Local
 708 Government Entities - Special Districts, and any other governmental or

709 quasi-governmental entity that is not a county, municipality, school district, or the state.
710 (75) "Specific land use law" means a requirement or restriction on the use of a specific
711 parcel in a development agreement that a legislative body approves with the consent of
712 an affected property owner.

713 [~~(74)~~] (76) "Specified public agency" means:

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

717 [~~(75)~~] (77) "Specified public utility" means an electrical corporation, gas corporation, or
718 telephone corporation, as those terms are defined in Section 54-2-1.

719 [~~(76)~~] (78) "State" includes any department, division, or agency of the state.

720 [~~(77)~~] (79)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to
721 be divided into two or more lots or other division of land for the purpose, whether
722 immediate or future, for offer, sale, lease, or development either on the installment
723 plan or upon any and all other plans, terms, and conditions.

724 (b) "Subdivision" includes:

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

731 (c) "Subdivision" does not include:

- 732 (i) a bona fide division or partition of land used for agricultural purposes as provided
733 in Subsection 10-20-808(2);
- 734 (ii) a recorded conveyance document:
 - 735 (A) consolidating multiple lots or parcels into one legal description encompassing
736 all lots by reference to a recorded plat and all parcels by metes and bounds
737 description; or
 - 738 (B) joining a lot to a parcel;
- 739 (iii) a bona fide division of land by deed or other instrument if the deed or other
740 instrument states in writing that the division:
 - 741 (A) is in anticipation of future land use approvals on the parcel or parcels;
 - 742 (B) does not confer any land use approvals; and

- 743 (C) has not been approved by the land use authority;
- 744 (iv) a boundary adjustment;
- 745 (v) a boundary establishment;
- 746 (vi) a road, street, or highway dedication plat;
- 747 (vii) a deed or easement for a road, street, or highway purpose; or
- 748 (viii) any other division of land authorized by law.
- 749 ~~[(78)]~~ (80)(a) "Subdivision amendment" means an amendment to a recorded subdivision
- 750 in accordance with Section 10-20-811 that:
- 751 (i) vacates all or a portion of the subdivision;
- 752 (ii) increases the number of lots within the subdivision;
- 753 (iii) alters a public right-of-way, a public easement, or public infrastructure within the
- 754 subdivision; or
- 755 (iv) alters a common area or other common amenity within the subdivision.
- 756 (b) "Subdivision amendment" does not include a simple boundary adjustment.
- 757 ~~[(79)]~~ (81) "Substantial evidence" means evidence that:
- 758 (a) is beyond a scintilla; and
- 759 (b) a reasonable mind would accept as adequate to support a conclusion.
- 760 ~~[(80)]~~ (82) "Suspect soil" means soil that has:
- 761 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 762 3% swell potential;
- 763 (b) bedrock units with high shrink or swell susceptibility; or
- 764 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 765 commonly associated with dissolution and collapse features.
- 766 ~~[(81)]~~ (83) "Therapeutic school" means a residential group living facility:
- 767 (a) for four or more individuals who are not related to:
- 768 (i) the owner of the facility; or
- 769 (ii) the primary service provider of the facility;
- 770 (b) that serves students who have a history of failing to function:
- 771 (i) at home;
- 772 (ii) in a public school; or
- 773 (iii) in a nonresidential private school; and
- 774 (c) that offers:
- 775 (i) room and board; and
- 776 (ii) an academic education integrated with:

- 777 (A) specialized structure and supervision; or
 778 (B) services or treatment related to a disability, an emotional development, a
 779 behavioral development, a familial development, or a social development.

780 [(82)] (84) "Transferable development right" means a right to develop and use land that
 781 originates by an ordinance that authorizes a [~~land~~] property owner in a designated
 782 sending zone to transfer land use rights from a designated sending zone to a designated
 783 receiving zone.

784 [(83)] (85) "Unincorporated" means the area outside of the incorporated area of a city or
 785 town.

786 [(84)] (86) "Water interest" means any right to the beneficial use of water, including:

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

791 [(85)] (87) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
 792 land use zones, overlays, or districts.

793 Section 6. Section **10-20-301** is amended to read:

794 **10-20-301 . Ordinance establishing planning commission required -- Ordinance**
 795 **requirements -- Compensation.**

- 796 (1)(a) Each municipality shall enact an ordinance establishing a planning commission.
 797 (b) The ordinance shall ~~define~~:
 798 (i) include the number and terms of the planning commission members and, if the
 799 municipality chooses, alternate members;
 800 (ii) [~~the mode of appointment~~] provide procedures for appointing a planning
 801 commission member;
 802 (iii) [~~the~~] provide procedures for filling vacancies [~~and~~] on the planning commission;
 803 (iv) [~~removal from office;~~] provide procedures for removing a planning commission
 804 member from the planning commission and specify that:
 805 (A) in a form of government described in Section 10-3b-301 or 10-3b-401, and
 806 subject to any delegation of authority under Subsection 10-3b-303(1) or
 807 10-3b-403(1), the legislative body may remove a planning commission
 808 member; or
 809 (B) in a form of government described in Section 10-3b-202, the mayor may
 810 remove a planning commission member;

- 811 (v) except as provided in Subsection (1)(b)(vi), describe the causes for which a
 812 planning commission member may be removed from the planning commission,
 813 which shall include:
- 814 (A) using public funds for a political purpose under Title 20A, Chapter 11, Part
 815 12, Political Activities of Public Entities Act;
- 816 (B) violating a provision of Title 10, Chapter 3, Part 13, Municipal Officers' and
 817 Employees' Ethics Act; and
- 818 (C) acting with the intent to influence a land use decision or an appeal of a
 819 pending land use application in a manner that creates actual impermissible bias
 820 or an unacceptable risk of impermissible bias in the planning commission
 821 member's administrative or quasi-judicial duties;
- 822 (vi) provide that a planning commission member deliberating about a specific
 823 pending land use application in a planning commission meeting with municipal
 824 staff, an elected official, or the land use applicant is not cause for removing a
 825 planning commission member from the planning commission;
- 826 (vii) provide requirements for when a planning commission member shall recuse
 827 oneself from deliberating or voting on certain land use applications;
- 828 ~~[(iv)]~~ (viii) define the authority of the planning commission;
- 829 ~~[(v)]~~ (ix) subject to Subsection (1)(c), [the] include rules of order and procedure for
 830 use by the planning commission in a public meeting; and
- 831 ~~[(vi)]~~ (x) include other details relating to the organization and procedures of the
 832 planning commission.
- 833 (c) Subsection ~~[(1)(b)(v)]~~ (1)(b)(ix) does not affect the planning commission's duty to
 834 comply with Title 52, Chapter 4, Open and Public Meetings Act.
- 835 (2) The legislative body may authorize a member to receive per diem and travel expenses
 836 for meetings actually attended, in accordance with Section 11-55-103.
- 837 Section 7. Section **10-20-302** is amended to read:
- 838 **10-20-302 . Planning commission powers and duties -- Training requirements.**
- 839 (1) The planning commission shall review and make a recommendation to the legislative
 840 body for:
- 841 (a) a general plan and amendments to the general plan;
- 842 (b) land use regulations, including:
- 843 (i) ordinances regarding the subdivision of land within the municipality; and
- 844 (ii) amendments to existing land use regulations;

- 845 (c) an appropriate delegation of power to at least one designated land use authority to
 846 hear and act on a land use application;
- 847 (d) an appropriate delegation of power to at least one appeal authority to hear and act on
 848 an appeal from a decision of the land use authority; and
- 849 (e) application processes that:
- 850 (i) may include a designation of routine land use matters that, upon application and
 851 proper notice, will receive informal streamlined review and action if the
 852 application is uncontested; and
- 853 (ii) shall protect the right of each:
- 854 (A) land use applicant and adversely affected party to require formal consideration
 855 of any application by a land use authority; and
- 856 (B) land use applicant or adversely affected party to appeal a land use authority's
 857 decision to a separate appeal authority[; ~~and~~].
- 858 [~~(C) participant to be heard in each public hearing on a contested application.~~]
- 859 (2) Before making a recommendation to a legislative body on an item described in
 860 Subsection (1)(a) or (b), the planning commission shall hold a public hearing in
 861 accordance with Section 10-20-405.
- 862 (3) A legislative body may adopt, modify, or reject a planning commission's
 863 recommendation to the legislative body under this section.
- 864 [~~(4) A legislative body may consider a planning commission's failure to make a timely~~
 865 ~~recommendation as a negative recommendation.]~~
- 866 [~~(5)~~ (4) Nothing in this section limits the right of a municipality to initiate or propose the
 867 actions described in this section.
- 868 [~~(6)~~ (5)(a)(i) This Subsection [~~(6)~~ (5) applies to:
- 869 (A) a city of the first, second, third, or fourth class; and
- 870 (B) a city of the fifth class with a population of 5,000 or more, if the city is located
 871 within a county of the first, second, or third class.
- 872 (ii) The population for each city described in Subsection [~~(6)~~(a)(i)] (5)(a)(i) shall be
 873 derived from:
- 874 (A) an estimate of the Utah Population Committee created in Section 63C-20-103;
 875 or
- 876 (B) if the Utah Population Committee estimate is not available, the most recent
 877 official census or census estimate of the United States [~~Bureau of the~~] Census
 878 Bureau.

- 879 (b) A municipality described in Subsection [~~(6)(a)(i)~~] (5)(a)(i) shall ensure that each
880 member of the municipality's planning commission completes four hours of annual
881 land use training as follows:
- 882 (i) one hour of annual training on general powers and duties, including the role of the
883 planning commission in administrative, legislative, and quasi-judicial functions
884 under this chapter; and
- 885 (ii) three hours of annual training on a combination of land use and ethics topics,
886 which may include:
- 887 (A) appeals and variances;
888 (B) conditional use permits;
889 (C) exactions;
890 (D) impact fees;
891 (E) vested rights;
892 (F) subdivision regulations and improvement guarantees;
893 (G) land use referenda;
894 (H) property rights;
895 (I) real estate procedures and financing;
896 (J) zoning, including use-based and form-based; [~~and~~]
897 (K) drafting ordinances and code that complies with statute[-];
898 (L) ex parte communication; and
899 (M) conflict of interest.
- 900 (c) A newly appointed planning commission member may not participate in a public
901 meeting as an appointed member until the member completes the training described
902 in Subsection [~~(6)(b)(i)~~] (5)(b)(i).
- 903 (d) A planning commission member may qualify for one completed hour of training
904 required under Subsection [~~(6)(b)(ii)~~] (5)(b)(ii) if the member attends, as an appointed
905 member, 12 public meetings of the planning commission within a calendar year.
- 906 (e) A municipality shall provide the training described in Subsection [~~(6)(b)~~] (5)(b)
907 through:
- 908 (i) municipal staff;
909 (ii) the Utah League of Cities and Towns; or
910 (iii) a list of training courses selected by:
- 911 (A) the Utah League of Cities and Towns; or
912 (B) the Division of Real Estate created in Section 61-2-201.

- 913 (f) A municipality shall, for each planning commission member:
- 914 (i) monitor compliance with the training requirements in Subsection [~~(6)(b)~~] (5)(b);
- 915 and
- 916 (ii) maintain a record of training completion at the end of each calendar year.

917 Section 8. Section 10-20-501 is amended to read:

918 **10-20-501 . Enactment of land use regulation, land use decision, or development**
919 **agreement.**

- 920 (1) Only a legislative body, as the body authorized to weigh policy considerations, may
- 921 enact a land use regulation.
- 922 (2)(a) Except as provided in Subsection (2)(b), a legislative body may enact a land use
- 923 regulation only by ordinance.
- 924 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that
- 925 imposes a fee.
- 926 (3) A legislative body shall ensure that a land use regulation is consistent with the purposes [
- 927 ~~set forth in~~] of this chapter.
- 928 (4)(a) A legislative body shall adopt a land use regulation to:
- 929 (i) create or amend a zoning district under Subsection 10-20-503(1)(a); and
- 930 (ii) designate general uses allowed in each zoning district.
- 931 (b) A land use authority may establish or modify other restrictions or requirements other
- 932 than those described in Subsection (4)(a), including the configuration or modification
- 933 of uses or density, through a land use decision that applies criteria or policy elements
- 934 that a land use regulation establishes or describes.

- 935 (5)(a) Except as provided in Subsection (5)(b) or (5)(c), a municipality shall publish on
- 936 the municipality's website:
- 937 (i) all of the municipality's land use regulations; and
- 938 (ii) a fee schedule that lists all of the municipality's fees related to a land use
- 939 application, land use permit, or land use regulation, including development review
- 940 fees and impact fees.
- 941 (b) A municipality that does not have a maintained and active website shall provide for
- 942 inspection of the information described in Subsection (5)(a) at the municipality's
- 943 place of business during normal business hours.
- 944 (c) A municipality may comply with Subsection (5)(a) by:
- 945 (i) posting a link on the municipality's website to a separate webpage or third-party
- 946 website where the land use regulations or fee schedule described in Subsection

947 (5)(a) are posted; and
 948 (ii) submitting a new or modified land use regulation or fee schedule described in
 949 Subsection (5)(a) to the third-party website within six months after the day on
 950 which the legislative body adopts the new or modified land use regulation or fee
 951 schedule.

952 [~~(5)~~] (6) A municipality may not adopt a land use regulation[;] or development agreement, or
 953 make a land use decision, that restricts the type of crop that may be grown in an area that
 954 is:

955 (a) zoned agricultural; or

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

957 [~~(6)~~] (7) A municipal land use regulation pertaining to an airport or an airport influence area,
 958 as that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4,
 959 Airport Zoning Act.

960 Section 9. Section **10-20-502** is amended to read:

961 **10-20-502 . Preparation and adoption of land use regulation.**

962 (1) A planning commission shall:

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

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

966 (c) if applicable, consider each written objection filed in accordance with Subsection
 967 10-20-205(5) before the public hearing; and

968 (d)(i) review and recommend to the legislative body a proposed land use regulation
 969 that represents the planning commission's recommendation for regulating the use
 970 and development of land within all or any part of the area of the municipality; and

971 (ii) forward to the legislative body all objections filed in accordance with Subsection
 972 10-20-205(5).

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

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

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

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

980 ~~[(e) A legislative body may consider a planning commission's failure to make a timely~~

981 recommendation as a negative recommendation if the legislative body has provided
 982 for that consideration by ordinance.]

983 (c) Beginning on September 15, 2026, a legislative body may adopt or reject a proposed
 984 land use regulation without waiting for a recommendation from the planning
 985 commission if:

986 (i) a land use applicant makes a request described in Subsection 10-20-905(2)(b); or
 987 (ii) a legislative body determines that a planning commission has had adequate time
 988 to consider the land use regulation.

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

990 **10-20-507 . Classification of new and unlisted business uses.**

991 (1) As used in this section:

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

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

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

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

1000 (i) detail how an applicant may submit a classification request;

1001 (ii) establish a procedure for the municipality to review a classification request,
 1002 including:

1003 (A) providing a land use authority with criteria to determine whether a proposed
 1004 use aligns with an existing use;[-and]

1005 (B) allowing an applicant to proceed under the regulations of an existing use if a
 1006 land use authority determines a proposed use aligns with that existing use; and

1007 (C) providing the applicant an opportunity to appeal a land use authority's decision
 1008 to a land use appeal authority;

1009 (iii) provide that if a use is determined to be a new or unlisted business use:

1010 (A) the applicant shall submit to the legislative body for review an application [~~for~~
 1011 ~~approval of the new or unlisted business use to the legislative body for review]~~

1012 requesting that the legislative body adopt a land use ordinance that permits the
 1013 new or unlisted business as a permitted or conditional use;

1014 (B) notwithstanding Subsection 10-20-503(2) or (3), the legislative body shall

- 1015 consider and ~~[determine whether to]~~ approve or deny ~~[the new or unlisted~~
 1016 ~~business use]~~ the application described in Subsection (2)(b)(iii)(A); and
 1017 (C) the legislative body shall approve or deny ~~[the new or unlisted business use]~~
 1018 the application described in Subsection (2)(b)(iii)(A), within a time frame the
 1019 legislative body establishes by ordinance, if the applicant responds to requests
 1020 for additional information within a time frame established by the municipality
 1021 and appears at required hearings;
- 1022 (iv) provide that if the legislative body approves ~~[a proposed new or unlisted business~~
 1023 ~~use]~~ the application described in Subsection (2)(b)(iii)(A), the legislative body
 1024 shall designate an appropriate zone or zones for the approved use; and
- 1025 (v) provide that if the legislative body denies ~~[a proposed new or unlisted business use]~~
 1026 the application described in Subsection (2)(b)(iii)(A), or if an applicant disagrees
 1027 with the land use authority's classification of the proposed use, the legislative
 1028 body shall:
- 1029 (A) notify the applicant in writing of each reason for the classification or denial;
 1030 and
- 1031 (B) ~~[offer the applicant an opportunity to challenge the classification or denial~~
 1032 ~~through an administrative appeal process established by the municipality]~~ notify
 1033 the applicant of the process for appealing the legislative body's decision in
 1034 accordance with Section 10-20-1109.
- 1035 (c) A municipality may not require an applicant who submits an application described in
 1036 Subsection (2)(b)(iii)(A) to submit the application to the planning commission for
 1037 consideration, review, or approval.
- 1038 (3) Each municipality shall amend each land use ordinance that contains a list of approved
 1039 or prohibited business uses to include a reference to the process for petitioning to
 1040 approve a new or unlisted business use, as described in Subsection (2).
- 1041 Section 11. Section **10-20-625** is enacted to read:
- 1042 **10-20-625 . Model homes and open houses.**
- 1043 (1) As used in this section:
- 1044 (a) "Model home" means:
- 1045 (i) a single-family home that the homebuilder uses to promote the sale or lease of
 1046 another single-family home; or
- 1047 (ii) a unit within a multi-family residential structure that the owner uses to promote
 1048 the sale or lease of another unit within the multi-family residential structure.

1049 (b) "Open house" means an event held by a homeowner, including an event in
1050 association with a real estate agent, architect, builder, or developer, to showcase a
1051 home, including the outdoor landscaping around the home.

1052 (2) The legislative body of a municipality may not regulate a model home or open house
1053 differently than a residential use.

1054 (3) Any ordinance regulating a model home or an open house differently than a residential
1055 use is void.

1056 Section 12. Section **10-20-806** is amended to read:

1057 **10-20-806 . Review of subdivision applications and subdivision improvement**
1058 **plans.**

1059 (1) As used in this section:

1060 (a) "Review cycle" means the occurrence of:

1061 (i) the applicant's submittal of a complete subdivision application;

1062 (ii) the municipality's review of that subdivision application;

1063 (iii) the municipality's response to that subdivision application, in accordance with
1064 this section; and

1065 (iv) the applicant's reply to the municipality's response that addresses each of the
1066 municipality's required modifications or requests for additional information.

1067 (b) "Subdivision application" means a land use application for the subdivision of land.

1068 (c) "Subdivision improvement plans" means the civil engineering plans associated with
1069 required infrastructure improvements and municipally controlled utilities required for
1070 a subdivision.

1071 (d) "Subdivision ordinance review" means review by a municipality to verify that a
1072 subdivision application meets the criteria of the municipality's ordinances.

1073 (e) "Subdivision plan review" means a review of the applicant's subdivision
1074 improvement plans and other aspects of the subdivision application to verify that the
1075 application complies with municipal ordinances and applicable installation standards
1076 and inspection specifications for infrastructure improvements.

1077 (2) The review cycle restrictions and requirements of this section do not apply to the review
1078 of subdivision applications affecting property within identified geological hazard areas.

1079 (3)(a) A municipality may require a subdivision improvement plan to be submitted with
1080 a subdivision application.

1081 (b) A municipality may not require a subdivision improvement plan to be submitted with
1082 both a preliminary subdivision application and a final subdivision application.

- 1083 (4)(a) The review cycle requirements of this section apply:
- 1084 (i) to the review of a preliminary subdivision application, if the municipality requires
- 1085 a subdivision improvement plan to be submitted with a preliminary subdivision
- 1086 application; or
- 1087 (ii) to the review of a final subdivision application, if the municipality requires a
- 1088 subdivision improvement plan to be submitted with a final subdivision application.
- 1089 (b) A municipality may not, outside the review cycle, engage in a substantive review of
- 1090 required infrastructure improvements or a municipally controlled utility.
- 1091 (5)(a) A municipality shall complete the initial review of a complete subdivision
- 1092 application submitted for ordinance review for a residential subdivision for
- 1093 single-family dwellings, two-family dwellings, or town homes:
- 1094 (i) no later than 15 business days after the complete subdivision application is
- 1095 submitted, if the municipality has a population over 5,000; or
- 1096 (ii) no later than 30 business days after the complete subdivision application is
- 1097 submitted, if the municipality has a population of 5,000 or less.
- 1098 (b) A municipality shall maintain and publish a list of the items comprising the complete
- 1099 subdivision application, including:
- 1100 (i) the application;
- 1101 (ii) the owner's affidavit;
- 1102 (iii) an electronic copy of all plans in PDF format;
- 1103 (iv) the preliminary subdivision plat drawings; and
- 1104 (v) a breakdown of fees due upon approval of the application.
- 1105 (6) A municipality shall publish a list of the items that comprise a complete subdivision
- 1106 land use application.
- 1107 (7) A municipality shall complete a subdivision plan review of a subdivision improvement
- 1108 plan that is submitted with a complete subdivision application for a residential
- 1109 subdivision for single-family dwellings, two-family dwellings, or town homes:
- 1110 (a) within 20 business days after the complete subdivision application is submitted, if the
- 1111 municipality has a population over 5,000; or
- 1112 (b) within 40 business days after the complete subdivision application is submitted, if
- 1113 the municipality has a population of 5,000 or less.
- 1114 (8)(a) In reviewing a subdivision application, a municipality may require:
- 1115 (i) additional information relating to an applicant's plans to ensure compliance with
- 1116 municipal ordinances and approved standards and specifications for construction

- 1117 of public improvements; and
- 1118 (ii) modifications to plans that do not meet current ordinances, applicable standards
- 1119 or specifications, or do not contain complete information.
- 1120 (b) A municipality's request for additional information or modifications to plans under
- 1121 Subsection (8)(a)(i) or (ii) shall be specific and include citations to ordinances,
- 1122 standards, or specifications that require the modifications to subdivision
- 1123 improvement plans, and shall be logged in an index of requested modifications or
- 1124 additions.
- 1125 (c) A municipality may not require more than four review cycles for a subdivision
- 1126 improvement plan review.
- 1127 (d)(i) Subject to Subsection (8)(d)(ii), unless the change or correction is necessitated
- 1128 by the applicant's adjustment to a subdivision improvement plan or an update to a
- 1129 phasing plan that adjusts the infrastructure needed for the specific development, a
- 1130 change or correction not addressed or referenced in a municipality's subdivision
- 1131 improvement plan review is waived.
- 1132 (ii) A modification or correction necessary to protect public health and safety or to
- 1133 enforce state or federal law may not be waived.
- 1134 (iii) If an applicant makes a material change to a subdivision improvement plan, the
- 1135 municipality has the discretion to restart the review process at the first review of
- 1136 the subdivision improvement plan review, but only with respect to the portion of
- 1137 the subdivision improvement plan that the material change substantively affects.
- 1138 (e)(i) This Subsection (8)(e) applies if an applicant does not submit a revised
- 1139 subdivision improvement plan within :
- 1140 (A) 20 business days after the municipality requires a modification or correction,
- 1141 if the municipality has a population over 5,000; or
- 1142 (B) 40 business days after the municipality requires a modification or correction,
- 1143 if the municipality has a population of 5,000 or less.
- 1144 (ii) If an applicant does not submit a revised subdivision improvement plan within the
- 1145 time specified in Subsection (8)(e)(i), a municipality has an additional 20 business
- 1146 days after the time specified in Subsection (7) to respond to a revised subdivision
- 1147 improvement plan.
- 1148 (9) After the applicant has responded to the final review cycle, and the applicant has
- 1149 complied with each modification requested in the municipality's previous review cycle,
- 1150 the municipality may not require additional revisions if the applicant has not materially

1151 changed the plan, other than changes that were in response to requested modifications or
1152 corrections.

