

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;
- establishes requirements for regulating structure height;
- 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;

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

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 None

40 **Utah Code Sections Affected:**

41 **AMENDS:**

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

43 Revisor Instructions, Laws of Utah 2023, Chapter 224

44 **10-2a-206**, as last amended by Laws of Utah 2024, Chapter 518

45 **10-2a-220**, as last amended by Laws of Utah 2024, Chapter 518

46 **10-3-702**, as last amended by Laws of Utah 2025, Chapter 354

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

48 Chapter 15

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

50 Chapter 15

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

52 Chapter 15

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

54 Chapter 15

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

56 Chapter 15

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

58 Chapter 15

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

60 Chapter 15

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

62 Chapter 15

63 **10-20-902**, as renumbered and amended by Laws of Utah 2025, First Special Session,
64 Chapter 15

65 **10-20-910**, as enacted by Laws of Utah 2025, First Special Session, Chapter 15

66 **10-20-911**, as renumbered and amended by Laws of Utah 2025, First Special Session,
67 Chapter 15

68 **10-20-1001**, as renumbered and amended by Laws of Utah 2025, First Special Session,
69 Chapter 15

70 **10-20-1101**, as renumbered and amended by Laws of Utah 2025, First Special Session,
71 Chapter 15

72 **10-20-1106**, as renumbered and amended by Laws of Utah 2025, First Special Session,
73 Chapter 15

74 **10-20-1107**, as renumbered and amended by Laws of Utah 2025, First Special Session,
75 Chapter 15

76 **10-20-1109**, as renumbered and amended by Laws of Utah 2025, First Special Session,
77 Chapter 15

78 **10-21-101**, as renumbered and amended by Laws of Utah 2025, First Special Session,
79 Chapter 15

80 **13-43-205**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15

81 **17-79-102**, as renumbered and amended by Laws of Utah 2025, First Special Session,
82 Chapter 14

83 **17-79-205**, as renumbered and amended by Laws of Utah 2025, First Special Session,
84 Chapter 14

85 **17-79-301**, as renumbered and amended by Laws of Utah 2025, First Special Session,
86 Chapter 14

87 **17-79-302**, as renumbered and amended by Laws of Utah 2025, First Special Session,
88 Chapter 14

89 **17-79-501**, as renumbered and amended by Laws of Utah 2025, First Special Session,
90 Chapter 14

91 **17-79-502**, as renumbered and amended by Laws of Utah 2025, First Special Session,
92 Chapter 14

93 **17-79-507**, as renumbered and amended by Laws of Utah 2025, First Special Session,
94 Chapter 14

95 **17-79-706**, as renumbered and amended by Laws of Utah 2025, First Special Session,
96 Chapter 14

97 **17-79-707**, as renumbered and amended by Laws of Utah 2025, First Special Session,
98 Chapter 14
99 **17-79-803**, as renumbered and amended by Laws of Utah 2025, First Special Session,
100 Chapter 14
101 **17-79-811**, as enacted by Laws of Utah 2025, First Special Session, Chapter 14
102 **17-79-812**, as renumbered and amended by Laws of Utah 2025, First Special Session,
103 Chapter 14
104 **17-79-901**, as renumbered and amended by Laws of Utah 2025, First Special Session,
105 Chapter 14
106 **17-79-1001**, as renumbered and amended by Laws of Utah 2025, First Special Session,
107 Chapter 14
108 **17-79-1006**, as renumbered and amended by Laws of Utah 2025, First Special Session,
109 Chapter 14
110 **17-79-1007**, as renumbered and amended by Laws of Utah 2025, First Special Session,
111 Chapter 14
112 **17-79-1009**, as renumbered and amended by Laws of Utah 2025, First Special Session