1153 (10)(a) In addition to revised plans, an applicant shall provide a written explanation in
1154 response to the municipality's review comments, identifying and explaining the
1155 applicant's revisions and reasons for declining to make revisions, if any.

1156 (b) The applicant's written explanation shall be comprehensive and specific, including
1157 citations to applicable standards and ordinances for the design and an index of
1158 requested revisions or additions for each required correction.

1159 (c) If an applicant fails to address a review comment in the response, the review cycle is
1160 not complete and the subsequent review cycle may not begin until all comments are
1161 addressed.

1162 (11)[(a)] If, on the fourth or final review, a municipality fails to respond within 20
1163 business days, the municipality shall, upon request of the property owner, and within
1164 10 business days after the day on which the request is received:

1165 [(i)] (a) for a dispute arising from the subdivision improvement plans, assemble an
1166 appeal panel in accordance with Subsection [~~10-20-911(5)(d)~~] 10-20-911(4)(d) to
1167 review and approve or deny the final revised set of plans; or

1168 [(ii)] (b) for a dispute arising from the subdivision ordinance review, advise the
1169 applicant, in writing, of the deficiency in the application and of the right to appeal the
1170 determination to a designated appeal authority.

1171 Section 13. Section **10-20-807** is amended to read:

1172 **10-20-807 . Subdivision plat recording or development activity before required**
1173 **landscaping or infrastructure is completed -- Improvement completion assurance --**
1174 **Improvement warranty.**

1175 (1) As used in this section:

1176 (a) "Private landscaping plan" means a proposal:

1177 (i) to install landscaping on a lot owned by a private individual or entity; and
1178 (ii) submitted to a municipality by the private individual or entity, or on behalf of a
1179 private individual or entity, that owns the lot.

1180 (b) "Public landscaping improvement" means landscaping that an applicant is required to
1181 install to comply with published installation and inspection specifications for public
1182 improvements that:

1183 (i) will be dedicated to and maintained by the municipality; or
1184 (ii) are associated with and proximate to trail improvements that connect to planned

1185 or existing public infrastructure.

1186 (2) A land use authority shall establish objective inspection standards for acceptance of a
1187 public landscaping improvement or infrastructure improvement that the land use
1188 authority requires.

1189 (3)(a) Except as provided in Subsection (3)(d) or (e), before an applicant conducts any
1190 development activity or records a plat, the applicant shall:

1191 (i) complete any required public landscaping improvements or infrastructure
1192 improvements; or

1193 (ii) post an improvement completion assurance for any required public landscaping
1194 improvements or infrastructure improvements.

1195 (b) If an applicant elects to post an improvement completion assurance, the applicant
1196 shall, in accordance with Subsection (5), provide completion assurance for:

1197 (i) completion of 100% of the required public landscaping improvements or
1198 infrastructure improvements; or

1199 (ii) if the municipality has inspected and accepted a portion of the public landscaping
1200 improvements or infrastructure improvements, 100% of the incomplete or
1201 unaccepted public landscaping improvements or infrastructure improvements.

1202 (c) A municipality shall:

1203 (i) establish a minimum of two acceptable forms of completion assurance;

1204 (ii)(A) if an applicant elects to post an improvement completion assurance, allow
1205 the applicant to post an assurance that meets the conditions of this chapter and
1206 any local ordinances; and

1207 (B) beginning on May 7, 2025, if a municipality accepts cash deposits as a form of
1208 completion assurance and the applicant elects to post a new cash deposit as a
1209 form of completion assurance, place the cash deposit in an interest-bearing
1210 account upon receipt and return any earned interest to the applicant with the
1211 return of the completion assurance according to the conditions of this chapter
1212 and any local ordinances;

1213 (iii) establish a system for the partial release of an improvement completion
1214 assurance as portions of required public landscaping improvements or
1215 infrastructure improvements are completed and accepted in accordance with local
1216 ordinance; and

1217 (iv) issue or deny a building permit in accordance with Section 10-20-1001 based on
1218 the installation of public landscaping improvements or infrastructure

- 1219 improvements.
- 1220 (d) A municipality may not require an applicant to post an improvement completion
1221 assurance for:
- 1222 (i) public landscaping improvements or an infrastructure improvement that the
1223 municipality has previously inspected and accepted;
- 1224 (ii) infrastructure improvements that are private and not essential or required to meet
1225 the building code, fire code, flood or storm water management provisions, street
1226 and access requirements, or other essential necessary public safety improvements
1227 adopted in a land use regulation;
- 1228 (iii) in a municipality where ordinances require all infrastructure improvements
1229 within the area to be private, infrastructure improvements within a development
1230 that the municipality requires to be private;
- 1231 (iv) landscaping improvements that are not public landscaping improvements, unless
1232 the landscaping improvements and completion assurance are required under the
1233 terms of a development agreement;
- 1234 (v) a private landscaping plan;
- 1235 (vi) landscaping improvements or infrastructure improvements that an applicant
1236 elects to install at the applicant's own risk:
- 1237 (A) before the plat is recorded;
- 1238 (B) in accordance with inspections required by the municipality for the
1239 infrastructure improvement; and
- 1240 (C) in accordance with final civil engineering plan approval by the municipality; or
- 1241 (vii) any individual public landscaping improvement or individual infrastructure
1242 improvement when the individual public landscaping improvement or individual
1243 infrastructure improvement is also included as part of a separate improvement
1244 completion assurance.
- 1245 (e)(i) A municipality may not:
- 1246 (A) prohibit an applicant from installing a public landscaping improvement or an
1247 infrastructure improvement when the municipality has approved final civil
1248 engineering plans for the development activity or plat for which the public
1249 landscaping improvement or infrastructure improvement is required; or
- 1250 (B) require an applicant to sign an agreement, release, or other document
1251 inconsistent with this chapter as a condition of posting an improvement
1252 completion assurance, security for an improvement warranty, or receiving a

- 1253 building permit.
- 1254 (ii) Notwithstanding Subsection (3)(e)(i)(A), public infrastructure improvements and
1255 infrastructure improvements that are installed by an applicant are subject to
1256 inspection by the municipality in accordance with the municipality's adopted
1257 inspection standards.
- 1258 (f)(i) Each improvement completion assurance and improvement warranty posted by
1259 an applicant with a municipality shall be independent of any other improvement
1260 completion assurance or improvement warranty posted by the same applicant with
1261 the municipality.
- 1262 (ii) Subject to Section 10-20-905, if an applicant has posted a form of security with a
1263 municipality for more than one infrastructure improvement or public landscaping
1264 improvement, the municipality may not withhold acceptance of an applicant's
1265 required subdivision improvements, public landscaping improvement,
1266 infrastructure improvements, or the performance of warranty work for the same
1267 applicant's failure to complete a separate subdivision improvement, public
1268 landscaping improvement, infrastructure improvement, or warranty work under a
1269 separate improvement completion assurance or improvement warranty.
- 1270 (4)(a) Except as provided in Subsection (4)(c), as a condition for increased density or
1271 other entitlement benefit not currently available under the existing zone, a
1272 municipality may require a completion assurance bond for landscaped amenities and
1273 common area that are dedicated to and maintained by a homeowners association.
- 1274 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)
1275 between the applicant and the municipality shall be memorialized in a development
1276 agreement.
- 1277 (c) A municipality may not require a completion assurance bond for or dictate who
1278 installs or is responsible for the cost of the landscaping of residential lots or the
1279 equivalent open space surrounding single-family attached homes, whether platted as
1280 lots or common area.
- 1281 (5) The sum of the improvement completion assurance required under Subsections (3) and
1282 (4) may not exceed the sum of:
- 1283 (a) 100% of the estimated cost of the public landscaping improvements or infrastructure
1284 improvements, as evidenced by an engineer's estimate or licensed contractor's bid;
1285 and
- 1286 (b) 10% of the amount of the bond to cover administrative costs incurred by the

- 1287 municipality to complete the improvements, if necessary.
- 1288 (6)(a) Upon an applicant's written request that the land use authority accept or reject the
 1289 applicant's installation of required subdivision improvements or performance of
 1290 warranty work as set forth in Section 10-20-905, and for the duration of each
 1291 improvement warranty period, the municipality may require the applicant to:
- 1292 (i) execute an improvement warranty for the improvement warranty period; and
 - 1293 (ii) post a cash deposit, surety bond, letter of credit, or other similar security, as
 1294 required by the municipality, in the amount of up to 10% of the lesser of the:
 1295 (A) municipal engineer's original estimated cost of completion; or
 1296 (B) applicant's reasonable proven cost of completion.
- 1297 (b) A municipality may not require the payment of the deposit of the improvement
 1298 warranty assurance described in Subsection (6)(a)(i) for an infrastructure
 1299 improvement or public landscaping improvement before the applicant indicates
 1300 through written request that the applicant has completed the infrastructure
 1301 improvement or public landscaping improvement.
- 1302 (7) When a municipality accepts an improvement completion assurance for public
 1303 landscaping improvements or infrastructure improvements for a development in
 1304 accordance with Subsection (3)(c)(ii), the municipality may not deny an applicant a
 1305 building permit if the development meets the requirements for the issuance of a building
 1306 permit under the building code and fire code.
- 1307 (8) A municipality may not require the submission of a private landscaping plan as part of
 1308 an application for a building permit.
- 1309 (9) The provisions of this section do not supersede the terms of a valid development
 1310 agreement, an adopted phasing plan, or the [~~state construction code~~] State Construction
 1311 Code.
- 1312 Section 14. Section **10-20-902** is amended to read:
- 1313 **10-20-902 . Applicant's entitlement to land use application approval --**
 1314 **Municipality's requirements and limitations -- Vesting upon submission of development**
 1315 **plan and schedule.**
- 1316 (1)(a)(i) An applicant who has submitted a complete land use application as
 1317 described in Subsection (1)(c), including the payment of all application fees, is
 1318 entitled to substantive review of the application under the land use regulations:
 1319 (A) in effect on the date that the application is complete; and
 1320 (B) applicable to the application or to the information shown on the application.

- 1321 (ii) An applicant is entitled to approval of a land use application if the application
1322 conforms to the requirements of the applicable land use regulations, land use
1323 decisions, and development standards in effect when the applicant submits a
1324 complete application and pays application fees, unless:
- 1325 (A) the land use authority, on the record, formally finds that a compelling,
1326 countervailing public interest would be jeopardized by approving the
1327 application and specifies the compelling, countervailing public interest in
1328 writing; or
- 1329 (B) in the manner provided by local ordinance and before the applicant submits
1330 the application, the municipality formally initiates proceedings to amend the
1331 municipality's land use regulations in a manner that would prohibit approval of
1332 the application as submitted.
- 1333 (b) The municipality shall process an application without regard to proceedings the
1334 municipality initiated to amend the municipality's ordinances as described in
1335 Subsection (1)(a)(ii)(B) if:
- 1336 (i) 180 days have passed since the municipality initiated the proceedings; and
1337 (ii)(A) the proceedings have not resulted in an enactment that prohibits approval
1338 of the application as submitted; or
- 1339 (B) during the 12 months before the municipality processing the application, or
1340 multiple applications of the same type, are impaired or prohibited under the
1341 terms of a temporary land use regulation adopted under Section 10-20-504.
- 1342 (c) A land use application is considered submitted and complete when the applicant
1343 provides the application in a form that complies with the requirements of applicable
1344 ordinances and pays all applicable fees.
- 1345 (d) A subsequent incorporation of a municipality or a petition that proposes the
1346 incorporation of a municipality does not affect a land use application approved by a
1347 county in accordance with Section 17-79-803.
- 1348 (e) Unless a phasing sequence is required in an executed development agreement, a
1349 municipality shall, without regard to any other separate and distinct land use
1350 application, accept and process a complete land use application.
- 1351 (f) The continuing validity of an approval of a land use application is conditioned upon
1352 the applicant proceeding after approval to implement the approval with reasonable
1353 diligence.
- 1354 (g) A municipality may not impose on an applicant who has submitted a complete

- 1355 application a requirement that is not expressed in:
- 1356 (i) this chapter;
- 1357 (ii) a municipal ordinance in effect on the date that the applicant submits a complete
- 1358 application, subject to Subsection 10-20-902(1)(a)(ii); or
- 1359 (iii) a municipal specification for public improvements applicable to a subdivision or
- 1360 development that is in effect on the date that the applicant submits an application.
- 1361 (h) A municipality may not impose on a holder of an issued land use permit or a final,
- 1362 unexpired subdivision plat a requirement that is not expressed:
- 1363 (i) in a land use permit;
- 1364 (ii) on the subdivision plat;
- 1365 (iii) in a document on which the land use permit or subdivision plat is based;
- 1366 (iv) in the written record evidencing approval of the land use permit or subdivision
- 1367 plat;
- 1368 (v) in this chapter;
- 1369 (vi) in a municipal ordinance; or
- 1370 (vii) in a municipal specification for residential roadways in effect at the time a
- 1371 residential subdivision was approved.
- 1372 (i) Except as provided in Subsection (1)(j) or (k), a municipality may not withhold
- 1373 issuance of a certificate of occupancy or acceptance of subdivision improvements
- 1374 because of an applicant's failure to comply with a requirement that is not expressed:
- 1375 (i) in the building permit or subdivision plat, documents on which the building permit
- 1376 or subdivision plat is based, or the written record evidencing approval of the land
- 1377 use permit or subdivision plat; or
- 1378 (ii) in this chapter or the municipality's ordinances.
- 1379 (j) A municipality may not unreasonably withhold issuance of a certificate of occupancy
- 1380 where an applicant has met all requirements essential for the public health, public
- 1381 safety, and general welfare of the occupants, in accordance with this chapter, unless:
- 1382 (i) the applicant and the municipality have agreed in a written document to the
- 1383 withholding of a certificate of occupancy; or
- 1384 (ii) the applicant has not provided a financial assurance for required and uncompleted
- 1385 public landscaping improvements or infrastructure improvements in accordance
- 1386 with an applicable local ordinance.
- 1387 (k) A municipality may not conduct a final inspection required before issuing a
- 1388 certificate of occupancy for a residential unit that is within the boundary of an

1389 infrastructure financing district, as defined in Section 17B-1-102, until the applicant
1390 for the certificate of occupancy provides adequate proof to the municipality that any
1391 lien on the unit arising from the infrastructure financing district's assessment against
1392 the unit under Title 11, Chapter 42, Assessment Area Act, has been released after
1393 payment in full of the infrastructure financing district's assessment against that unit.

1394 (l) A municipality:

1395 (i) may require the submission of a private landscaping plan, as defined in Section
1396 10-20-807, before landscaping is installed; and

1397 (ii) may not withhold an applicant's building permit or certificate of occupancy
1398 because the applicant has not submitted a private landscaping plan.

1399 (2) A municipality is bound by the terms and standards of applicable land use regulations
1400 and shall comply with mandatory provisions of those regulations.

1401 (3)(a) Beginning on October 1, 2026, and except as provided in Subsection (3)(b), a
1402 municipality shall publish on the municipality's website an application checklist for
1403 each land use application type that includes a checklist of all required plans and
1404 documents that make a complete application.

1405 (b) A municipality that does have a maintained and active website shall provide for
1406 inspection of the information described in Subsection (3)(a) at the municipality's
1407 place of business during normal business hours.

1408 [~~3~~] (4) A municipality may not, as a condition of land use application approval, require a
1409 person filing a land use application to obtain documentation regarding a school district's
1410 willingness, capacity, or ability to serve the development proposed in the land use
1411 application.

1412 [~~4~~] (5) Upon a specified public agency's submission of a development plan and schedule as
1413 required in Subsection 10-20-304(8) that complies with the requirements of that
1414 subsection, the specified public agency vests in the municipality's applicable land use
1415 maps, zoning map, hookup fees, impact fees, other applicable development fees, and
1416 land use regulations in effect on the date of submission.

1417 [~~5~~] (6)(a) If sponsors of a referendum timely challenge a project in accordance with
1418 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land
1419 use approval by delivering a written notice:

1420 (i) to the local clerk as defined in Section 20A-7-101; and

1421 (ii) no later than seven days after the day on which a petition for a referendum is
1422 determined sufficient under Subsection 20A-7-607(5).

1423 (b) Upon delivery of a written notice described in Subsection [~~(5)~~(a)] (6)(a) the following
 1424 are rescinded and are of no further force or effect:

1425 (i) the relevant land use approval; and

1426 (ii) any land use regulation enacted specifically in relation to the land use approval.

1427 [~~(6)~~] (7)(a) After issuance of a building permit, a municipality may not:

1428 (i) change or add to the requirements expressed in the building permit, unless the
 1429 change or addition is:

1430 (A) requested by the building permit holder; or

1431 (B) necessary to comply with an applicable state building code; or

1432 (ii) revoke the building permit or take action that has the effect of revoking the
 1433 building permit.

1434 (b) Subsection [~~(6)~~(a)] (7)(a) does not prevent a municipality from issuing a building
 1435 permit that contains an expiration date defined in the building permit.

1436 Section 15. Section **10-20-910** is amended to read:

1437 **10-20-910 . Provisions applicable to a provider of culinary or secondary water.**

1438 A provider of culinary or secondary water that commits to provide a water service
 1438a required

1439 by a land use application process is subject to the following as if it were a municipality:

1440 (1) Subsections 10-20-904(5) and (6);

1441 (2) Section 10-20-905; [~~and~~]

1442 (3) Section 10-20-911; and

1443 (4) Section 10-20-912.

1444 Section 16. Section **10-20-911** is amended to read:

1445 **10-20-911 . Exactions -- Requirement to offer to original owner property**

1446 **acquired by exaction -- Exaction for right-of-way improvements -- Improvement**
 1447 **completion assurance requirements.**

1448 (1) A municipality may impose an exaction or exactions on development proposed in a land
 1449 use application, including, subject to [~~Subsection (3)]~~ Section 10-20-912, an exaction for
 1450 a water interest, if:

1451 (a) an essential link exists between a legitimate governmental interest and each exaction;
 1452 and

1453 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the
 1454 proposed development.

1455 (2) If a land use authority imposes an exaction for another governmental entity:

- 1456 (a) the governmental entity shall request the exaction; and
1457 (b) the land use authority shall transfer the exaction to the governmental entity for which
1458 it was exacted.
- 1459 ~~[(3)(a)(i) Subject to the requirements of this Subsection (3), a municipality shall base~~
1460 ~~an exaction for a water interest on the culinary water authority's established~~
1461 ~~calculations of projected water interest requirements.]~~
- 1462 [(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall
1463 base an exaction for a culinary water interest on:]
- 1464 [(A) consideration of the system-wide minimum sizing standards established for
1465 the culinary water authority by the Division of Drinking Water in accordance
1466 with Section 19-4-114; and]
- 1467 [(B) the number of equivalent residential connections associated with the culinary
1468 water demand for each specific development proposed in the development's
1469 land use application, applying lower exactions for developments with lower
1470 equivalent residential connections as demonstrated by at least five years of
1471 usage data for like land uses within the municipality.]
- 1472 [(iii) A municipality may impose an exaction for a culinary water interest that results
1473 in less water being exacted than would otherwise be exacted under Subsection
1474 (3)(a)(ii) if the municipality, at the municipality's sole discretion, determines there
1475 is good cause to do so.]
- 1476 [(iv)(A) A municipality shall make public the methodology used to comply with
1477 Subsection (3)(a)(ii)(B).]
- 1478 [(B) A land use applicant may appeal to the municipality's governing body an
1479 exaction calculation used by the municipality under Subsection (3)(a)(ii).]
- 1480 [(C) A land use applicant may present data and other information that illustrates a
1481 need for an exaction recalculation and the municipality's governing body shall
1482 respond with due process.]
- 1483 [(v) Upon an applicant's request, the culinary water authority shall provide the
1484 applicant with the basis for the culinary water authority's calculations under
1485 Subsection (3)(a)(i) on which an exaction for a water interest is based.]
- 1486 [(b) A municipality may not impose an exaction for a water interest if the culinary water
1487 authority's existing available water interests exceed the water interests needed to meet
1488 the reasonable future water requirement of the public, as determined under
1489 Subsection 73-1-4(2)(f).]

- 1490 [~~(4)~~] (3)(a) If a municipality plans to dispose of surplus real property that was acquired
1491 under this section and has been owned by the municipality for less than 15 years, the
1492 municipality shall first offer to reconvey the property, without receiving additional
1493 consideration, to the person who granted the property to the municipality.
- 1494 (b) A person to whom a municipality offers to reconvey property under Subsection [
1495 ~~(4)~~(a)] (3)(a) has 90 days to accept or reject the municipality's offer.
- 1496 (c) If a person to whom a municipality offers to reconvey property declines the offer, the
1497 municipality may offer the property for sale.
- 1498 (d) Subsection [~~(4)~~(a)] (3)(a) does not apply to the disposal of property acquired by
1499 exaction by a community reinvestment agency.
- 1500 [~~(5)~~] (4)(a) A municipality may not, as part of an infrastructure improvement, require the
1501 installation of pavement on a residential roadway at a width in excess of 32 feet.
- 1502 (b) Subsection [~~(5)~~(a)] (4)(a) does not apply if a municipality requires the installation of
1503 pavement in excess of 32 feet:
- 1504 (i) in a vehicle turnaround area;
- 1505 (ii) in a cul-de-sac;
- 1506 (iii) to address specific traffic flow constraints at an intersection, mid-block
1507 crossings, or other areas;
- 1508 (iv) to address an applicable general or master plan improvement, including
1509 transportation, bicycle lanes, trails, or other similar improvements that are not
1510 included within an impact fee area;
- 1511 (v) to address traffic flow constraints for service to or abutting higher density
1512 developments or uses that generate higher traffic volumes, including community
1513 centers, schools, and other similar uses;
- 1514 (vi) as needed for the installation or location of a utility which is maintained by the
1515 municipality and is considered a transmission line or requires additional roadway
1516 width;
- 1517 (vii) for third-party utility lines that have an easement preventing the installation of
1518 utilities maintained by the municipality within the roadway;
- 1519 (viii) for utilities over 12 feet in depth;
- 1520 (ix) for roadways with a design speed that exceeds 25 miles per hour;
- 1521 (x) as needed for flood and stormwater routing;
- 1522 (xi) as needed to meet fire code requirements for parking and hydrants; or
1523 (xii) as needed to accommodate street parking.

- 1524 (c) Nothing in this section shall be construed to prevent a municipality from approving a
 1525 road cross section with a pavement width less than 32 feet.
- 1526 (d)(i) A land use applicant may appeal a municipal requirement for pavement in
 1527 excess of 32 feet on a residential roadway.
- 1528 (ii) A land use applicant that has appealed a municipal specification for a residential
 1529 roadway pavement width in excess of 32 feet may request that the municipality
 1530 assemble a panel of qualified experts to serve as the appeal authority for purposes
 1531 of determining the technical aspects of the appeal.
- 1532 (iii) Unless otherwise agreed by the applicant and the municipality, the panel
 1533 described in Subsection [~~(5)(d)(ii)~~] (4)(d)(ii) shall consist of the following three
 1534 experts:
- 1535 (A) one licensed engineer, designated by the municipality;
- 1536 (B) one licensed engineer, designated by the land use applicant; and
- 1537 (C) one licensed engineer, agreed upon and designated by the two designated
 1538 engineers under Subsections [~~(5)(d)(iii)(A)~~] (4)(d)(iii)(A) and (B).
- 1539 (iv) A member of the panel assembled by the municipality under Subsection [
 1540 ~~(5)(d)(ii)~~] (4)(d)(ii) may not have an interest in the application that is the subject of
 1541 the appeal.
- 1542 (v) The land use applicant shall pay:
- 1543 (A) 50% of the cost of the panel; and
- 1544 (B) the municipality's published appeal fee.
- 1545 (vi) The decision of the panel is a final decision, subject to a petition for review under
 1546 Subsection [~~(5)(d)(vii)~~] (4)(d)(vii).
- 1547 (vii) In accordance with Section 10-20-1109, a land use applicant or the municipality
 1548 may file a petition for review of the decision with the district court within 30 days
 1549 after the date that the decision is final.
- 1550 [~~(6) A provider of culinary or secondary water that commits to provide a water service~~
 1551 ~~required by a land use application process is subject to the provisions of this section the~~
 1552 ~~same as if the provider were a municipality.]~~
- 1553 Section 17. Section **10-20-912** is enacted to read:
- 1554 **10-20-912 . Exactions for water rights.**
- 1555 (1) Subject to the requirements of this section, a municipality shall base an exaction for a
 1556 water interest on the culinary water authority's established calculations of projected
 1557 water interest requirements.

- 1558 (2) Except as provided in Subsection (3), a culinary water authority shall base an exaction
 1559 for a culinary water interest on:
- 1560 (a) consideration of the system-wide minimum sizing standards established for the
 1561 culinary water authority by the Division of Drinking Water under Section 19-4-114;
 1562 and
- 1563 (b) the number of equivalent residential connections associated with the culinary water
 1564 demand for each specific development proposed in the development's land use
 1565 application, applying lower exactions for developments with lower equivalent
 1566 residential connections as demonstrated by at least five years of usage data for like
 1567 land uses within the municipality.
- 1568 (3) If a municipality determines, in the sole discretion of the municipality, that good cause
 1569 exists, the municipality may impose an exaction for a culinary water interest that results
 1570 in less water being exacted than would otherwise be exacted under Subsection (2).
- 1571 (4)(a) A municipality shall make public the methodology used to comply with
 1572 Subsection (2)(b).
- 1573 (b) A land use applicant may submit a request to the municipality's legislative body to
 1574 review an exaction calculation used by the municipality under Subsection (2).
- 1575 (c) A land use applicant may present data and other information that illustrates a need
 1576 for an exaction recalculation and the municipality's legislative body shall respond
 1577 with due process.
- 1578 (5) Upon an applicant's request, the culinary water authority shall provide the applicant
 1579 with the basis for the culinary water authority's calculations under Subsection (2) on
 1580 which an exaction for a water interest is based.
- 1581 (6) A municipality may not impose an exaction for a water interest if the culinary water
 1582 authority's existing available water interests exceed the water interests needed to meet
 1583 the reasonable future water requirement of the public, as determined under Subsection
 1584 73-1-4(2)(f).
- 1585 (7) A provider of culinary or secondary water that commits to provide a water service
 1586 required by a land use application process is subject to the provisions of this section and
 1587 Section 10-20-911 the same as if the provider were a municipality.

1588 Section 18. Section **10-20-1001** is amended to read:

1589 **10-20-1001 . Enforcement -- Limitations on a municipality's ability to enforce an**
 1590 **ordinance by withholding a permit or certificate.**

- 1591 (1)(a) A municipality or [an adversely affected party] a land use applicant may, in

- 1592 addition to other remedies provided by law, institute:
- 1593 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
- 1594 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 1595 (b) A municipality need only establish the violation to obtain the injunction.
- 1596 (2)(a) Except as provided in Subsections (3) [~~though~~] through (6), a municipality may
- 1597 enforce the municipality's ordinance by withholding a building permit or certificate
- 1598 of occupancy.
- 1599 (b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any
- 1600 building or other structure within a municipality without approval of a building
- 1601 permit.
- 1602 (c) A municipality may not issue a building permit unless the plans of and for the
- 1603 proposed erection, construction, reconstruction, alteration, or use fully conform to all
- 1604 regulations then in effect.
- 1605 (d) A municipality may require an applicant to maintain and repair a temporary fire
- 1606 apparatus road during the construction of a structure accessed by the temporary fire
- 1607 apparatus road in accordance with the municipality's adopted standards.
- 1608 (e) A municipality may require temporary signs to be installed at each street intersection
- 1609 once construction of a new roadway allows passage by a motor vehicle.
- 1610 (f) A municipality may adopt and enforce any appendix of the International Fire Code,
- 1611 2021 Edition.
- 1612 (3)(a) A municipality may not deny an applicant a building permit or certificate of
- 1613 occupancy because the applicant has not completed an infrastructure improvement:
- 1614 (i) unless the infrastructure improvement is essential to meet the requirements for the
- 1615 issuance of a building permit or certificate of occupancy under Title 15A, State
- 1616 Construction and Fire Codes Act; and
- 1617 (ii) for which the municipality has accepted an improvement completion assurance
- 1618 for a public landscaping improvement, as defined in Section 10-20-807, or an
- 1619 infrastructure improvement for the development.
- 1620 (b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6,
- 1621 infrastructure improvement that is essential means:
- 1622 (i) for a building permit:
- 1623 (A) operable fire hydrants installed in a manner that is consistent with the
- 1624 municipality's adopted engineering standards; and
- 1625 (B) for temporary roads used during construction, a properly compacted road base

- 1626 installed in a manner consistent with the municipality's adopted engineering
1627 standards;
- 1628 (ii) for a certificate of occupancy, at the discretion of the municipality, at least one of
1629 the following:
- 1630 (A) a permanent road;
- 1631 (B) a temporary road covered with asphalt or concrete; or
- 1632 (C) another method for accessing a structure consistent with Appendix D of the
1633 International Fire Code; and
- 1634 (iii) public infrastructure necessary for the health, life, and safety of the occupant.
- 1635 (c) A municipality may not adopt an engineering standard that requires an applicant to
1636 install a permanent road or a temporary road with asphalt or concrete before
1637 receiving a building permit.
- 1638 (4) A municipality may not deny an applicant a building permit or certificate of occupancy
1639 for failure to:
- 1640 (a) submit a private landscaping plan, as defined in Section 10-20-807; or
- 1641 (b) complete a landscaping improvement that is not a public landscaping improvement,
1642 as defined in Section 10-20-807.
- 1643 (5) A municipality may not withhold a building permit based on the lack of completion of a
1644 portion of a public sidewalk to be constructed within a public right-of-way serving a lot
1645 where a single-family or two-family residence or town home is proposed in a building
1646 permit application if an improvement completion assurance has been posted for the
1647 incomplete portion of the public sidewalk.
- 1648 (6) A municipality may not prohibit the construction of a single-family or two-family
1649 residence or town home, withhold recording a plat, or withhold acceptance of a public
1650 landscaping improvement, as defined in Section 10-20-807, or an infrastructure
1651 improvement based on the lack of installation of a public sidewalk if an improvement
1652 completion assurance has been posted for the public sidewalk.
- 1653 (7) A municipality may not redeem an improvement completion assurance securing the
1654 installation of a public sidewalk sooner than 18 months after the date the improvement
1655 completion assurance is posted.
- 1656 (8) A municipality shall allow an applicant to post an improvement completion assurance
1657 for a public sidewalk separate from an improvement completion assurance for:
- 1658 (a) another infrastructure improvement; or
- 1659 (b) a public landscaping improvement, as defined in Section 10-20-807.

1660 (9) A municipality may withhold a certificate of occupancy for a single-family or
 1661 two-family residence or town home until the portion of the public sidewalk to be
 1662 constructed within a public right-of-way and located immediately adjacent to the
 1663 single-family or two-family residence or town home is completed and accepted by the
 1664 municipality.

1665 Section 19. Section **10-20-1101** is amended to read:

1666 **10-20-1101 . Appeal authority required -- Condition precedent to judicial review**
 1667 **-- Appeal authority duties.**

1668 (1)(a) [Each] Subject to Subsection (1)(d), each municipality adopting a land use
 1669 ordinance shall, by ordinance, establish one or more appeal authorities.

1670 (b) An appeal authority described in Subsection (1)(a) shall hear and decide:

1671 (i) requests for [variances] a variance from [the terms of] a land use [ordinances]
 1672 ordinance;

1673 (ii) appeals from a land use [decisions] decision applying a land use [ordinances]
 1674 ordinance; and

1675 (iii) appeals from a fee charged in accordance with Section 10-20-904.

1676 (c) An appeal authority described in Subsection (1)(a) may not hear an appeal from the
 1677 enactment of a land use regulation.

1678 (d) Beginning on July 1, 2026, a city described in Subsection 10-20-302(6)(a)(i) may not
 1679 designate the city's legislative body as an appeal authority.

1680 (e) Notwithstanding Subsection (1)(d), a legislative body shall continue to be the appeal
 1681 authority for an appeal if:

1682 (i) a land use ordinance designated the legislative body as the appeal authority when
 1683 the appellant filed the appeal; and

1684 (ii) the appellant filed the appeal on or before June 30, 2026.

1685 (2) As a condition precedent to judicial review, each adversely affected party or land use
 1686 applicant shall timely and specifically challenge a land use authority's land use decision,
 1687 in accordance with local ordinance.

1688 (3) An appeal authority described in Subsection (1)(a):

1689 (a) shall:

1690 (i) act in a quasi-judicial manner; and

1691 (ii) serve as the final arbiter of issues involving the interpretation or application of a
 1692 land use [ordinances] ordinance; and

1693 (b) may not entertain an appeal of a matter in which the appeal authority, or any

1694 participating member, had first acted as the land use authority.

1695 (4) By ordinance, a municipality may:

1696 (a) designate a separate appeal authority to hear requests for variances than the appeal
1697 authority the municipality designates to hear appeals;

1698 (b) designate one or more separate appeal authorities to hear distinct types of appeals of
1699 land use authority decisions;

1700 (c) require an adversely affected party to present to an appeal authority every theory of
1701 relief that the adversely affected party can raise in district court; and

1702 [~~(d) not require a land use applicant or adversely affected party to pursue duplicate or
1703 successive appeals before the same or separate appeal authorities as a condition of an
1704 appealing party's duty to exhaust administrative remedies; and]~~

1705 [(e)] (d) provide that specified types of land use decisions may be appealed directly to the
1706 district court.

1707 (5) A municipality may not:

1708 (a) require a public hearing for a request for a variance or land use appeal[-] ; or

1709 (b) require a land use applicant or adversely affected party to pursue successive appeals
1710 before the same or separate appeal authorities as a condition of an appealing party's
1711 duty to exhaust administrative remedies.

1712 (6) If the municipality establishes or, before the effective date of this chapter, has
1713 established a multiperson board, body, or panel to act as an appeal authority, at a
1714 minimum the board, body, or panel shall:

1715 (a) notify each of the members of the board, body, or panel of any meeting or hearing of
1716 the board, body, or panel;

1717 (b) provide each of the members of the board, body, or panel with the same information
1718 and access to municipal resources as any other member;

1719 (c) convene only if a quorum of the members of the board, body, or panel is present; and

1720 (d) act only upon the vote of a majority of the convened members of the board, body, or
1721 panel.

1722 Section 20. Section **10-20-1105** is repealed and reenacted to read:

1723 **10-20-1105 . Burden of proof.**

1724 In an appeal described in this part:

1725 (1) if the appellant is a land use applicant, the appellant has the burden of proving that the
1726 land use authority's land use decision is illegal or is not supported by substantial
1727 evidence; or

1728 (2) if the appellant is an adversely affected party, the appellant has the burden of proving
1729 that the land use authority's land use decision is illegal, or that the factual findings are
1730 clearly erroneous.

1731 Section 21. Section **10-20-1106** is amended to read:

1732 **10-20-1106 . Due process.**

1733 (1) ~~[Each]~~ An appeal authority shall conduct each appeal and variance request as provided
1734 in local ordinance.

1735 (2) ~~[Each]~~ An appeal authority shall respect the due process rights of ~~[each of the~~
1736 ~~participants]~~ an appeal participant.

1737 (3) An appeal authority may only allow the following people to present or speak during an
1738 appeal hearing:

1739 (a) the appellant or the appellant's representatives;

1740 (b) the land use applicant or the land use applicant's representatives; and

1741 (c) the municipality's representatives.

1742 Section 22. Section **10-20-1107** is amended to read:

1743 **10-20-1107 . Scope of review of factual matters on appeal -- Appeal authority**
1744 **requirements.**

1745 (1) A municipality may, by ordinance, designate the scope of review of factual matters for
1746 appeals of land use authority decisions.

1747 (2) If the municipality fails to designate a scope of review of factual matters, the appeal
1748 authority shall review the ~~[matter]~~ factual matters de novo, without deference to the land
1749 use authority's determination of the factual matters.

1750 (3) If the scope of review of factual matters is on the record, the appeal authority shall
1751 determine whether the record on appeal includes substantial evidence for each essential
1752 finding of fact.

1753 (4) The appeal authority shall:

1754 (a) determine the correctness of the land use authority's interpretation and application of
1755 the plain meaning of the land use regulations; and

1756 (b) interpret and apply a land use regulation to favor a land use application unless the
1757 land use regulation plainly restricts the land use application.

1758 (5)(a) An appeal authority's land use decision is a quasi-judicial act.

1759 (b) ~~[A]~~ Except as provided in Subsection (5)(c), a legislative body may act as an appeal
1760 authority unless both the legislative body and the appealing party agree to allow a
1761 third party to act as the appeal authority.

- 1762 (c) Beginning on July 1, 2026, the legislative body of a city described in Subsection
 1763 10-20-302(6)(a)(i) may not act as an appeal authority unless:
 1764 (i) a land use ordinance designated the legislative body as the appeal authority when
 1765 the appellant filed the appeal; and
 1766 (ii) the appellant filed the appeal on or before June 30, 2026.
- 1767 (6) Only a decision in which a land use authority has applied a land use regulation to a
 1768 particular land use application, person, or parcel may be appealed to an appeal authority.
 1769 Section 23. Section **10-20-1109** is amended to read:
- 1770 **10-20-1109 . No district court review until administrative remedies exhausted --**
 1771 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**
 1772 **-- Staying of decision.**
- 1773 (1) ~~[Nø]~~ A person may challenge in district court a land use decision ~~[until that]~~ if the person
 1774 has exhausted the person's administrative remedies as provided in this part, if applicable.
- 1775 (2)(a) Subject to Subsection (1), a land use applicant or adversely affected party may file
 1776 a petition for review of a land use decision with the district court within 30 days after
 1777 the decision is final.
- 1778 (b)(i) The time under Subsection (2)(a) to file a petition is tolled from the date a
 1779 property owner files a request for arbitration of a constitutional taking issue with
 1780 the property rights ombudsman under Section 13-43-204 until 30 days after:
 1781 (A) the arbitrator issues a final award; or
 1782 (B) the property rights ombudsman issues a written statement under Subsection
 1783 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.
- 1784 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
 1785 taking issue that is the subject of the request for arbitration filed with the property
 1786 rights ombudsman by a property owner.
- 1787 (iii) A request for arbitration filed with the property rights ombudsman after the time
 1788 under Subsection (2)(a) to file a petition has expired does not affect the time to
 1789 file a petition.
- 1790 (3)(a) A court shall:
 1791 (i) presume that a land use regulation properly enacted under the authority of this
 1792 chapter is valid; and
 1793 (ii) determine only whether:
 1794 (A) the land use regulation is expressly preempted by, or was enacted contrary to,
 1795 state or federal law; and

- 1796 (B) it is reasonably debatable that the land use regulation is consistent with this
1797 chapter.
- 1798 (b) A court shall presume that a final land use decision of a land use authority or an
1799 appeal authority is valid unless the land use decision is:
1800 (i) arbitrary and capricious; or
1801 (ii) illegal.
- 1802 (c)(i) A land use decision is arbitrary and capricious if the land use decision is not
1803 supported by substantial evidence in the record.
1804 (ii) A land use decision is illegal if the land use decision:
1805 (A) is based on an incorrect interpretation of a land use regulation;
1806 (B) conflicts with the authority granted by this title; or
1807 (C) is contrary to law.
- 1808 (d)(i) A court may affirm or reverse a land use decision.
1809 (ii) If the court reverses a land use decision, the court shall remand the matter to the
1810 land use authority with instructions to issue a land use decision consistent with the
1811 court's ruling.
- 1812 (4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes
1813 final action on a land use application, if the municipality conformed with the notice
1814 provisions of Part 2, Notice, or for any person who had actual notice of the pending land
1815 use decision.
- 1816 (5) If the municipality has complied with Section 10-20-205, a challenge to the enactment
1817 of a land use regulation~~[-or]~~, general plan, or specified land use law may not be filed
1818 with the district court more than 30 days after the enactment.
- 1819 (6) A challenge to a land use decision is barred unless the challenge is filed within 30 days
1820 after the land use decision is final.
- 1821 (7)(a) The land use authority or appeal authority, as the case may be, shall transmit to
1822 the reviewing court the record of the proceedings of the land use authority or appeal
1823 authority, including the minutes, findings, orders, and, if available, a true and correct
1824 transcript of the proceedings.
- 1825 (b) If the proceeding was recorded, a transcript of that recording is a true and correct
1826 transcript for purposes of this Subsection (7).
- 1827 (8)(a)(i) If there is a record, the district court's review is limited to the record
1828 provided by the land use authority or appeal authority, as the case may be.
1829 (ii) The court may not accept or consider any evidence outside the record of the land

1830 use authority or appeal authority, as the case may be, unless that evidence was
 1831 offered to the land use authority or appeal authority, respectively, and the court
 1832 determines that the evidence was improperly excluded.

1833 (b) If there is no record, the court may call witnesses and take evidence.

1834 (9)(a) The filing of a petition does not stay the land use decision of the land use
 1835 authority or appeal authority, as the case may be.

1836 (b)(i) Before filing a petition under this section or a request for mediation or
 1837 arbitration of a constitutional taking issue under Section 13-43-204, a land use
 1838 applicant may petition the appeal authority to stay the appeal authority's land use
 1839 decision.

1840 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal
 1841 authority's land use decision stayed pending district court review if the appeal
 1842 authority finds the order to be in the best interest of the municipality.

1843 (iii) After a petition is filed under this section or a request for mediation or arbitration
 1844 of a constitutional taking issue is filed under Section 13-43-204, the petitioner
 1845 may seek an injunction staying the appeal authority's land use decision.

1846 (10) If the court determines that a party initiated or pursued a challenge to a land use
 1847 decision on a land use application in bad faith, the court may award attorney fees.

1848 Section 24. Section **10-21-101** is amended to read:

1849 **10-21-101 . Definitions.**

1850 As used in this part:

1851 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
 1852 detached from a single-family dwelling and contained on one lot or parcel.

1853 (2) "Accessory structure" means a detached structure located on the same lot or parcel as a
 1854 principal structure and is incidental and subordinate to the size and use of the principal
 1855 structure.

1856 (3) "Affordable housing" means housing offered for sale at 80% or less of the median
 1857 county home price for housing of that type.

1858 [(2)] (4) "Agency" means the same as that term is defined in Section 17C-1-102.

1859 [(3)] (5) "Applicable metropolitan planning organization" means the metropolitan planning
 1860 organization that has jurisdiction over the area in which a fixed guideway public transit
 1861 station is located.

1862 [(4)] (6) "Applicable public transit district" means the public transit district, as defined in
 1863 Section 17B-2a-802, of which a fixed guideway public transit station is included.

- 1864 [(5)] (7) "Base taxable value" means a property's taxable value as shown upon the
1865 assessment roll last equalized during the base year.
- 1866 [(6)] (8) "Base year" means, for a proposed home ownership promotion zone area, a year
1867 beginning the first day of the calendar quarter determined by the last equalized tax roll
1868 before the adoption of the home ownership promotion zone.
- 1869 (9) "Detached accessory dwelling unit" means an accessory dwelling unit that is not
1870 attached to or within a primary detached single-family dwelling and located on the same
1871 lot or parcel as the primary detached single-family dwelling.
- 1872 [(7)] (10) "Division" means the Housing and Community Development Division within the
1873 Department of Workforce Services.
- 1874 [(8)] (11) "Existing fixed guideway public transit station" means a fixed guideway public
1875 transit station for which construction begins before June 1, 2022.
- 1876 [(9)] (12) "Fixed guideway" means the same as that term is defined in Section 59-12-102.
- 1877 [(10)] (13) "Home ownership promotion zone" means a home ownership promotion zone
1878 created in accordance with this part.
- 1879 [(11)] (14) "Implementation plan" means the implementation plan adopted as part of the
1880 moderate income housing element of a specified municipality's general plan as provided
1881 in Subsection 10-21-201(4).
- 1882 [(12)] (15) "Initial report" or "initial moderate income housing report" means the one-time
1883 report described in Subsection 10-21-202(1).
- 1884 [(13)] (16) "Internal accessory dwelling unit" means an accessory dwelling unit created:
1885 (a) within a primary dwelling;
1886 (b) within the footprint of the primary dwelling described in [~~Subsection (13)(a)]~~
1887 Subsection (16)(a) at the time the internal accessory dwelling unit is created; and
1888 (c) for the purpose of offering a long-term rental of 30 consecutive days or longer.
- 1889 [(14)] (17) "Moderate income housing strategy" means a strategy described in Subsection
1890 10-21-201(3)(a)(iii).
- 1891 [(15)] (18) "New fixed guideway public transit station" means a fixed guideway public
1892 transit station for which construction begins on or after June 1, 2022.
- 1893 [(16)] (19) "Participant" means the same as that term is defined in Section 17C-1-102.
- 1894 [(17)] (20) "Participation agreement" means the same as that term is defined in Section
1895 17C-1-102.
- 1896 [(18)] (21)(a) "Primary dwelling" means a single-family dwelling that:
1897 (i) is detached; and

- 1898 (ii) is occupied as the primary residence of the owner of record.
- 1899 (b) "Primary dwelling" includes a garage if the garage:
- 1900 (i) is a habitable space; and
- 1901 (ii) is connected to the primary dwelling by a common wall.
- 1902 [~~(19)~~] (22) "Project improvements" means the same as that term is defined in Section
- 1903 11-36a-102.
- 1904 [~~(20)~~] (23) "Qualifying land use petition" means a petition:
- 1905 (a) that involves land located within a station area for an existing public transit station
- 1906 that provides rail services;
- 1907 (b) that involves land located within a station area for which the municipality has not yet
- 1908 satisfied the requirements of Subsection 10-21-203(1)(a);
- 1909 (c) that proposes the development of an area greater than five contiguous acres, with no
- 1910 less than 51% of the acreage within the station area;
- 1911 (d) that would require the municipality to amend the municipality's general plan or
- 1912 change a zoning designation for the land use application to be approved;
- 1913 (e) that would require a higher density than the density currently allowed by the
- 1914 municipality;
- 1915 (f) that proposes the construction of new residential units, at least 10% of which are
- 1916 dedicated to moderate income housing; and
- 1917 (g) for which the land use applicant requests the municipality to initiate the process of
- 1918 satisfying the requirements of Subsection 10-21-203(1)(a) for the station area in
- 1919 which the development is proposed, subject to Subsection 10-21-203(2)(d).
- 1920 [~~(21)~~] (24) "Report" means an initial report or a subsequent progress report.
- 1921 [~~(22)~~] (25) "Specified municipality" means:
- 1922 (a) a city of the first, second, third, or fourth class; or
- 1923 (b) a city of the fifth class with a population of 5,000 or more, if the city is located
- 1924 within a county of the first, second, or third class.
- 1925 [~~(23)~~] (26)(a) "Station area" means:
- 1926 (i) for a fixed guideway public transit station that provides rail services, the area
- 1927 within a one-half mile radius of the center of the fixed guideway public transit
- 1928 station platform; or
- 1929 (ii) for a fixed guideway public transit station that provides bus services only, the
- 1930 area within a one-fourth mile radius of the center of the fixed guideway public
- 1931 transit station platform.

- 1932 (b) "Station area" includes any parcel bisected by the radius limitation described in [
 1933 ~~Subsection (a)(i)] Subsection (26)(a)(i) or (ii).~~
- 1934 [~~(24)] (27) "Station area plan" means a plan that:~~
- 1935 (a) establishes a vision, and the actions needed to implement that vision, for the
 1936 development of land within a station area; and
- 1937 (b) is developed and adopted in accordance with this section.
- 1938 [~~(25)] (28) "Subsequent progress report" means the annual report described in Subsection
 1939 10-21-202(2).~~
- 1940 [~~(26)] (29) "System improvements" means the same as that term is defined in Section
 1941 11-36a-102.~~
- 1942 [~~(27)] (30) "Tax commission" means the State Tax Commission created in Section 59-1-201.~~
- 1943 [~~(28)] (31)(a) "Tax increment" means the difference between:~~
- 1944 (i) the amount of property tax revenue generated each tax year by a taxing entity from
 1945 the area within a home ownership promotion zone, using the current assessed
 1946 value and each taxing entity's current certified tax rate as defined in Section
 1947 59-2-924; and
- 1948 (ii) the amount of property tax revenue that would be generated from that same area
 1949 using the base taxable value and each taxing entity's current certified tax rate as
 1950 defined in Section 59-2-924.
- 1951 (b) "Tax increment" does not include property revenue from:
- 1952 (i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2);
 1953 or
- 1954 (ii) a county additional property tax described in Subsection 59-2-1602(4).
- 1955 [~~(29)] (32) "Taxing entity" means the same as that term is defined in Section 17C-1-102.
 1956 Section 25. Section **10-21-304** is enacted to read:~~
- 1957 **10-21-304 . Detached accessory dwelling units.**
- 1958 (1)(a) A specified municipality shall adopt a land use regulation that permits a detached
 1959 accessory dwelling unit on any lot or parcel that is 10,000 square feet or larger and
 1960 contains a single-family dwelling, if the single-family dwelling is a permitted use on
 1961 the lot or parcel.
- 1962 (b) This section does not prohibit a municipality from adopting a land use regulation that
 1963 permits a detached accessory dwelling unit on a lot or parcel that is smaller than
 1964 10,000 square feet.
- 1965 (2) A land use regulation described in Subsection (1) shall:

- 1966 (a) require that a detached accessory dwelling unit comply with all applicable building,
 1967 health, and fire codes; and
- 1968 (b) include a process for the owner of a legally constructed accessory structure to
 1969 convert the accessory structure to a detached accessory dwelling unit subject to
 1970 applicable:
- 1971 (i) dwelling and accessory structure setback requirements; and
 1972 (ii) building, health, and fire codes.
- 1973 (3) A land use regulation described in Subsection (1) may not:
- 1974 (a) require a conditional use permit for a detached accessory dwelling unit if the
 1975 proposed detached accessory dwelling unit is located in a primarily residential zone;
- 1976 (b) require more than two on-site parking spaces assigned to a detached accessory
 1977 dwelling unit that is 650 square feet or larger;
- 1978 (c) require more than one on-site parking space assigned to a detached accessory
 1979 dwelling unit that is smaller than 650 square feet; or
- 1980 (d) include design standards for a detached accessory dwelling unit that conflict with
 1981 Section 10-20-618.
- 1982 (4) A land use regulation described in Subsection (1) may:
- 1983 (a) require a detached accessory dwelling unit to:
- 1984 (i) conform to applicable land use regulations that regulate structure size, dimension,
 1985 height, and maximum lot coverage;
- 1986 (ii) conform to setback requirements, that may take into account proximity to
 1987 property lines and other structures, easements, window orientation, massing, or
 1988 other elements; and
- 1989 (iii) be designed consistent with the design of the single-family dwelling;
- 1990 (b) prohibit a detached accessory dwelling unit from being:
- 1991 (i) larger in size than the single-family dwelling located on the same lot or parcel;
 1992 (ii) located within a public utility easement or other recorded easement;
 1993 (iii) located in a front-yard area of a lot or parcel; or
 1994 (iv) rented for less than 90 consecutive days;
- 1995 (c) require that the owner of a lot or parcel where a detached accessory dwelling unit is
 1996 located reside in the detached single-family dwelling or detached accessory dwelling
 1997 unit located on the lot or parcel;
- 1998 (d) require that when a detached garage is converted to a detached accessory dwelling
 1999 unit, any parking spaces required for the single-family dwelling that were located

- 2000 with the detached garage are replaced on-site;
- 2001 (e) prohibit more than one accessory dwelling unit on a lot or parcel; and
- 2002 (f) prohibit a detached accessory dwelling unit if:
- 2003 (i) the detached accessory dwelling unit will not have adequate access to a required
- 2004 utility service that is a project improvement, including sanitary sewer, culinary
- 2005 water, electrical, or storm water; or
- 2006 (ii) a utility service that is a system improvement, including sanitary sewer, culinary
- 2007 water, electrical, or storm water, to which the detached accessory dwelling unit is
- 2008 required to connect does not have sufficient capacity to support the addition of the
- 2009 detached accessory dwelling unit to the utility service system improvements.

2010 (5) This section does not supersede:

- 2011 (a) a land use regulation that regulates a detached accessory building that is not a
- 2012 detached accessory dwelling unit;
- 2013 (b) prohibitions or restrictions on detached accessory dwelling units in a development
- 2014 agreement signed by a municipality on or before May 6, 2026; or
- 2015 (c) a land use regulation or administrative action that:
- 2016 (i) is not prohibited by law; and
- 2017 (ii) relates to a detached accessory dwelling unit.

2018 Section 26. Section **13-43-205** is amended to read:

2019 **13-43-205 . Advisory opinion.**

- 2020 (1) A local government, private entity, or a potentially aggrieved person may, in accordance
- 2021 with Section 13-43-206, request a written advisory opinion:
- 2022 (a) from a neutral third party to determine compliance with:
- 2023 (i) Sections 10-20-506, 10-20-507, 10-20-602, 10-20-604, 10-20-605, 10-20-902,
- 2024 10-20-904, 10-20-905, 10-20-910, 10-20-911, 10-20-912, and 10-20-1003;
- 2025 (ii) Sections 17-79-506, 17-79-507, 17-79-601, 17-79-602, 17-79-603, 17-79-803,
- 2026 17-79-804, 17-79-805, 17-79-811, 17-79-812, 17-79-813, and 17-79-903; and
- 2027 (iii) Title 11, Chapter 36a, Impact Fees Act; and
- 2028 (b) at any time before:
- 2029 (i) a final decision on a land use application by a local appeal authority under Title
- 2030 11, Chapter 36a, Impact Fees Act, or Section 10-20-1108 or 17-79-1008;
- 2031 (ii) the deadline for filing an appeal with the district court under Title 11, Chapter
- 2032 36a, Impact Fees Act, or Section 10-20-1109 or 17-79-1009, if no local appeal
- 2033 authority is designated to hear the issue that is the subject of the request for an

2034 advisory opinion; or
 2035 (iii) the enactment of an impact fee, if the request for an advisory opinion is a request
 2036 to review and comment on a proposed impact fee facilities plan or a proposed
 2037 impact fee analysis as defined in Section 11-36a-102.

2038 (2) A private property owner may, in accordance with Section 13-43-206, request a written
 2039 advisory opinion from a neutral third party to determine if a condemning entity:

2040 (a) is in occupancy of the owner's property;

2041 (b) is occupying the property:

2042 (i) for a public use authorized by law; and

2043 (ii) without colorable legal or equitable authority; and

2044 (c) continues to occupy the property without the owner's consent, the occupancy would
 2045 constitute a taking of private property for a public use without just compensation.

2046 (3) An advisory opinion issued under Subsection (2) may justify an award of attorney fees
 2047 against a condemning entity in accordance with Section 13-43-206 only if the court
 2048 finds that the condemning entity:

2049 (a) does not have a colorable claim or defense for the entity's actions; and

2050 (b) continued occupancy without payment of just compensation and in disregard of the
 2051 advisory opinion.

2052 Section 27. Section **17-79-102** is amended to read:

2053 **17-79-102 . Definitions.**

2054 As used in this chapter:

2055 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
 2056 detached from a primary single-family dwelling and contained on one lot.

2057 (2) "Adversely affected party" means a person other than a land use applicant who:

2058 (a) owns real property adjoining the property that is the subject of a land use application
 2059 or land use decision; or

2060 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
 2061 general community as a result of the land use decision.

2062 (3) "Affected entity" means a county, municipality, special district, special service district
 2063 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
 2064 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
 2065 specified property owner, property owner's association, public utility, or the Department
 2066 of Transportation, if:

2067 (a) the entity's services or facilities are likely to require expansion or significant

- 2068 modification because of an intended use of land;
- 2069 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
- 2070 or
- 2071 (c) the entity has filed with the county a request for notice during the same calendar year
- 2072 and before the county provides notice to an affected entity in compliance with a
- 2073 requirement imposed under this chapter.
- 2074 (4) "Affected owner" means the owner of real property that is:
- 2075 (a) a single project; and
- 2076 (b) the subject of a land use approval that:
- 2077 (i) sponsors of a referendum timely challenged in accordance with Subsection
- 2078 20A-7-601(6); and
- 2079 [(e)] (ii) is determined to be legally referable under Section 20A-7-602.8.
- 2080 (5) "Appeal authority" means the person, board, commission, agency, or other body
- 2081 designated by ordinance to decide an appeal of a decision of a land use application or a
- 2082 variance.
- 2083 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
- 2084 residential property if the sign is designed or intended to direct attention to a business,
- 2085 product, or service that is not sold, offered, or existing on the property where the sign is
- 2086 located.
- 2087 [~~(7) "Building code adoption cycle" means the period of time beginning the day on which a~~
- 2088 ~~specific edition of a construction code from a nationally recognized code authority is~~
- 2089 ~~adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day~~
- 2090 ~~before a new edition of a construction code is adopted and effective in Title 15A, State~~
- 2091 ~~Construction and Fire Codes Act.]~~
- 2092 [(~~8~~)] (7)(a) "Boundary adjustment" means an agreement between adjoining property
- 2093 owners to relocate a common boundary that results in a conveyance of property
- 2094 between the adjoining lots, adjoining parcels, or adjoining lots and parcels.
- 2095 (b) "Boundary adjustment" does not mean a modification of a lot or parcel boundary that:
- 2096 (i) creates an additional lot or parcel; or
- 2097 (ii) is made by the Department of Transportation.
- 2098 [(~~9~~)] (8)(a) "Boundary establishment" means an agreement between adjoining property
- 2099 owners to clarify the location of an ambiguous, uncertain, or disputed common
- 2100 boundary.
- 2101 (b) "Boundary establishment" does not mean a modification of a lot or parcel boundary

- 2102 that:
- 2103 (i) creates an additional lot or parcel; or
- 2104 (ii) is made by the Department of Transportation.
- 2105 (9) "Building code adoption cycle" means the period of time beginning the day on which a
- 2106 specific edition of a construction code from a nationally recognized code authority is
- 2107 adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day
- 2108 before a new edition of a construction code is adopted and effective in Title 15A, State
- 2109 Construction and Fire Codes Act.
- 2110 (10)(a) "Charter school" means:
- 2111 (i) an operating charter school;
- 2112 (ii) a charter school applicant that a charter school authorizer approves in accordance
- 2113 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
- 2114 (iii) an entity that is working on behalf of a charter school or approved charter
- 2115 applicant to develop or construct a charter school building.
- 2116 (b) "Charter school" does not include a therapeutic school.
- 2117 (11) "Chief executive officer" means the person or body that exercises the executive powers
- 2118 of the county.
- 2119 (12) "Conditional use" means a land use that, because of the unique characteristics or
- 2120 potential detrimental impact of the land use on the county, surrounding neighbors, or
- 2121 adjacent land uses, may not be compatible in some areas or may be compatible only if
- 2122 certain conditions are required that mitigate or eliminate the detrimental impacts.
- 2123 (13) "Constitutional taking" means a governmental action that results in a taking of private
- 2124 property [~~so that~~] where compensation to the property owner[~~of the property~~] is required
- 2125 by the:
- 2126 (a) Fifth or Fourteenth Amendment [øf] to the Constitution of the United States; or
- 2127 (b) Utah Constitution, Article I, Section 22.
- 2128 (14) "Conveyance document" means an instrument that:
- 2129 (a) meets the definition of "document" in Section 57-1-1; and
- 2130 (b) meets the requirements of Section 57-1-45.5.
- 2131 (15) "Conveyance of property" means the transfer of ownership of any portion of real
- 2132 property from one person to another person.
- 2133 (16) "County utility easement" means an easement that:
- 2134 (a) a plat recorded in a county recorder's office described as a county utility easement or
- 2135 otherwise as a utility easement;

- 2136 (b) is not a protected utility easement or a public utility easement as defined in Section
2137 54-3-27;
- 2138 (c) the county or the county's affiliated governmental entity owns or creates; and
- 2139 (d)(i) either:
- 2140 (A) no person uses or occupies; or
- 2141 (B) the county or the county's affiliated governmental entity uses and occupies to
2142 provide a utility service, including sanitary sewer, culinary water, electrical,
2143 storm water, or communications or data lines; or
- 2144 (ii) a person uses or occupies with or without an authorized franchise or other
2145 agreement with the county.
- 2146 (17) "Culinary water authority" means the department, agency, or public entity with
2147 responsibility to review and approve the feasibility of the culinary water system and
2148 sources for the subject property.
- 2149 (18) "Department of Transportation" means the entity created in Section 72-1-201.
- 2150 (19) "Development activity" means:
- 2151 (a) any construction or expansion of a building, structure, or use that creates additional
2152 demand and need for public facilities;
- 2153 (b) any change in use of a building or structure that creates additional demand and need
2154 for public facilities; or
- 2155 (c) any change in the use of land that creates additional demand and need for public
2156 facilities.
- 2157 (20)(a) "Development agreement" means a written agreement or amendment to a written
2158 agreement between a county and one or more parties that regulates or controls the use
2159 or development of a specific area of land.
- 2160 (b) "Development agreement" does not include an improvement completion assurance.
- 2161 (21)(a) "Disability" means a physical or mental impairment that substantially limits one
2162 or more of a person's major life activities, including a person having a record of such
2163 an impairment or being regarded as having such an impairment.
- 2164 (b) "Disability" does not include current illegal use of, or addiction to, any federally
2165 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21
2166 U.S.C. Sec. 802.
- 2167 (22) "Document" means the same as that term is defined in Section 57-1-1.
- 2168 (23) "Educational facility":
- 2169 (a) means:

- 2170 (i) a school district's building at which pupils assemble to receive instruction in a
 2171 program for any combination of grades from preschool through grade 12,
 2172 including kindergarten and a program for children with disabilities;
- 2173 (ii) a structure or facility:
- 2174 (A) located on the same property as a building described in Subsection (23)(a)(i);
 2175 and
 2176 (B) used in support of the use of that building; and
- 2177 (iii) a building to provide office and related space to a school district's administrative
 2178 personnel; and
- 2179 (b) does not include:
- 2180 (i) land or a structure, including land or a structure for inventory storage, equipment
 2181 storage, food processing or preparing, vehicle storage or maintenance, or similar
 2182 use that is:
- 2183 (A) not located on the same property as a building described in Subsection
 2184 (23)(a)(i); and
 2185 (B) used in support of the purposes of a building described in Subsection (23)(a)(i);
 2186 or
- 2187 (ii) a therapeutic school.
- 2188 (24) "Establishment document" means an instrument that:
- 2189 (a) meets the definition of "document" in Section 57-1-1; and
 2190 (b) meets the requirements of Section 57-1-45.
- 2191 [~~(25) "Full boundary adjustment" means a boundary adjustment that is not a simple~~
 2192 ~~boundary adjustment.~~]
- 2193 [(26)] (25) "Fire authority" means the department, agency, or public entity with
 2194 responsibility to review and approve the feasibility of fire protection and suppression
 2195 services for the subject property.
- 2196 [(27)] (26) "Flood plain" means land that:
- 2197 (a) is within the 100-year flood plain designated by the Federal Emergency Management
 2198 Agency; or
 2199 (b) has not been studied or designated by the Federal Emergency Management Agency
 2200 but presents a likelihood of experiencing chronic flooding or a catastrophic flood
 2201 event because the land has characteristics that are similar to those of a 100-year flood
 2202 plain designated by the Federal Emergency Management Agency.
- 2203 (27) "Full boundary adjustment" means a boundary adjustment that is not a simple

- 2204 boundary adjustment.
- 2205 (28) "Gas corporation" has the same meaning as defined in Section 54-2-1.
- 2206 (29) "General plan" means a document that a county adopts that sets forth general
- 2207 guidelines for proposed future development of:
- 2208 (a) the unincorporated land within the county; or
- 2209 (b) for a mountainous planning district, the land within the mountainous planning
- 2210 district.
- 2211 (30) "Geologic hazard" means:
- 2212 (a) a surface fault rupture;
- 2213 (b) shallow groundwater;
- 2214 (c) liquefaction;
- 2215 (d) a landslide;
- 2216 (e) a debris flow;
- 2217 (f) unstable soil;
- 2218 (g) a rock fall; or
- 2219 (h) any other geologic condition that presents a risk:
- 2220 (i) to life;
- 2221 (ii) of substantial loss of real property; or
- 2222 (iii) of substantial damage to real property.
- 2223 (31) "Home-based microschool" means the same as that term is defined in Section
- 2224 53G-6-201.
- 2225 (32) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter,
- 2226 or appurtenance to connect to a county water, sewer, storm water, power, or other utility
- 2227 system.
- 2228 (33)(a) "Identical plans" means floor plans submitted to a county that:
- 2229 (i) are submitted within the same building code adoption cycle as floor plans that
- 2230 were previously approved by the county;
- 2231 (ii) have no structural differences from floor plans that were previously approved by
- 2232 the county; and
- 2233 (iii) describe a building that:
- 2234 (A) is located on land zoned the same as the land on which the building described
- 2235 in the previously approved plans is located;
- 2236 (B) has a substantially identical floor plan to a floor plan previously approved by
- 2237 the county; and

2238 (C) does not require any engineering or analysis beyond a review to confirm the
2239 submitted floor plans are substantially identical to a floor plan previously
2240 approved by the county or a review of the site plan and associated geotechnical
2241 reports for the site.

2242 (b) "Identical plans" include floor plans that are oriented differently as the floor plan that
2243 was previously approved by the county.

2244 (34) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact
2245 Fees Act.

2246 (35) "Improvement completion assurance" means a surety bond, letter of credit, financial
2247 institution bond, cash, assignment of rights, lien, or other equivalent security required by
2248 a county to guaranty the proper completion of landscaping or an infrastructure
2249 improvement required as a condition precedent to:

2250 (a) recording a subdivision plat; or

2251 (b) development of a commercial, industrial, mixed use, or multifamily project.

2252 (36) "Improvement warranty" means an applicant's unconditional warranty that the
2253 applicant's installed and accepted landscaping or infrastructure improvement:

2254 (a) complies with the county's written standards for design, materials, and workmanship;
2255 and

2256 (b) will not fail in any material respect, as a result of poor workmanship or materials,
2257 within the improvement warranty period.

2258 (37) "Improvement warranty period" means a period:

2259 (a) no later than one year after a county's acceptance of required public landscaping; or

2260 (b) no later than one year after a county's acceptance of required infrastructure, unless
2261 the county:

2262 (i) determines, based on accepted industry standards and for good cause, that a
2263 one-year period would be inadequate to protect the public health, safety, and
2264 welfare; and

2265 (ii) has substantial evidence, on record:

2266 (A) of prior poor performance by the applicant; or

2267 (B) that the area upon which the infrastructure will be constructed contains
2268 suspect soil and the county has not otherwise required the applicant to mitigate
2269 the suspect soil.

2270 (38) "Infrastructure improvement" means permanent infrastructure that is essential for the
2271 public health and safety or that:

- 2272 (a) is required for human consumption; and
2273 (b) an applicant shall install:
2274 (i) in accordance with published installation and inspection specifications for public
2275 improvements; and
2276 (ii) as a condition of:
2277 (A) recording a subdivision plat;
2278 (B) obtaining a building permit; or
2279 (C) developing a commercial, industrial, mixed use, condominium, or multifamily
2280 project.
- 2281 (39) "Internal lot restriction" means a platted note, platted demarcation, or platted
2282 designation that:
2283 (a) runs with the land; and
2284 (b)(i) creates a restriction that is enclosed within the perimeter of a lot described on
2285 the plat; or
2286 (ii) designates a development condition that is enclosed within the perimeter of a lot
2287 described on the plat.
- 2288 (40) "Interstate pipeline company" means a person or entity engaged in natural gas
2289 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
2290 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 2291 (41) "Intrastate pipeline company" means a person or entity engaged in natural gas
2292 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
2293 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 2294 (42) "Land use applicant" means a property owner, or the property owner's designee, who
2295 submits a land use application regarding the property owner's land.
- 2296 (43) "Land use application":
2297 (a) means an application that is:
2298 (i) required by a county; and
2299 (ii) submitted by a land use applicant to obtain a land use decision; and
2300 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 2301 (44) "Land use authority" means:
2302 (a) a person, board, commission, agency, or body, including the local legislative body,
2303 designated by the local legislative body to act upon a land use application; or
2304 (b) if the local legislative body has not designated a person, board, commission, agency,
2305 or body, the local legislative body.

- 2306 (45) "Land use decision" means an administrative decision of a land use authority or appeal
 2307 authority regarding:
- 2308 (a) a land use permit;
- 2309 (b) a land use application; or
- 2310 (c) the enforcement of a land use regulation, land use permit, or development agreement.
- 2311 (46) "Land use permit" means a permit issued by a land use authority.
- 2312 (47) "Land use regulation":
- 2313 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
 2314 engineering or development standard, specification for public improvement, fee, or
 2315 rule that governs the use or development of land;
- 2316 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
 2317 and
- 2318 (c) does not include:
- 2319 (i) a land use decision of the legislative body acting as the land use authority, even if
 2320 the decision is expressed in a resolution or ordinance; or
- 2321 (ii) a temporary revision to an engineering specification that does not materially:
- 2322 (A) increase a land use applicant's cost of development compared to the existing
 2323 specification; or
- 2324 (B) impact a land use applicant's use of land.
- 2325 (48) "Legislative body" means the county legislative body, or for a county that has adopted
 2326 an alternative form of government, the body exercising legislative powers.
- 2327 (49) "Lot" means a tract of land, regardless of any label, that is created by and shown on a
 2328 subdivision plat that has been recorded in the office of the county recorder.
- 2329 (50) "Major transit investment corridor" means public transit service that uses or occupies:
- 2330 (a) public transit rail right-of-way;
- 2331 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
- 2332 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
 2333 municipality or county and:
- 2334 (i) a public transit district as defined in Section 17B-2a-802; or
- 2335 (ii) an eligible political subdivision as defined in Section 59-12-2202.
- 2336 (51) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.
- 2337 (52) "Moderate income housing" means housing occupied or reserved for occupancy by
 2338 households with a gross household income equal to or less than 80% of the median gross
 2339 income for households of the same size in the county in which the housing is located.

- 2340 (53) "Mountainous planning district" means an area designated by a county legislative body
2341 in accordance with Section 17-79-408.
- 2342 (54) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and
2343 expenses incurred in:
- 2344 (a) verifying that building plans are identical plans; and
2345 (b) reviewing and approving those minor aspects of identical plans that differ from the
2346 previously reviewed and approved building plans.
- 2347 (55) "Noncomplying structure" means a structure that:
- 2348 (a) legally existed before the structure's current land use designation; and
2349 (b) because of one or more subsequent land use ordinance changes, does not conform to
2350 the setback, height restrictions, or other regulations, excluding those regulations that
2351 govern the use of land.
- 2352 (56) "Nonconforming use" means a use of land that:
- 2353 (a) legally existed before the land's current land use designation;
2354 (b) has been maintained continuously since the time the land use ordinance regulation
2355 governing the land changed; and
2356 (c) because of one or more subsequent land use ordinance changes, does not conform to
2357 the regulations that now govern the use of the land.
- 2358 (57) "Official map" means a map drawn by county authorities and recorded in the county
2359 recorder's office that:
- 2360 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
2361 highways and other transportation facilities;
2362 (b) provides a basis for restricting development in designated rights-of-way or between
2363 designated setbacks to allow the government authorities time to purchase or
2364 otherwise reserve the land; and
2365 (c) has been adopted as an element of the county's general plan.
- 2366 (58) "Parcel" means any real property that is not a lot.
- 2367 (59) "Person" means an individual, corporation, partnership, organization, association, trust,
2368 governmental agency, or any other legal entity.
- 2369 (60) "Plan for moderate income housing" means a written document adopted by a county
2370 legislative body that includes:
- 2371 (a) an estimate of the existing supply of moderate income housing located within the
2372 county;
2373 (b) an estimate of the need for moderate income housing in the county for the next five

- 2374 years;
- 2375 (c) a survey of total residential land use;
- 2376 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
2377 income housing; and
- 2378 (e) a description of the county's program to encourage an adequate supply of moderate
2379 income housing.
- 2380 (61) "Planning advisory area" means a contiguous, geographically defined portion of the
2381 unincorporated area of a county established under this part with planning and zoning
2382 functions as exercised through the planning advisory area planning commission, as
2383 provided in this chapter, but with no legal or political identity separate from the county
2384 and no taxing authority.
- 2385 (62) "Plat" means an instrument subdividing property into lots as depicted on a map or
2386 other graphical representation of lands that a licensed professional land surveyor makes
2387 and prepares in accordance with Section 17-79-703 or 57-8-13.
- 2388 (63) "Potential geologic hazard area" means an area that:
- 2389 (a) is designated by a Utah Geological Survey map, county geologist map, or other
2390 relevant map or report as needing further study to determine the area's potential for
2391 geologic hazard; or
- 2392 (b) has not been studied by the Utah Geological Survey or a county geologist but
2393 presents the potential of geologic hazard because the area has characteristics similar
2394 to those of a designated geologic hazard area.
- 2395 (64) "Property owner" means a person that holds legal title in real property.
- 2396 [~~64~~] (65) "Public agency" means:
- 2397 (a) the federal government;
- 2398 (b) the state;
- 2399 (c) a county, municipality, school district, special district, special service district, or
2400 other political subdivision of the state; or
- 2401 (d) a charter school.
- 2402 [~~65~~] (66) "Public hearing" means a hearing at which members of the public are provided a
2403 reasonable opportunity to comment on the subject of the hearing.
- 2404 [~~66~~] (67) "Public meeting" means a meeting that is required to be open to the public under
2405 Title 52, Chapter 4, Open and Public Meetings Act.
- 2406 [~~67~~] (68) "Public street" means a public right-of-way, including a public highway, public
2407 avenue, public boulevard, public parkway, public road, public lane, public alley, public

- 2408 viaduct, public subway, public tunnel, public bridge, public byway, other public
2409 transportation easement, or other public way.
- 2410 [(68)] (69) "Receiving zone" means an unincorporated area that a county designates, by
2411 ordinance, as an area in which an owner of land may receive a transferable development
2412 right.
- 2413 [(69)] (70) "Record of survey map" means a map of a survey of land prepared in accordance
2414 with Section 17-73-504.
- 2415 [(70)] (71) "Residential facility for persons with a disability" means a residence:
2416 (a) in which more than one person with a disability resides; and
2417 (b) which is licensed or certified by the Department of Health and Human Services
2418 under:
2419 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or
2420 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 2421 [(71)] (72) "Residential roadway" means a public local residential road that:
2422 (a) will serve primarily to provide access to adjacent primarily residential areas and
2423 property;
2424 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;
2425 (c) is not identified as a supplementary to a collector or other higher system classified
2426 street in an approved municipal street or transportation master plan;
2427 (d) has a posted speed limit of 25 miles per hour or less;
2428 (e) does not have higher traffic volumes resulting from connecting previously separated
2429 areas of the municipal road network;
2430 (f) cannot have a primary access, but can have a secondary access, and does not abut lots
2431 intended for high volume traffic or community centers, including schools, recreation
2432 centers, sports complexes, or libraries; and
2433 (g) primarily serves traffic within a neighborhood or limited residential area and is not
2434 necessarily continuous through several residential areas.
- 2435 [(72)] (73) "Rules of order and procedure" means a set of rules that govern and prescribe in
2436 a public meeting:
2437 (a) parliamentary order and procedure;
2438 (b) ethical behavior; and
2439 (c) civil discourse.
- 2440 [(73)] (74) "Sanitary sewer authority" means the department, agency, or public entity with
2441 responsibility to review and approve the feasibility of sanitary sewer services or onsite

- 2442 wastewater systems.
- 2443 [~~(74)~~] (75) "Sending zone" means an unincorporated area that a county designates, by
- 2444 ordinance, as an area from which an owner of land may transfer a transferable
- 2445 development right.
- 2446 [~~(75)~~] (76) "Simple boundary adjustment" means a boundary adjustment that does not:
- 2447 (a) affect a public right-of-way, county utility easement, or other public property;
- 2448 (b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or
- 2449 (c) result in a lot or parcel out of conformity with land use regulations.
- 2450 [~~(76)~~] (77) "Site plan" means a document or map that may be required by a county during a
- 2451 preliminary review before the issuance of a building permit to demonstrate that an
- 2452 owner's or developer's proposed development activity meets a land use requirement.
- 2453 [~~(77)~~] (78)(a) "Special district" means an entity under Title 17B, Limited Purpose Local
- 2454 Government Entities - Special Districts.
- 2455 (b) "Special district" includes a governmental or quasi-governmental entity that is not a
- 2456 county, municipality, school district, or the state.
- 2457 (79) "Specific land use law" means a requirement or restriction on the use of a specific
- 2458 parcel in a development agreement that a legislative body approves with the consent of
- 2459 an affected property owner.
- 2460 [~~(78)~~] (80) "Specified public agency" means:
- 2461 (a) the state;
- 2462 (b) a school district; or
- 2463 (c) a charter school.
- 2464 [~~(79)~~] (81) "Specified public utility" means an electrical corporation, gas corporation, or
- 2465 telephone corporation, as those terms are defined in Section 54-2-1.
- 2466 [~~(80)~~] (82) "State" includes any department, division, or agency of the state.
- 2467 [~~(81)~~] (83)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to
- 2468 be divided into two or more lots or other division of land for the purpose, whether
- 2469 immediate or future, for offer, sale, lease, or development either on the installment
- 2470 plan or upon any and all other plans, terms, and conditions.
- 2471 (b) "Subdivision" includes:
- 2472 (i) the division or development of land, whether by deed, metes and bounds
- 2473 description, devise and testacy, map, plat, or other recorded instrument, regardless
- 2474 of whether the division includes all or a portion of a parcel or lot; and
- 2475 (ii) except as provided in Subsection [~~(81)~~](e)] (83)(c), divisions of land for residential

- 2476 and nonresidential uses, including land used or to be used for commercial,
2477 agricultural, and industrial purposes.
- 2478 (c) "Subdivision" does not include:
- 2479 (i) a bona fide division or partition of agricultural land for agricultural purposes;
- 2480 (ii) a recorded conveyance document:
- 2481 (A) consolidating multiple lots or parcels into one legal description encompassing
2482 all lots by reference to a recorded plat and all parcels by metes and bounds
2483 description; or
- 2484 (B) joining a lot to a parcel;
- 2485 (iii) a bona fide division or partition of land in a county other than a first class county
2486 for the purpose of siting, on one or more of the resulting separate parcels:
- 2487 (A) an electrical transmission line or a substation;
- 2488 (B) a natural gas pipeline or a regulation station; or
- 2489 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
2490 utility service regeneration, transformation, retransmission, or amplification
2491 facility;
- 2492 (iv) a bona fide division of land by deed or other instrument if the deed or other
2493 instrument states in writing that the division:
- 2494 (A) is in anticipation of future land use approvals on the parcel or parcels;
- 2495 (B) does not confer any land use approvals; and
- 2496 (C) has not been approved by the land use authority;
- 2497 (v) a boundary adjustment;
- 2498 (vi) a boundary establishment;
- 2499 (vii) a road, street, or highway dedication plat;
- 2500 (viii) a deed or easement for a road, street, or highway purpose; or
- 2501 (ix) any other division of land authorized by law.
- 2502 ~~[(82)]~~ (84)(a) "Subdivision amendment" means an amendment to a recorded subdivision
2503 in accordance with Section 17-79-711 that:
- 2504 (i) vacates all or a portion of the subdivision;
- 2505 (ii) increases the number of lots within the subdivision;
- 2506 (iii) alters a public right-of-way, a public easement, or public infrastructure within the
2507 subdivision; or
- 2508 (iv) alters a common area or other common amenity within the subdivision.
- 2509 (b) "Subdivision amendment" does not include a simple boundary adjustment.

- 2510 [(83)] (85) "Substantial evidence" means evidence that:
- 2511 (a) is beyond a scintilla; and
- 2512 (b) a reasonable mind would accept as adequate to support a conclusion.
- 2513 [(84)] (86) "Suspect soil" means soil that has:
- 2514 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 2515 3% swell potential;
- 2516 (b) bedrock units with high shrink or swell susceptibility; or
- 2517 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 2518 commonly associated with dissolution and collapse features.
- 2519 [(85)] (87) "Therapeutic school" means a residential group living facility:
- 2520 (a) for four or more individuals who are not related to:
- 2521 (i) the owner of the facility; or
- 2522 (ii) the primary service provider of the facility;
- 2523 (b) that serves students who have a history of failing to function:
- 2524 (i) at home;
- 2525 (ii) in a public school; or
- 2526 (iii) in a nonresidential private school; and
- 2527 (c) that offers:
- 2528 (i) room and board; and
- 2529 (ii) an academic education integrated with:
- 2530 (A) specialized structure and supervision; or
- 2531 (B) services or treatment related to a disability, an emotional development, a
- 2532 behavioral development, a familial development, or a social development.
- 2533 [(86)] (88) "Transferable development right" means a right to develop and use land that
- 2534 originates by an ordinance that authorizes a [land] property owner in a designated
- 2535 sending zone to transfer land use rights from a designated sending zone to a designated
- 2536 receiving zone.
- 2537 [(87)] (89) "Unincorporated" means the area outside of the incorporated area of a
- 2538 municipality.
- 2539 [(88)] (90) "Water interest" means any right to the beneficial use of water, including:
- 2540 (a) each of the rights listed in Section 73-1-11; and
- 2541 (b) an ownership interest in the right to the beneficial use of water represented by:
- 2542 (i) a contract; or
- 2543 (ii) a share in a water company, as defined in Section 73-3-3.5.

2544 [(89)] (91) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
2545 land use zones, overlays, or districts.

2546 Section 28. Section **17-79-205** is amended to read:

2547 **17-79-205 . Notice of public hearings and public meetings on adoption or**
2548 **modification of land use regulation.**

2549 (1) Each county shall give:

2550 (a) notice of the date, time, and place of the first public hearing to consider the adoption
2551 or modification of a land use regulation; and

2552 (b) notice of each public meeting on the subject.

2553 (2) Each notice of a public hearing under Subsection (1)(a) shall be:

2554 (a) mailed to each affected entity at least 10 calendar days before the public hearing; and

2555 (b)(i) provided for the area affected by the land use ordinance changes, as a class B
2556 notice under Section 63G-30-102, for at least 10 calendar days before the day of
2557 the public hearing; or

2558 (ii) if the proposed land use ordinance adoption or modification is ministerial in
2559 nature, as described in Subsections (6)(a) and (b), provided as a class A notice
2560 under Section 63G-30-102 for at least 10 calendar days before the day of the
2561 public hearing.

2562 (3) In addition to the notice requirements described in Subsections (1) and (2), for any
2563 proposed modification to the text of a zoning code, the notice posted in accordance with
2564 Subsection (2) shall:

2565 (a) include:

2566 (i) a summary of the effect of the proposed modifications to the text of the zoning
2567 code designed to be understood by a lay person; or

2568 (ii) a direct link to the county's webpage where a person can find a summary of the
2569 effect of the proposed modifications to the text of the zoning code designed to be
2570 understood by a lay person; and

2571 (b) be provided to any person upon written request.

2572 (4) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before
2573 the hearing and shall be published for the county, as a class A notice under Section
2574 63G-30-102, for at least 24 hours.

2575 (5)(a) A county shall send a courtesy notice to each owner of private real property
2576 whose property is located entirely or partially within the proposed zoning map
2577 enactment or amendment at least 10 days before the scheduled day of the public

- 2578 hearing.
- 2579 (b) The notice shall:
- 2580 (i) identify with specificity each owner of record of real property that will be affected
- 2581 by the proposed zoning map or map amendments;
- 2582 (ii) state the current zone in which the real property is located;
- 2583 (iii) state the proposed new zone for the real property;
- 2584 (iv) provide information regarding or a reference to the proposed regulations,
- 2585 prohibitions, and permitted uses that the property will be subject to if the zoning
- 2586 map or map amendment is adopted;
- 2587 (v) state that the owner of real property may no later than 10 days after the day of the
- 2588 first public hearing file a written objection to the inclusion of the owner's property
- 2589 in the proposed zoning map or map amendment;
- 2590 (vi) state the address where the property owner should file the protest;
- 2591 (vii) notify the property owner that each written objection filed with the county will
- 2592 be provided to the county legislative body; and
- 2593 (viii) state the location, date, and time of the public hearing described in Section
- 2594 17-79-502.
- 2595 (c) If a county mails notice to a property owner under Subsection (2)(b)(i) for a public
- 2596 hearing on a zoning map or map amendment, the notice required in this Subsection
- 2597 (5) may be included in or part of the notice described in Subsection (2)(b)(i) rather
- 2598 than sent separately.
- 2599 (6)(a) [A] For purposes of the notice requirements in Subsection (2)(b) only, a proposed
- 2600 land use ordinance is ministerial in nature if the proposed land use ordinance change
- 2601 is to:
- 2602 (i) bring the county's land use ordinances into compliance with a state or federal law;
- 2603 (ii) adopt a county land use update that affects:
- 2604 (A) an entire zoning district; or
- 2605 (B) multiple zoning districts;
- 2606 (iii) adopt a non-substantive, clerical text amendment to an existing land use
- 2607 ordinance;
- 2608 (iv) recodify the county's existing land use ordinances; or
- 2609 (v) designate or define an affected area for purposes of a boundary adjustment or
- 2610 annexation.
- 2611 (b) A proposed land use ordinance may include more than one of the purposes described

- 2612 in Subsection (6)(a) and remain ministerial in nature.
- 2613 (c) If a proposed land use ordinance includes an adoption or modification not described
2614 in Subsection (6)(a):
- 2615 (i) the proposed land use ordinance is not ministerial in nature, even if the proposed
2616 land use ordinance also includes a change or modification described in Subsection
2617 (6)(a); and
- 2618 (ii) the notice requirements of Subsection (2)(b)(i) apply.
- 2619 Section 29. Section **17-79-301** is amended to read:
- 2620 **17-79-301 . Ordinance establishing planning commission required -- Exception --**
2621 **Ordinance requirements -- Planning advisory area planning commission --**
2622 **Compensation.**
- 2623 (1)(a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
2624 establishing a countywide planning commission for the unincorporated areas of the
2625 county not within a planning advisory area.
- 2626 (b) Subsection (1)(a) does not apply if all of the county is included within any
2627 combination of:
- 2628 (i) municipalities;
- 2629 (ii) planning advisory areas each with a separate planning commission; and
- 2630 (iii) mountainous planning districts.
- 2631 (c)(i) Notwithstanding Subsection (1)(a), a county that designates a mountainous
2632 planning district shall enact an ordinance, subject to Subsection (1)(c)(ii),
2633 establishing a planning commission that has jurisdiction over the entire
2634 mountainous planning district.
- 2635 (ii) A planning commission described in Subsection (1)(c)(i) has jurisdiction subject
2636 to a local health department exercising the local health department's authority in
2637 accordance with Title 26A, Chapter 1, Local Health Departments, and a
2638 municipality exercising the municipality's authority in accordance with Section
2639 10-8-15.
- 2640 (iii) The ordinance shall require that members of the planning commission be
2641 appointed by the county executive with the advice and consent of the county
2642 legislative body.
- 2643 (2)(a) Notwithstanding Subsection (1)(b), the county legislative body of a county of the
2644 first or second class that includes more than one planning advisory area each with a
2645 separate planning commission may enact an ordinance that:

- 2646 (i) dissolves each planning commission within the county; and
- 2647 (ii) establishes a countywide planning commission that has jurisdiction over:
- 2648 (A) each planning advisory area within the county; and
- 2649 (B) the unincorporated areas of the county not within a planning advisory area.
- 2650 (b) A countywide planning commission established under Subsection (2)(a) shall assume
- 2651 the duties of each dissolved planning commission.
- 2652 (3)(a) The ordinance described in Subsection (1)(a), (1)(c), or (2)(a) shall~~[-define]~~:
- 2653 (i) include the number and terms of the planning commission members and, if the
- 2654 county chooses, alternate members;
- 2655 (ii) ~~[the mode of appointment]~~ provide procedures for appointing a planning
- 2656 commission member;
- 2657 (iii) ~~[the]~~ provide procedures for filling vacancies on the planning commission;
- 2658 (iv) ~~[-and removal from office]~~ provide procedures for removing a planning
- 2659 commission member from the planning commission;
- 2660 (v) except as provided in Subsection (3)(a)(vi), describe the causes for which a
- 2661 planning commission member may be removed from the planning commission,
- 2662 which shall include:
- 2663 (A) using public funds for a political purpose under Title 20A, Chapter 11, Part
- 2664 12, Political Activities of Public Entities Act;
- 2665 (B) violating a provision of Title 10, Chapter 3, Part 13, Municipal Officers' and
- 2666 Employees' Ethics Act; and
- 2667 (C) acting with the intent to influence a land use decision or an appeal of a
- 2668 pending land use application in a manner that creates actual impermissible bias
- 2669 or an unacceptable risk of impermissible bias in the planning commission
- 2670 member's administrative or quasi-judicial duties;
- 2671 (vi) provide that a planning commission member deliberating about a specific
- 2672 pending land use application in a planning commission meeting with municipal
- 2673 staff, an elected official, or the land use applicant is not cause for removing a
- 2674 planning commission member from the planning commission;
- 2675 (vii) provide requirements for when a planning commission member shall recuse
- 2676 oneself from deliberating or voting on certain land use applications;
- 2677 ~~[(iv)]~~ (viii) define the authority of the planning commission;
- 2678 ~~[(v)]~~ (ix) subject to Subsection (3)(b), [the] include rules of order and procedure for
- 2679 use by the planning commission in a public meeting; and

- 2680 [~~(vi)~~] (x) include other details relating to the organization and procedures of the
2681 planning commission.
- 2682 (b) Subsection [~~(3)(a)(v)~~] (3)(a)(ix) does not affect the planning commission's duty to
2683 comply with Title 52, Chapter 4, Open and Public Meetings Act.
- 2684 (4)(a)(i) If the county establishes a planning advisory area planning commission, the
2685 county legislative body shall enact an ordinance that defines:
- 2686 (A) appointment procedures;
- 2687 (B) procedures for filling vacancies and removing members from office;
- 2688 (C) subject to Subsection (4)(a)(ii), the rules of order and procedure for use by the
2689 planning advisory area planning commission in a public meeting; and
- 2690 (D) details relating to the organization and procedures of each planning advisory
2691 area planning commission.
- 2692 (ii) Subsection (4)(a)(i)(C) does not affect the planning advisory area planning
2693 commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings
2694 Act.
- 2695 (b) The planning commission for each planning advisory area shall consist of seven
2696 members who shall be appointed by:
- 2697 (i) in a county operating under a form of government in which the executive and
2698 legislative functions of the governing body are separated, the county executive
2699 with the advice and consent of the county legislative body; or
- 2700 (ii) in a county operating under a form of government in which the executive and
2701 legislative functions of the governing body are not separated, the county
2702 legislative body.
- 2703 (c)(i) Members shall serve four-year terms and until their successors are appointed
2704 and qualified.
- 2705 (ii) Notwithstanding the provisions of Subsection (4)(c)(i), members of the first
2706 planning commissions shall be appointed so that, for each commission, the terms
2707 of at least one member and no more than two members expire each year.
- 2708 (d)(i) Each member of a planning advisory area planning commission shall be a
2709 registered voter residing within the planning advisory area.
- 2710 (ii) Subsection (4)(d)(i) does not apply to a member described in Subsection (5)(a) if
2711 that member was, before May 12, 2015, authorized to reside outside of the
2712 planning advisory area.
- 2713 (5)(a) A member of a planning commission who was elected to and served on a planning

2714 commission on May 12, 2015, shall serve out the term to which the member was
2715 elected.

2716 (b) Upon the expiration of an elected term described in Subsection (5)(a), the vacant seat
2717 shall be filled by appointment in accordance with this section.

2718 (6) Upon the appointment of all members of a planning advisory area planning commission,
2719 each planning advisory area planning commission under this section shall begin to
2720 exercise the powers and perform the duties provided in Section 17-79-302 with respect
2721 to all matters then pending that previously had been under the jurisdiction of the
2722 countywide planning commission or planning advisory area planning and zoning board.

2723 (7) The legislative body may authorize a member of a planning commission to receive per
2724 diem and travel expenses for meetings actually attended, in accordance with Section
2725 11-55-103.

2726 Section 30. Section **17-79-302** is amended to read:

2727 **17-79-302 . Planning commission powers and duties -- Training requirements.**

2728 (1) Each countywide, planning advisory area, or mountainous planning district planning
2729 commission shall, with respect to the unincorporated area of the county, the planning
2730 advisory area, or the mountainous planning district, review and make a recommendation
2731 to the county legislative body for:

2732 (a) a general plan and amendments to the general plan;

2733 (b) land use regulations, including:

2734 (i) ordinances regarding the subdivision of land within the county; and

2735 (ii) amendments to existing land use regulations;

2736 (c) an appropriate delegation of power to at least one designated land use authority to
2737 hear and act on a land use application;

2738 (d) an appropriate delegation of power to at least one appeal authority to hear and act on
2739 an appeal from a decision of the land use authority; and

2740 (e) application processes that:

2741 (i) may include a designation of routine land use matters that, upon application and
2742 proper notice, will receive informal streamlined review and action if the
2743 application is uncontested; and

2744 (ii) shall protect the right of each:

2745 (A) land use applicant and adversely affected party to require formal consideration
2746 of any application by a land use authority; and

2747 (B) land use applicant or adversely affected party to appeal a land use authority's

- 2748 decision to a separate appeal authority[; and] .
- 2749 [~~(C) participant to be heard in each public hearing on a contested application.~~]
- 2750 (2) Before making a recommendation to a legislative body on an item described in
- 2751 Subsection (1)(a) or (b), the planning commission shall hold a public hearing in
- 2752 accordance with Section 17-79-404.
- 2753 (3) A legislative body may adopt, modify, or reject a planning commission's
- 2754 recommendation to the legislative body under this section.
- 2755 [~~(4) A legislative body may consider a planning commission's failure to make a timely~~
- 2756 ~~recommendation as a negative recommendation.~~]
- 2757 [~~(5)~~ (4) Nothing in this section limits the right of a county to initiate or propose the actions
- 2758 described in this section.
- 2759 [~~(6)~~ (5)(a)(i) This Subsection [~~(6)~~ (5) applies to a county that:
- 2760 (A) is a county of the first, second, or third class; and
- 2761 (B) has a population in the county's unincorporated areas of 5,000 or more.
- 2762 (ii) The population for each county described in Subsection [~~(6)(a)(i)~~ (5)(a)(i) shall
- 2763 be derived from:
- 2764 (A) an estimate of the Utah Population Committee created in Section 63C-20-103;
- 2765 or
- 2766 (B) if the Utah Population Committee estimate is not available, the most recent
- 2767 official census or census estimate of the United States [~~Bureau of the~~] Census
- 2768 Bureau.
- 2769 (b) A county described in Subsection [~~(6)(a)(i)~~ (5)(a)(i) shall ensure that each member
- 2770 of the county's planning commission completes four hours of annual land use training
- 2771 as follows:
- 2772 (i) one hour of annual training on general powers and duties, including the role of the
- 2773 planning commission in administrative, legislative, and quasi-judicial functions
- 2774 under [Title 17, Chapter 27a, County Land Use, Development, and Management
- 2775 Act] this chapter; and
- 2776 (ii) three hours of annual training on a combination of land use and ethics, which may
- 2777 include:
- 2778 (A) appeals and variances;
- 2779 (B) conditional use permits;
- 2780 (C) exactions;
- 2781 (D) impact fees;

- 2782 (E) vested rights;
- 2783 (F) subdivision regulations and improvement guarantees;
- 2784 (G) land use referenda;
- 2785 (H) property rights;
- 2786 (I) real estate procedures and financing;
- 2787 (J) zoning, including use-based and form-based;[-and]
- 2788 (K) drafting ordinances and code that complies with statute[-];
- 2789 (L) ex parte communication; and
- 2790 (M) conflict of interest.

- 2791 (c) A newly appointed planning commission member may not participate in a public
- 2792 meeting as an appointed member until the member completes the training described
- 2793 in Subsection [(6)(b)(i)] (5)(b)(i).
- 2794 (d) A planning commission member may qualify for one completed hour of training
- 2795 required under Subsection [(6)(b)(ii)] (5)(b)(ii) if the member attends, as an appointed
- 2796 member, 12 public meetings of the planning commission within a calendar year.
- 2797 (e) A county shall provide the training described in Subsection [(6)(b)] (5)(b) through:
- 2798 (i) county staff;
- 2799 (ii) the Utah Association of Counties; or
- 2800 (iii) a list of training courses selected by:
- 2801 (A) the Utah Association of Counties; or
- 2802 (B) the Division of Real Estate created in Section 61-2-201.
- 2803 (f) A county shall, for each planning commission member:
- 2804 (i) monitor compliance with the training requirements in Subsection [(6)(b)] (5)(b);
- 2805 and
- 2806 (ii) maintain a record of training completion at the end of each calendar year.

2807 Section 31. Section **17-79-501** is amended to read:

2808 **17-79-501 . Enactment of land use regulation.**

- 2809 (1) Only a legislative body, as the body authorized to weigh policy considerations, may
- 2810 enact a land use regulation.
- 2811 (2)(a) Except as provided in Subsection (2)(b), a legislative body may enact a land use
- 2812 regulation only by ordinance.
- 2813 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that
- 2814 imposes a fee.
- 2815 (3) A land use regulation shall be consistent with the purposes [set forth in] of this chapter.

- 2816 (4)(a) A legislative body shall adopt a land use regulation to:
- 2817 (i) create or amend a zoning district under Subsection 17-79-503(1)(a); and
- 2818 (ii) designate general uses allowed in each zoning district.
- 2819 (b) A land use authority may establish or modify other restrictions or requirements other
- 2820 than those described in Subsection (4)(a), including the configuration or modification
- 2821 of uses or density, through a land use decision that applies criteria or policy elements
- 2822 that a land use regulation establishes or describes.
- 2823 (5)(a) A county shall publish on the county's website:
- 2824 (i) all of the county's land use regulations; and
- 2825 (ii) a fee schedule that lists all of the county's fees related to a land use application,
- 2826 land use permit, or land use regulation, including development review fees and
- 2827 impact fees.
- 2828 (b) A county may comply with Subsection (5)(a) by:
- 2829 (i) posting a link on the county's website to a separate webpage or third-party website
- 2830 where the land use regulations or fee schedule described in Subsection (5)(a) are
- 2831 posted; and
- 2832 (ii) submitting a new or modified land use regulation or fee schedule described in
- 2833 Subsection (5)(a) to the third-party website within six months after the day on
- 2834 which the legislative body adopts the new or modified land use regulation or fee
- 2835 schedule.
- 2836 [~~5~~] (6) A county may not adopt a land use regulation[;] or development agreement, or
- 2837 make a land use decision that restricts the type of crop that may be grown in an area that
- 2838 is:
- 2839 (a) zoned agricultural; or
- 2840 (b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.
- 2841 [~~6~~] (7) A county land use regulation pertaining to an airport or an airport influence area, as
- 2842 that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4,
- 2843 Airport Zoning Act.
- 2844 Section 32. Section **17-79-502** is amended to read:
- 2845 **17-79-502 . Preparation and adoption of land use regulation.**
- 2846 (1) A planning commission shall:
- 2847 (a) provide notice as required by Subsection 17-79-205(1)(a) and, if applicable,
- 2848 Subsection 17-79-205(4);
- 2849 (b) hold a public hearing on a proposed land use regulation;

- 2850 (c) if applicable, consider each written objection filed in accordance with Subsection
 2851 17-79-205(4) before the public hearing; and
- 2852 (d)(i) review and recommend to the legislative body a proposed land use regulation
 2853 that represents the planning commission's recommendation for regulating the use
 2854 and development of land within:
- 2855 (A) all or any part of the unincorporated area of the county; or
 2856 (B) for a mountainous planning district, all or any part of the area in the
 2857 mountainous planning district; and
- 2858 (ii) forward to the legislative body all objections filed in accordance with Subsection
 2859 17-79-205(4).
- 2860 (2)(a) The legislative body shall consider each proposed land use regulation that the
 2861 planning commission recommends to the legislative body.
- 2862 (b) After providing notice as required by Subsection 17-79-205(1)(b) and holding a
 2863 public meeting, the legislative body may adopt or reject the proposed land use
 2864 regulation described in Subsection (2)(a):
- 2865 (i) as proposed by the planning commission; or
 2866 (ii) after making any revision the legislative body considers appropriate.
- 2867 ~~[(e) A legislative body may consider a planning commission's failure to make a timely
 2868 recommendation as a negative recommendation if the legislative body has provided
 2869 for that consideration by ordinance.]~~
- 2870 (c) Beginning on September 15, 2026, a legislative body may adopt or reject a proposed
 2871 land use regulation without waiting for a recommendation from the planning
 2872 commission if:
- 2873 (i) a land use applicant makes a request described in Subsection 17-79-805(2)(b); or
 2874 (ii) a legislative body determines that a planning commission has had adequate time
 2875 to consider the land use regulation.

2876 Section 33. Section **17-79-507** is amended to read:

2877 **17-79-507 . Classification of new and unlisted business uses.**

- 2878 (1) As used in this section:
- 2879 (a) "Classification request" means a request to determine whether a proposed business
 2880 use aligns with an existing land use specified in a county's land use ordinances.
- 2881 (b) "New or unlisted business use" means a business activity that does not align with an
 2882 existing land use specified in a county's land use ordinances.
- 2883 (2)(a) Each county shall incorporate into the county's land use ordinances a process for

- 2884 reviewing and approving a new or unlisted business use and designating an
2885 appropriate zone or zones for an approved use.
- 2886 (b) The process described in Subsection (2)(a) shall:
- 2887 (i) detail how an applicant may submit a classification request;
- 2888 (ii) establish a procedure for the county to review a classification request, including:
- 2889 (A) providing a land use authority with criteria to determine whether a proposed
2890 use aligns with an existing use; ~~and~~
- 2891 (B) allowing an applicant to proceed under the regulations of an existing use if a
2892 land use authority determines a proposed use aligns with that existing use; and
- 2893 (C) providing the applicant an opportunity to appeal a land use authority's decision
2894 to the land use appeal authority;
- 2895 (iii) provide that if a use is determined to be a new or unlisted business use:
- 2896 (A) the applicant shall submit to the legislative body for review an application [~~for~~
2897 ~~approval of the new or unlisted business use to the legislative body for review]~~
2898 requesting that the legislative body adopt a land use ordinance that permits the
2899 new or unlisted business as a permitted or conditional use;
- 2900 (B) notwithstanding Subsection 17-79-503(2) or (3), the legislative body shall
2901 consider and [~~determine whether to~~] approve or deny [~~the new or unlisted~~
2902 ~~business use]~~ the application described in Subsection (2)(b)(iii)(A); and
- 2903 (C) the legislative body shall approve or deny [~~the new or unlisted business use]~~
2904 the application described in Subsection (2)(b)(iii)(A), within a time frame the
2905 legislative body establishes by ordinance, if the applicant responds to requests
2906 for additional information within a time frame established by the county and
2907 appears at required hearings;
- 2908 (iv) provide that if the legislative body approves [~~a proposed new or unlisted business~~
2909 ~~use]~~ the application described in Subsection (2)(b)(iii)(A), the legislative body
2910 shall designate an appropriate zone or zones for the approved use; and
- 2911 (v) provide that if the legislative body denies [~~a proposed new or unlisted business use]~~
2912 the application described in Subsection (2)(b)(iii)(A), or if an applicant disagrees
2913 with a land use authority's classification of the proposed use, the legislative body
2914 shall:
- 2915 (A) notify the applicant in writing of each reason for the classification or denial;
2916 and
- 2917 (B) [~~offer the applicant an opportunity to challenge the classification or denial~~

2918 ~~through an administrative appeal process established by the county]~~ notify the
 2919 applicant of the process for appealing the legislative body's decision in
 2920 accordance with Section 17-79-1009.

2921 (c) A county may not require an applicant who submits an application described in
 2922 Subsection (2)(b)(iii)(A) to submit the application to the planning commission for
 2923 consideration, review, or approval.

2924 (3) Each county shall amend each land use ordinance that contains a list of approved or
 2925 prohibited business uses to include a reference to the process for petitioning to approve a
 2926 new or unlisted business use, as described in Subsection (2).

2927 Section 34. Section **17-79-706** is amended to read:

2928 **17-79-706 . Review of subdivision applications and subdivision improvement**
 2929 **plans.**

2930 (1) As used in this section:

2931 (a) "Review cycle" means the occurrence of:

2932 (i) the applicant's submittal of a complete subdivision application;

2933 (ii) the county's review of that subdivision application;

2934 (iii) the county's response to that subdivision application, in accordance with this
 2935 section; and

2936 (iv) the applicant's reply to the county's response that addresses each of the county's
 2937 required modifications or requests for additional information.

2938 (b) "Subdivision application" means a land use application for the subdivision of land
 2939 located within the unincorporated area of a county.

2940 (c) "Subdivision improvement plans" means the civil engineering plans associated with
 2941 required infrastructure improvements and county-controlled utilities required for a
 2942 subdivision.

2943 (d) "Subdivision ordinance review" means review by a county to verify that a
 2944 subdivision application meets the criteria of the county's ordinances.

2945 (e) "Subdivision plan review" means a review of the applicant's subdivision
 2946 improvement plans and other aspects of the subdivision application to verify that the
 2947 application complies with county ordinances and applicable installation standards and
 2948 inspection specifications for infrastructure improvements.

2949 (2) The review cycle restrictions and requirements of this section do not apply to the review
 2950 of subdivision applications affecting property within identified geological hazard areas.

2951 (3)(a) A county may require a subdivision improvement plan to be submitted with a

- 2952 subdivision application.
- 2953 (b) A county may not require a subdivision improvement plan to be submitted with both
2954 a preliminary subdivision application and a final subdivision application.
- 2955 (4)(a) The review cycle requirements of this section apply:
- 2956 (i) to the review of a preliminary subdivision application, if the county requires a
2957 subdivision improvement plan to be submitted with a preliminary subdivision
2958 application; or
- 2959 (ii) to the review of a final subdivision application, if the county requires a
2960 subdivision improvement plan to be submitted with a final subdivision application.
- 2961 (b) A county may not, outside the review cycle, engage in a substantive review of
2962 required infrastructure improvements or a county controlled utility.
- 2963 (5)(a) A county shall complete the initial review of a complete subdivision application
2964 submitted for ordinance review for a residential subdivision for single-family
2965 dwellings, two-family dwellings, or town homes:
- 2966 (i) no later than 15 business days after the complete subdivision application is
2967 submitted, if the county has a population over 5,000; or
- 2968 (ii) no later than 30 business days after the complete subdivision application is
2969 submitted, if the county has a population of 5,000 or less.
- 2970 (b) A county shall maintain and publish a list of the items comprising the complete
2971 subdivision application, including:
- 2972 (i) the application;
- 2973 (ii) the owner's affidavit;
- 2974 (iii) an electronic copy of all plans in PDF format;
- 2975 (iv) the preliminary subdivision plat drawings; and
- 2976 (v) a breakdown of fees due upon approval of the application.
- 2977 (6) A county shall publish a list of the items that comprise a complete subdivision land use
2978 application.
- 2979 (7) A county shall complete a subdivision plan review of a subdivision improvement plan
2980 that is submitted with a complete subdivision application for a residential subdivision for
2981 single-family dwellings, two-family dwellings, or town homes:
- 2982 (a) within 20 business days after the complete subdivision application is submitted, if the
2983 county has a population over 5,000; or
- 2984 (b) within 40 business days after the complete subdivision application is submitted, if
2985 the county has a population of 5,000 or less.

- 2986 (8)(a) In reviewing a subdivision application, a county may require:
- 2987 (i) additional information relating to an applicant's plans to ensure compliance with
- 2988 county ordinances and approved standards and specifications for construction of
- 2989 public improvements; and
- 2990 (ii) modifications to plans that do not meet current ordinances, applicable standards,
- 2991 or specifications or do not contain complete information.
- 2992 (b) A county's request for additional information or modifications to plans under
- 2993 Subsection (8)(a)(i) or (ii) shall be specific and include citations to ordinances,
- 2994 standards, or specifications that require the modifications to subdivision
- 2995 improvement plans, and shall be logged in an index of requested modifications or
- 2996 additions.
- 2997 (c) A county may not require more than four review cycles for a subdivision
- 2998 improvement plan review.
- 2999 (d)(i) Subject to Subsection (8)(d)(ii), unless the change or correction is necessitated
- 3000 by the applicant's adjustment to a subdivision improvement plan or an update to a
- 3001 phasing plan that adjusts the infrastructure needed for the specific development, a
- 3002 change or correction not addressed or referenced in a county's subdivision
- 3003 improvement plan review is waived.
- 3004 (ii) A modification or correction necessary to protect public health and safety or to
- 3005 enforce state or federal law may not be waived.
- 3006 (iii) If an applicant makes a material change to a subdivision improvement plan, the
- 3007 county has the discretion to restart the review process at the first review of the
- 3008 subdivision improvement plan review, but only with respect to the portion of the
- 3009 subdivision improvement plan that the material change substantively affects.
- 3010 (e)(i) This Subsection (8) applies if an applicant does not submit a revised
- 3011 subdivision improvement plan within:
- 3012 (A) 20 business days after the county requires a modification or correction, if the
- 3013 county has a population over 5,000; or
- 3014 (B) 40 business days after the county requires a modification or correction, if the
- 3015 county has a population of 5,000 or less.
- 3016 (ii) If an applicant does not submit a revised subdivision improvement plan within the
- 3017 time specified in Subsection (8)(e)(i), a county has an additional 20 business days
- 3018 after the time specified in Subsection (7) to respond to a revised subdivision
- 3019 improvement plan.

3020 (9) After the applicant has responded to the final review cycle, and the applicant has
 3021 complied with each modification requested in the county's previous review cycle, the
 3022 county may not require additional revisions if the applicant has not materially changed
 3023 the plan, other than changes that were in response to requested modifications or
 3024 corrections.

3025 (10)(a) In addition to revised plans, an applicant shall provide a written explanation in
 3026 response to the county's review comments, identifying and explaining the applicant's
 3027 revisions and reasons for declining to make revisions, if any.

3028 (b) The applicant's written explanation shall be comprehensive and specific, including
 3029 citations to applicable standards and ordinances for the design and an index of
 3030 requested revisions or additions for each required correction.

3031 (c) If an applicant fails to address a review comment in the response, the review cycle is
 3032 not complete and the subsequent review cycle may not begin until all comments are
 3033 addressed.

3034 (11)[(a)] If, on the fourth or final review, a county fails to respond within 20 business
 3035 days, the county shall, upon request of the property owner, and within 10 business
 3036 days after the day on which the request is received:

3037 [(i)] (a) for a dispute arising from the subdivision improvement plans, assemble an
 3038 appeal panel in accordance with Subsection [17-79-812(5)(d)] 17-79-812(4)(d) to
 3039 review and approve or deny the final revised set of plans; or

3040 [(ii)] (b) for a dispute arising from the subdivision ordinance review, advise the
 3041 applicant, in writing, of the deficiency in the application and of the right to appeal the
 3042 determination to a designated appeal authority.

3043 Section 35. Section **17-79-707** is amended to read:

3044 **17-79-707 . Subdivision plat recording or development activity before required**
 3045 **infrastructure is completed -- Improvement completion assurance -- Improvement**
 3046 **warranty.**

3047 (1) As used in this section:

3048 (a) "Private landscaping plan" means a proposal:

3049 (i) to install landscaping on a lot owned by a private individual or entity; and

3050 (ii) submitted to a county by the private individual or entity, or on behalf of a private
 3051 individual or entity, that owns the lot.

3052 (b) "Public landscaping improvement" means landscaping that an applicant is required to
 3053 install to comply with published installation and inspection specifications for public

- 3054 improvements that:
- 3055 (i) will be dedicated to and maintained by the county; or
- 3056 (ii) are associated with and proximate to trail improvements that connect to planned
- 3057 or existing public infrastructure.
- 3058 (2) A land use authority shall establish objective inspection standards for acceptance of a
- 3059 required public landscaping improvement or infrastructure improvement.
- 3060 (3)(a) Except as provided in Subsection (3)(d) or (3)(e), before an applicant conducts
- 3061 any development activity or records a plat, the applicant shall:
- 3062 (i) complete any required public landscaping improvements or infrastructure
- 3063 improvements; or
- 3064 (ii) post an improvement completion assurance for any required public landscaping
- 3065 improvements or infrastructure improvements.
- 3066 (b) If an applicant elects to post an improvement completion assurance, the applicant
- 3067 shall, in accordance with Subsection (5), provide completion assurance for:
- 3068 (i) completion of 100% of the required public landscaping improvements or
- 3069 infrastructure improvements; or
- 3070 (ii) if the county has inspected and accepted a portion of the public landscaping
- 3071 improvements or infrastructure improvements, 100% of the incomplete or
- 3072 unaccepted public landscaping improvements or infrastructure improvements.
- 3073 (c) A county shall:
- 3074 (i) establish a minimum of two acceptable forms of completion assurance;
- 3075 (ii)(A) if an applicant elects to post an improvement completion assurance, allow
- 3076 the applicant to post an assurance that meets the conditions of this chapter and
- 3077 any local ordinances; and
- 3078 (B) beginning on May 7, 2025, if a county accepts cash deposits as a form of
- 3079 completion assurance and an applicant elects to post a new cash deposit as a
- 3080 form of completion assurance, place the cash deposit in an interest-bearing
- 3081 account upon receipt and return any earned interest to the applicant with the
- 3082 return of the completion assurance according to the conditions of this chapter
- 3083 and any local ordinances;
- 3084 (iii) establish a system for the partial release of an improvement completion
- 3085 assurance as portions of required public landscaping improvements or
- 3086 infrastructure improvements are completed and accepted in accordance with local
- 3087 ordinance; and

- 3088 (iv) issue or deny a building permit in accordance with Section 17-79-901 based on
3089 the installation of public landscaping improvements or infrastructure
3090 improvements.
- 3091 (d) A county may not require an applicant to post an improvement completion assurance
3092 for:
- 3093 (i) public landscaping improvements or infrastructure improvements that the county
3094 has previously inspected and accepted;
- 3095 (ii) infrastructure improvements that are private and not essential or required to meet
3096 the building code, fire code, flood or storm water management provisions, street
3097 and access requirements, or other essential necessary public safety improvements
3098 adopted in a land use regulation;
- 3099 (iii) in a county where ordinances require all infrastructure improvements within the
3100 area to be private, infrastructure improvements within a development that the
3101 county requires to be private;
- 3102 (iv) landscaping improvements that are not public landscaping improvements, unless
3103 the landscaping improvements and completion assurance are required under the
3104 terms of a development agreement;
- 3105 (v) a private landscaping plan;
- 3106 (vi) landscaping improvements or infrastructure improvements that an applicant
3107 elects to install at the applicant's own risk:
- 3108 (A) before the plat is recorded;
- 3109 (B) pursuant to inspections required by the county for the infrastructure
3110 improvement; and
- 3111 (C) pursuant to final civil engineering plan approval by the county; or
- 3112 (vii) any individual public landscaping improvement or individual infrastructure
3113 improvement when the individual public landscaping improvement or individual
3114 infrastructure improvement is also included as part of a separate improvement
3115 completion assurance.
- 3116 (e)(i) A county may not:
- 3117 (A) prohibit an applicant from installing a public landscaping improvement or an
3118 infrastructure improvement when the [municipality] county has approved final
3119 civil engineering plans for the development activity or plat for which the public
3120 landscaping improvement or infrastructure improvement is required; or
- 3121 (B) require an applicant to sign an agreement, release, or other document

3122 inconsistent with this chapter as a condition of posting an improvement
3123 completion assurance, security for an improvement warranty, or receiving a
3124 building permit.

3125 (ii) Notwithstanding Subsection (3)(e)(i)(A), public infrastructure improvements and
3126 infrastructure improvements that are installed by an applicant are subject to
3127 inspection by the county in accordance with the county's adopted inspection
3128 standards.

3129 (f)(i) Each improvement completion assurance and improvement warranty posted by
3130 an applicant with a county shall be independent of any other improvement
3131 completion assurance or improvement warranty posted by the same applicant with
3132 the county.

3133 (ii) Subject to Section 17-79-805, if an applicant has posted a form of security with a
3134 county for more than one infrastructure improvement or public landscaping
3135 improvement, the county may not withhold acceptance of an applicant's required
3136 subdivision improvements, public landscaping improvement, infrastructure
3137 improvements, or the performance of warranty work for the same applicant's
3138 failure to complete a separate subdivision improvement, public landscaping
3139 improvement, infrastructure improvement, or warranty work under a separate
3140 improvement completion assurance or improvement warranty.

3141 (4)(a) Except as provided in Subsection (4)(c), as a condition for increased density or
3142 other entitlement benefit not currently available under the existing zone, a county
3143 may require a completion assurance bond for landscaped amenities and common area
3144 that are dedicated to and maintained by a homeowners association.

3145 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)
3146 between the applicant and the county shall be memorialized in a development
3147 agreement.

3148 (c) A county may not require a completion assurance bond for or dictate who installs or
3149 is responsible for the cost of the landscaping of residential lots or the equivalent open
3150 space surrounding single-family attached homes, whether platted as lots or common
3151 area.

3152 (5) The sum of the improvement completion assurance required under Subsections (3) and
3153 (4) may not exceed the sum of:

3154 (a) 100% of the estimated cost of the public landscaping improvements or infrastructure
3155 improvements, as evidenced by an engineer's estimate or licensed contractor's bid;

- 3156 and
- 3157 (b) 10% of the amount of the bond to cover administrative costs incurred by the county
- 3158 to complete the improvements, if necessary.
- 3159 (6)(a) Upon an applicant's written request that the land use authority accept or reject the
- 3160 applicant's installation of required subdivision improvements or performance of
- 3161 warranty work as set forth in Section 17-79-805, and for the duration of each
- 3162 improvement warranty period, the land use authority may require the applicant to:
- 3163 (i) execute an improvement warranty for the improvement warranty period; and
- 3164 (ii) post a cash deposit, surety bond, letter of credit, or other similar security, as
- 3165 required by the county, in the amount of up to 10% of the lesser of the:
- 3166 (A) county engineer's original estimated cost of completion; or
- 3167 (B) applicant's reasonable proven cost of completion.
- 3168 (b) A county may not require the payment of the deposit of the improvement warranty
- 3169 assurance described in Subsection (6)(a) for an infrastructure improvement or public
- 3170 landscaping improvement before the applicant indicates through written request that
- 3171 the applicant has completed the infrastructure improvement or public landscaping
- 3172 improvement.
- 3173 (7) When a county accepts an improvement completion assurance for public landscaping
- 3174 improvements or infrastructure improvements for a development in accordance with
- 3175 Subsection (3)(c)(ii)(A), the county may not deny an applicant a building permit if the
- 3176 development meets the requirements for the issuance of a building permit under the
- 3177 building code and fire code.
- 3178 (8) A county may not require the submission of a private landscaping plan as part of an
- 3179 application for a building permit.
- 3180 (9) The provisions of this section do not supersede the terms of a valid development
- 3181 agreement, an adopted phasing plan, or the ~~[state construction code]~~ State Construction
- 3182 Code.
- 3183 Section 36. Section **17-79-803** is amended to read:
- 3184 **17-79-803 . Applicant's entitlement to land use application approval --**
- 3185 **Application relating to land in a high priority transportation corridor -- County's**
- 3186 **requirements and limitations -- Vesting upon submission of development plan and**
- 3187 **schedule.**
- 3188 (1)(a)(i) Subject to Subsection ~~[(7)]~~ (8), an applicant who has submitted a complete
- 3189 land use application, including the payment of all application fees, is entitled to

- 3190 substantive review of the application under the land use regulations:
- 3191 (A) in effect on the date that the application is complete; and
- 3192 (B) applicable to the application or to the information shown on the submitted
- 3193 application.
- 3194 (ii) An applicant is entitled to approval of a land use application if the application
- 3195 conforms to the requirements of the applicable land use regulations, land use
- 3196 decisions, and development standards in effect when the applicant submits a
- 3197 complete application and pays all application fees, unless:
- 3198 (A) the land use authority, on the record, formally finds that a compelling,
- 3199 countervailing public interest would be jeopardized by approving the
- 3200 application and specifies the compelling, countervailing public interest in
- 3201 writing; or
- 3202 (B) in the manner provided by local ordinance and before the applicant submits
- 3203 the application, the county formally initiates proceedings to amend the county's
- 3204 land use regulations in a manner that would prohibit approval of the
- 3205 application as submitted.
- 3206 (b) The county shall process an application without regard to proceedings the county
- 3207 initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:
- 3208 (i) 180 days have passed since the county initiated the proceedings; and
- 3209 (ii)(A) the proceedings have not resulted in an enactment that prohibits approval
- 3210 of the application as submitted; or
- 3211 (B) during the 12 months before the county processing the application or multiple
- 3212 applications of the same type, the application is impaired or prohibited under
- 3213 the terms of a temporary land use regulation adopted under Section 17-79-504.
- 3214 (c) A land use application is considered submitted and complete when the applicant
- 3215 provides the application in a form that complies with the requirements of applicable
- 3216 ordinances and pays all applicable fees.
- 3217 (d) Unless a phasing sequence is required in an executed development agreement, a
- 3218 county shall, without regard to any other separate and distinct land use application,
- 3219 accept and process a complete land use application in accordance with this chapter.
- 3220 (e) The continuing validity of an approval of a land use application is conditioned upon
- 3221 the applicant proceeding after approval to implement the approval with reasonable
- 3222 diligence.
- 3223 (f) Subject to Subsection [~~(7)~~] (8), a county may not impose on an applicant who has

- 3224 submitted a complete application a requirement that is not expressed in:
- 3225 (i) this chapter;
- 3226 (ii) a county ordinance in effect on the date that the applicant submits a complete
- 3227 application, subject to Subsection (1)(a)(ii); or
- 3228 (iii) a county specification for public improvements applicable to a subdivision or
- 3229 development that is in effect on the date that the applicant submits an application.
- 3230 (g) A county may not impose on a holder of an issued land use permit or a final,
- 3231 unexpired subdivision plat a requirement that is not expressed:
- 3232 (i) in a land use permit;
- 3233 (ii) on the subdivision plat;
- 3234 (iii) in a document on which the land use permit or subdivision plat is based;
- 3235 (iv) in the written record evidencing approval of the land use permit or subdivision
- 3236 plat;
- 3237 (v) in this chapter;
- 3238 (vi) in a county ordinance; or
- 3239 (vii) in a county specification for residential roadways in effect at the time a
- 3240 residential subdivision was approved.
- 3241 (h) Except as provided in Subsection (1)(i) or (j), a county may not withhold issuance of
- 3242 a certificate of occupancy or acceptance of subdivision improvements because of an
- 3243 applicant's failure to comply with a requirement that is not expressed:
- 3244 (i) in the building permit or subdivision plat, documents on which the building permit
- 3245 or subdivision plat is based, or the written record evidencing approval of the
- 3246 building permit or subdivision plat; or
- 3247 (ii) in this chapter or the county's ordinances.
- 3248 (i) A county may not unreasonably withhold issuance of a certificate of occupancy
- 3249 where an applicant has met all requirements essential for the public health, public
- 3250 safety, and general welfare of the occupants, in accordance with this chapter, unless:
- 3251 (i) the applicant and the county have agreed in a written document to the withholding
- 3252 of a certificate of occupancy; or
- 3253 (ii) the applicant has not provided a financial assurance for required and uncompleted
- 3254 public landscaping improvements or infrastructure improvements in accordance
- 3255 with an applicable local ordinance.
- 3256 (j) A county may not conduct a final inspection required before issuing a certificate of
- 3257 occupancy for a residential unit that is within the boundary of an infrastructure

3258 financing district, as defined in Section 17B-1-102, until the applicant for the
 3259 certificate of occupancy provides adequate proof to the county that any lien on the
 3260 unit arising from the infrastructure financing district's assessment against the unit
 3261 under Title 11, Chapter 42, Assessment Area Act, has been released after payment in
 3262 full of the infrastructure financing district's assessment against that unit.

3263 (k) A county:

3264 (i) may require the submission of a private landscaping plan, as defined in Section
 3265 17-79-707, before landscaping is installed; and

3266 (ii) may not withhold an applicant's building permit or certificate of occupancy
 3267 because the applicant has not submitted a private landscaping plan.

3268 (2) A county is bound by the terms and standards of applicable land use regulations and
 3269 shall comply with mandatory provisions of those regulations.

3270 (3) Beginning on October 1, 2026, a county shall publish on the county's website an
 3271 application checklist for each land use application type that includes a checklist of all
 3272 required plans and documents that make a complete application.

3273 [~~3~~] (4) A county may not, as a condition of land use application approval, require a person
 3274 filing a land use application to obtain documentation regarding a school district's
 3275 willingness, capacity, or ability to serve the development proposed in the land use
 3276 application.

3277 [~~4~~] (5) Subject to Subsection [~~7~~] (8), a specified public agency's submission of a
 3278 development plan and schedule as required in Subsection 17-79-305(8) that complies
 3279 with the requirements of that subsection, the specified public agency vests in the
 3280 county's applicable land use maps, zoning map, hookup fees, impact fees, other
 3281 applicable development fees, and land use regulations in effect on the date of submission.

3282 [~~5~~] (6)(a) If sponsors of a referendum timely challenge a project in accordance with
 3283 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land
 3284 use approval by delivering a written notice:

3285 (i) to the local clerk as defined in Section 20A-7-101; and

3286 (ii) no later than seven days after the day on which a petition for a referendum is
 3287 determined sufficient under Subsection 20A-7-607(4).

3288 (b) Upon delivery of a written notice described in Subsection [~~5~~](a) (6)(a) the following
 3289 are rescinded and are of no further force or effect:

3290 (i) the relevant land use approval; and

3291 (ii) any land use regulation enacted specifically in relation to the land use approval.

3292 [(6)] (7)(a) After issuance of a building permit, a county may not:

3293 (i) change or add to the requirements expressed in the building permit, unless the
3294 change or addition is:

3295 (A) requested by the building permit holder; or

3296 (B) necessary to comply with an applicable state building code; or

3297 (ii) revoke the building permit or take action that has the effect of revoking the
3298 building permit.

3299 (b) Subsection [(6)(a)] (7)(a) does not prevent a county from issuing a building permit
3300 that contains an expiration date defined in the building permit.

3301 [(7)] (8) A county shall comply with the provisions of this chapter regarding all pending
3302 land use applications and new land use applications submitted under this chapter.

3303 Section 37. Section **17-79-811** is amended to read:

3304 **17-79-811 . Provisions applicable to a provider of culinary or secondary water.**

3305 A provider of culinary or secondary water that commits to provide a water service
3305a required

3306 by a land use application process is subject to the following provisions the same as if the
3307 provider were a county:

3308 (1) Subsections 17-79-804(5) and (6);

3309 (2) Section 17-79-805; [~~and~~]

3310 (3) Section 17-79-812; and

3311 (4) Section 17-79-813.

3312 Section 38. Section **17-79-812** is amended to read:

3313 **17-79-812 . Exactions -- Requirement to offer to original owner property**

3314 **acquired by exaction -- Exaction for right-of-way improvements -- Improvement**

3315 **completion assurance requirements.**

3316 (1) A county may impose an exaction or exactions on development proposed in a land use
3317 application, including, subject to [~~Subsection (3)]~~ Section 17-79-813, an exaction for a
3318 water interest, if:

3319 (a) an essential link exists between a legitimate governmental interest and each exaction;
3320 and

3321 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the
3322 proposed development.

3323 (2) If a land use authority imposes an exaction for another governmental entity:

3324 (a) the governmental entity shall request the exaction; and

3325 (b) the land use authority shall transfer the exaction to the governmental entity for which
3326 it was exacted.

3327 ~~[(3)(a)(i) Subject to the requirements of this Subsection (3), a county or, if~~
3328 ~~applicable, the county's culinary water authority shall base any exaction for a~~
3329 ~~water interest on the culinary water authority's established calculations of~~
3330 ~~projected water interest requirements.]~~

3331 ~~[(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall~~
3332 ~~base an exaction for a culinary water interest on:]~~

3333 ~~[(A) consideration of the system-wide minimum sizing standards established for~~
3334 ~~the culinary water authority by the Division of Drinking Water in accordance~~
3335 ~~with Section 19-4-114; and]~~

3336 ~~[(B) the number of equivalent residential connections associated with the culinary~~
3337 ~~water demand for each specific development proposed in the development's~~
3338 ~~land use application, applying lower exactions for developments with lower~~
3339 ~~equivalent residential connections as demonstrated by at least five years of~~
3340 ~~usage data for like land uses within the county.]~~

3341 ~~[(iii) A county or culinary water authority may impose an exaction for a culinary~~
3342 ~~water interest that results in less water being exacted than would otherwise be~~
3343 ~~exacted under Subsection (3)(a)(ii) if the county or culinary water authority, at the~~
3344 ~~county's or culinary water authority's sole discretion, determines there is good~~
3345 ~~cause to do so.]~~

3346 ~~[(iv) A county shall make public the methodology used to comply with Subsection~~
3347 ~~(3)(a)(ii)(B). A land use applicant may appeal to the county's governing body an~~
3348 ~~exaction calculation used by the county or the county's culinary water authority~~
3349 ~~under Subsection (3)(a)(ii). A land use applicant may present data and other~~
3350 ~~information that illustrates a need for an exaction recalculation and the county's~~
3351 ~~governing body shall respond with due process.]~~

3352 ~~[(v) Upon an applicant's request, the culinary water authority shall provide the~~
3353 ~~applicant with the basis for the culinary water authority's calculations under~~
3354 ~~Subsection (3)(a)(i) on which an exaction for a water interest is based.]~~

3355 ~~[(b) A county or the county's culinary water authority may not impose an exaction for a~~
3356 ~~water interest if the culinary water authority's existing available water interests~~
3357 ~~exceed the water interests needed to meet the reasonable future water requirement of~~
3358 ~~the public, as determined under Subsection 73-1-4(2)(f).]~~

- 3359 [~~(4)~~] (3)(a) If a county plans to dispose of surplus real property under Section 17-78-103
3360 that was acquired under this section and has been owned by the county for less than
3361 15 years, the county shall first offer to reconvey the property, without receiving
3362 additional consideration, to the person who granted the property to the county.
- 3363 (b) A person to whom a county offers to reconvey property under Subsection [~~(4)~~](a)
3364 (3)(a) has 90 days to accept or reject the county's offer.
- 3365 (c) If a person to whom a county offers to reconvey property declines the offer, the
3366 county may offer the property for sale.
- 3367 (d) Subsection [~~(4)~~](a) (3)(a) does not apply to the disposal of property acquired by
3368 exaction by a community development or urban renewal agency.
- 3369 [~~(5)~~] (4)(a) A county may not, as part of an infrastructure improvement, require the
3370 installation of pavement on a residential roadway at a width in excess of 32 feet.
- 3371 (b) Subsection [~~(5)~~](a) (4)(a) does not apply if a county requires the installation of
3372 pavement in excess of 32 feet:
- 3373 (i) in a vehicle turnaround area;
- 3374 (ii) in a cul-de-sac;
- 3375 (iii) to address specific traffic flow constraints at an intersection, mid-block
3376 crossings, or other areas;
- 3377 (iv) to address an applicable general or master plan improvement, including
3378 transportation, bicycle lanes, trails, or other similar improvements that are not
3379 included within an impact fee area;
- 3380 (v) to address traffic flow constraints for service to or abutting higher density
3381 developments or uses that generate higher traffic volumes, including community
3382 centers, schools, and other similar uses;
- 3383 (vi) as needed for the installation or location of a utility which is maintained by the
3384 county and is considered a transmission line or requires additional roadway width;
- 3385 (vii) for third-party utility lines that have an easement preventing the installation of
3386 utilities maintained by the county within the roadway;
- 3387 (viii) for utilities over 12 feet in depth;
- 3388 (ix) for roadways with a design speed that exceeds 25 miles per hour;
- 3389 (x) as needed for flood and stormwater routing;
- 3390 (xi) as needed to meet fire code requirements for parking and hydrants; or
3391 (xii) as needed to accommodate street parking.
- 3392 (c) Nothing in this section shall be construed to prevent a county from approving a road

- 3393 cross section with a pavement width less than 32 feet.
- 3394 (d)(i) A land use applicant may appeal a municipal requirement for pavement in
3395 excess of 32 feet on a residential roadway.
- 3396 (ii) A land use applicant that has appealed a municipal specification for a residential
3397 roadway pavement width in excess of 32 feet may request that the county
3398 assemble a panel of qualified experts to serve as the appeal authority for purposes
3399 of determining the technical aspects of the appeal.
- 3400 (iii) Unless otherwise agreed by the applicant and the county, the panel described in
3401 Subsection [~~(5)(d)(ii)~~] (4)(d)(ii) shall consist of the following three experts:
3402 (A) one licensed engineer, designated by the county;
3403 (B) one licensed engineer, designated by the land use applicant; and
3404 (C) one licensed engineer, agreed upon and designated by the two designated
3405 engineers under Subsections [~~(5)(d)(iii)(A)~~] (4)(d)(iii)(A) and (B).
- 3406 (iv) A member of the panel assembled by the county under Subsection [~~(5)(d)(ii)~~]
3407 (4)(d)(ii) may not have an interest in the application that is the subject of the
3408 appeal.
- 3409 (v) The land use applicant shall pay:
3410 (A) 50% of the cost of the panel; and
3411 (B) the county's published appeal fee.
- 3412 (vi) The decision of the panel is a final decision, subject to a petition for review under
3413 Subsection [~~(5)(d)(vii)~~] (4)(d)(vii).
- 3414 (vii) In accordance with Section 17-79-1009, a land use applicant or the county may
3415 file a petition for review of the decision with the district court within 30 days after
3416 the date that the decision is final.

3417 Section 39. Section **17-79-813** is enacted to read:

3418 **17-79-813 . Exactions for water rights.**

- 3419 (1) Subject to the requirements of this section, a county or, if applicable, the county's
3420 culinary water authority shall base any exaction for a water interest on the culinary water
3421 authority's established calculations of projected water interest requirements.
- 3422 (2) Except as described in Subsection (3), a culinary water authority shall base an exaction
3423 for a culinary water interest on:
- 3424 (a) consideration of the system-wide minimum sizing standards established for the
3425 culinary water authority by the Division of Drinking Water in accordance with
3426 Section 19-4-114; and

- 3427 (b) the number of equivalent residential connections associated with the culinary water
 3428 demand for each specific development proposed in the development's land use
 3429 application, applying lower exactions for developments with lower equivalent
 3430 residential connections as demonstrated by at least five years of usage data for like
 3431 land uses within the county.
- 3432 (3) If a county or culinary water authority determines, in the sole discretion of the county or
 3433 culinary water authority, that good cause exists, the county or culinary water authority
 3434 may impose an exaction for a culinary water interest that results in less water being
 3435 exacted than would otherwise be exacted under Subsection (2).
- 3436 (4)(a) A county shall make public the methodology used to comply with Subsection
 3437 (2)(b).
- 3438 (b) A land use applicant may submit a request to the county's governing body an
 3439 exaction calculation used by the county or the county's culinary water authority under
 3440 Subsection (2).
- 3441 (c) A land use applicant may present data and other information that illustrates a need
 3442 for an exaction recalculation and the county's governing body shall respond with due
 3443 process.
- 3444 (5) Upon an applicant's request, the culinary water authority shall provide the applicant
 3445 with the basis for the culinary water authority's calculations under Subsection (2) on
 3446 which an exaction for a water interest is based.
- 3447 (6) A county or the county's culinary water authority may not impose an exaction for a
 3448 water interest if the culinary water authority's existing available water interests exceed
 3449 the water interests needed to meet the reasonable future water requirement of the public,
 3450 as determined under Subsection 73-1-4(2)(f).
- 3451 Section 40. Section **17-79-901** is amended to read:
- 3452 **17-79-901 . Enforcement -- Limitations on a county's ability to enforce an**
 3453 **ordinance by withholding a permit or certificate.**
- 3454 (1)(a) A county or [~~an adversely affected party~~] a land use applicant may, in addition to
 3455 other remedies provided by law, institute:
- 3456 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
 3457 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 3458 (b) A county need only establish the violation to obtain the injunction.
- 3459 (2)(a) Except as provided in Subsections (3) through (6), a county may enforce the
 3460 county's ordinance by withholding a building permit or certificate of occupancy.

- 3461 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building
 3462 or other structure within a county without approval of a building permit.
- 3463 (c) The county may not issue a building permit unless the plans of and for the proposed
 3464 erection, construction, reconstruction, alteration, or use fully conform to all
 3465 regulations then in effect.
- 3466 (d) A county may require an applicant to install a permanent road, cover a temporary
 3467 road with asphalt or concrete, or create another method for servicing a structure that
 3468 is consistent with Appendix D of the International Fire Code, before receiving a
 3469 certificate of occupancy for that structure.
- 3470 (e) A county may require an applicant to maintain and repair a temporary fire apparatus
 3471 road during the construction of a structure accessed by the temporary fire apparatus
 3472 road in accordance with the county's adopted standards.
- 3473 (f) A county may require temporary signs to be installed at each street intersection once
 3474 construction of new roadway allows passage by a motor vehicle.
- 3475 (g) A county may adopt and enforce any appendix of the International Fire Code, 2021
 3476 Edition.
- 3477 (3)(a) A county may not deny an applicant a building permit or certificate of occupancy
 3478 because the applicant has not completed an infrastructure improvement:
- 3479 (i) unless the infrastructure improvement is essential to meet the requirements for the
 3480 issuance of a building permit or certificate of occupancy under Title 15A, State
 3481 Construction and Fire Codes Act; and
- 3482 (ii) for which the county has accepted an improvement completion assurance for a
 3483 public landscaping improvement, as defined in Section 17-79-707, or an
 3484 infrastructure improvement for the development.
- 3485 (b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6,
 3486 infrastructure improvement that is essential means:
- 3487 (i) for a building permit:
- 3488 (A) operable fire hydrants installed in a manner that is consistent with the county's
 3489 adopted engineering standards; and
- 3490 [(ii)] (B) for temporary roads used during construction, a properly compacted road
 3491 base installed in a manner consistent with the county's adopted engineering
 3492 standards[-] ;
- 3493 (ii) for a certificate of occupancy, at the discretion of the county, at least one of the
 3494 following:

- 3495 (A) a permanent road;
3496 (B) a temporary road covered with asphalt or concrete; or
3497 (C) another method for accessing a structure consistent with Appendix D of the
3498 International Fire Code; and
3499 (iii) public infrastructure necessary for the health, life, and safety of the occupant.
- 3500 (c) A county may not adopt an engineering standard that requires an applicant to install a
3501 permanent road or a temporary road with asphalt or concrete before receiving a
3502 building permit.
- 3503 (4) A county may not deny an applicant a building permit or certificate of occupancy for
3504 failure to:
- 3505 (a) submit a private landscaping plan, as defined in Section 17-79-707; or
3506 (b) complete a landscaping improvement that is not a public landscaping improvement,
3507 as defined in Section 17-79-707.
- 3508 (5) A county may not withhold a building permit based on the lack of completion of a
3509 portion of a public sidewalk to be constructed within a public right-of-way serving a lot
3510 where a single-family or two-family residence or town home is proposed in a building
3511 permit application if an improvement completion assurance has been posted for the
3512 incomplete portion of the public sidewalk.
- 3513 (6) A county may not prohibit the construction of a single-family or two-family residence
3514 or town home, withhold recording a plat, or withhold acceptance of a public landscaping
3515 improvement, as defined in Section 17-79-707, or an infrastructure improvement based
3516 on the lack of installation of a public sidewalk if an improvement completion assurance
3517 has been posted for the public sidewalk.
- 3518 (7) A county may not redeem an improvement completion assurance securing the
3519 installation of a public sidewalk sooner than 18 months after the date the improvement
3520 completion assurance is posted.
- 3521 (8) A county shall allow an applicant to post an improvement completion assurance for a
3522 public sidewalk separate from an improvement completion assurance for:
- 3523 (a) another infrastructure improvement; or
3524 (b) a public landscaping improvement, as defined in Section 17-79-707.
- 3525 (9) A county may withhold a certificate of occupancy for a single-family or two-family
3526 residence or town home until the portion of the public sidewalk to be constructed within
3527 a public right-of-way and located immediately adjacent to the single-family or
3528 two-family residence or town home is completed and accepted by the county.

3529 Section 41. Section **17-79-1001** is amended to read:

3530 **17-79-1001 . Appeal authority required -- Condition precedent to judicial review**

3531 **-- Appeal authority duties.**

3532 (1)(a) [~~Eaeh~~] Subject to Subsection (1)(d), each county adopting a land use ordinance
3533 shall, by ordinance, establish one or more appeal authorities.

3534 (b) An appeal authority shall hear and decide:

3535 (i) requests for [~~variances~~] a variance from [~~the terms of~~] a land use [~~ordinances~~]
3536 ordinance;

3537 (ii) appeals from a land use [~~decisions~~] decision applying a land use [~~ordinances~~]
3538 ordinance; and

3539 (iii) appeals from a fee charged in accordance with Section 17-79-802.

3540 (c) An appeal authority may not hear an appeal from the enactment of a land use
3541 regulation.

3542 (d) Beginning on July 1, 2026, a county described in Subsection 17-79-302(6)(a)(i) may
3543 not designate the county's legislative body as an appeal authority.

3544 (e) Notwithstanding Subsection (1)(d), a legislative body shall continue to be the appeal
3545 authority for an appeal if:

3546 (i) a land use ordinance designated the legislative body as the appeal authority when
3547 the appellant filed the appeal: and

3548 (ii) the appellant filed the appeal on or before June 30, 2026.

3549 (2) As a condition precedent to judicial review, each adversely affected party or land use
3550 applicant shall timely and specifically challenge a land use authority's land use decision,
3551 in accordance with local ordinance.

3552 (3) An appeal authority described in Subsection (1)(a):

3553 (a) shall:

3554 (i) act in a quasi-judicial manner; and

3555 (ii) serve as the final arbiter of issues involving the interpretation or application of a
3556 land use [~~ordinances~~] ordinance; and

3557 (b) may not entertain an appeal of a matter in which the appeal authority, or any
3558 participating member, had first acted as the land use authority.

3559 (4) By ordinance, a county may:

3560 (a) designate a separate appeal authority to hear requests for variances than the appeal
3561 authority the county designates to hear appeals;

3562 (b) designate one or more separate appeal authorities to hear distinct types of appeals of

3563 land use authority decisions;
 3564 (c) require an adversely affected party to present to an appeal authority every theory of
 3565 relief that the adversely affected party can raise in district court; and
 3566 ~~[(d) not require a land use applicant or adversely affected party to pursue duplicate or~~
 3567 ~~successive appeals before the same or separate appeal authorities as a condition of an~~
 3568 ~~appealing party's duty to exhaust administrative remedies; and]~~
 3569 ~~[(e)]~~ (d) provide that specified types of land use decisions may be appealed directly to the
 3570 district court.

3571 (5) A county may not:
 3572 (a) require a public hearing for a request for a variance or land use appeal[-] ; or
 3573 (b) require a land use applicant or adversely affected party to pursue successive appeals
 3574 before the same or separate appeal authorities as a condition of an appealing party's
 3575 duty to exhaust administrative remedies.
 3576 (6) If the county establishes or, before May 2, 2005, has established a multiperson board,
 3577 body, or panel to act as an appeal authority, at a minimum the board, body, or panel
 3578 shall:
 3579 (a) notify each of the members of the board, body, or panel of any meeting or hearing of
 3580 the board, body, or panel;
 3581 (b) provide each of the members of the board, body, or panel with the same information
 3582 and access to municipal resources as any other member;
 3583 (c) convene only if a quorum of the members of the board, body, or panel is present; and
 3584 (d) act only upon the vote of a majority of the convened members of the board, body, or
 3585 panel.

3586 Section 42. Section **17-79-1005** is repealed and reenacted to read:

3587 **17-79-1005 . Burden of proof.**

3588 In an appeal described in this part:

3589 (1) if the appellant is a land use applicant, the appellant has the burden of proving that the
 3590 land use authority's land use decision is illegal or is not supported by substantial
 3591 evidence; or
 3592 (2) if the appellant is an adversely affected party, the appellant has the burden of proving
 3593 that the land use authority's land use decision is illegal, or that the factual findings are
 3594 clearly erroneous.

3595 Section 43. Section **17-79-1006** is amended to read:

3596 **17-79-1006 . Due process.**

- 3597 (1) ~~[Each]~~ An appeal authority shall conduct each appeal and variance request as described
 3598 by local ordinance.
- 3599 (2) ~~[Each]~~ An appeal authority shall respect the due process rights of ~~[each of the~~
 3600 ~~participants]~~ an appeal participant.
- 3601 (3) An appeal authority may only allow the following people to participate or speak during
 3602 an appeal hearing:
- 3603 (a) the appellant or the appellant's representatives;
- 3604 (b) the land use applicant or the land use applicant's representatives; and
- 3605 (c) the county's representatives.

3606 Section 44. Section **17-79-1007** is amended to read:

3607 **17-79-1007 . Scope of review of factual matters on appeal -- Appeal authority**
 3608 **requirements.**

- 3609 (1) A county may, by ordinance, designate the scope of review of factual matters for
 3610 appeals of land use authority decisions.
- 3611 (2) If the county fails to designate a scope of review of factual matters, the appeal authority
 3612 shall review the ~~[matter]~~ factual matters de novo, without deference to the land use
 3613 authority's determination of the factual matters.
- 3614 (3) If the scope of review of factual matters is on the record, the appeal authority shall
 3615 determine whether the record on appeal includes substantial evidence for each essential
 3616 finding of fact.
- 3617 (4) The appeal authority shall:
- 3618 (a) determine the correctness of the land use authority's interpretation and application of
 3619 the plain meaning of the land use regulations; and
- 3620 (b) interpret and apply a land use regulation to favor a land use application unless the
 3621 land use regulation plainly restricts the land use application.
- 3622 (5)(a) An appeal authority's land use decision is a quasi-judicial act.
- 3623 (b) ~~[A]~~ Except as provided in Subsection (5)(c), a legislative body may not act as an
 3624 appeal authority unless both the legislative body and the appealing party agree to
 3625 allow a third party to act as the appeal authority.
- 3626 (c) Beginning on July 1, 2026, the legislative body of a county described in Subsection
 3627 17-79-302(6)(a)(i) may not act as an appeal authority unless:
- 3628 (i) a land use ordinance designated the legislative body as the appeal authority when
 3629 the appellant filed the appeal; and
- 3630 (ii) the appellant filed the appeal on or before June 30, 2026.

3631 (6) Only a decision in which a land use authority has applied a land use regulation to a
 3632 particular land use application, person, or parcel may be appealed to an appeal authority.

3633 Section 45. Section **17-79-1009** is amended to read:

3634 **17-79-1009 . No district court review until administrative remedies exhausted --**
 3635 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**
 3636 **-- Staying of decision.**

3637 (1) ~~[No]~~ A person may challenge in district court a land use decision ~~[until that]~~ if the person
 3638 has exhausted the person's administrative remedies as provided in [Part 7, Appeal
 3639 Authority and Variances] this part, if applicable.

3640 (2)(a) Subject to Subsection (1), a land use applicant or adversely affected party may file
 3641 a petition for review of a land use decision with the district court within 30 days after
 3642 the decision is final.

3643 (b)(i) The time under Subsection (2)(a) to file a petition is tolled from the date a
 3644 property owner files a request for arbitration of a constitutional taking issue with
 3645 the property rights ombudsman under Section 13-43-204 until 30 days after:

3646 (A) the arbitrator issues a final award; or

3647 (B) the property rights ombudsman issues a written statement under Subsection
 3648 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

3649 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
 3650 taking issue that is the subject of the request for arbitration filed with the property
 3651 rights ombudsman by a property owner.

3652 (iii) A request for arbitration filed with the property rights ombudsman after the time
 3653 under Subsection (2)(a) to file a petition has expired does not affect the time to
 3654 file a petition.

3655 (3)(a) A court shall:

3656 (i) presume that a land use regulation properly enacted under the authority of this
 3657 chapter is valid; and

3658 (ii) determine only whether:

3659 (A) the land use regulation is expressly preempted by, or was enacted contrary to,
 3660 state or federal law; and

3661 (B) it is reasonably debatable that the land use regulation is consistent with this
 3662 chapter.

3663 (b) A court shall presume that a final land use decision of a land use authority or an
 3664 appeal authority is valid unless the land use decision is:

- 3665 (i) arbitrary and capricious; or
3666 (ii) illegal.
- 3667 (c)(i) A land use decision is arbitrary and capricious if the land use decision is not
3668 supported by substantial evidence in the record.
- 3669 (ii) A land use decision is illegal if the land use decision:
3670 (A) is based on an incorrect interpretation of a land use regulation;
3671 (B) conflicts with the authority granted by this title; or
3672 (C) is contrary to law.
- 3673 (d)(i) A court may affirm or reverse a land use decision.
3674 (ii) If the court reverses a land use decision, the court shall remand the matter to the
3675 land use authority with instructions to issue a land use decision consistent with the
3676 court's decision.
- 3677 (4) The provisions of Subsection (2)(a) apply from the date on which the county takes final
3678 action on a land use application, if the county conformed with the notice provisions of
3679 Part 2, Notice, or for any person who had actual notice of the pending land use decision.
- 3680 (5) If the county has complied with Section 17-79-205, a challenge to the enactment of a
3681 land use regulation~~[-or]~~ , general plan, or specified land use law may not be filed with the
3682 district court more than 30 days after the enactment.
- 3683 (6) A challenge to a land use decision is barred unless the challenge is filed within 30 days
3684 after the land use decision is final.
- 3685 (7)(a) The land use authority or appeal authority, as the case may be, shall transmit to
3686 the reviewing court the record of the proceedings of the land use authority or appeal
3687 authority, including the minutes, findings, orders and, if available, a true and correct
3688 transcript of the proceedings.
- 3689 (b) If the proceeding was recorded, a transcript of that recording is a true and correct
3690 transcript for purposes of this Subsection (7).
- 3691 (8)(a)(i) If there is a record, the district court's review is limited to the record
3692 provided by the land use authority or appeal authority, as the case may be.
- 3693 (ii) The court may not accept or consider any evidence outside the record of the land
3694 use authority or appeal authority, as the case may be, unless that evidence was
3695 offered to the land use authority or appeal authority, respectively, and the court
3696 determines that the evidence was improperly excluded.
- 3697 (b) If there is no record, the court may call witnesses and take evidence.
- 3698 (9)(a) The filing of a petition does not stay the land use decision of the land use

3699 authority or appeal authority, as the case may be.
3700 (b)(i) Before filing a petition under this section or a request for mediation or
3701 arbitration of a constitutional taking issue under Section 13-43-204, a land use
3702 applicant may petition the appeal authority to stay the appeal authority's decision.
3703 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal
3704 authority's decision stayed pending district court review if the appeal authority
3705 finds the order to be in the best interest of the county.
3706 (iii) After a petition is filed under this section or a request for mediation or arbitration
3707 of a constitutional taking issue is filed under Section 13-43-204, the petitioner
3708 may seek an injunction staying the appeal authority's land use decision.
3709 (10) If the court determines that a party initiated or pursued a challenge to a land use
3710 decision on a land use application in bad faith, the court may award attorney fees.
3711 Section 46. **Effective Date.**
3712 This bill takes effect on May 6, 2026.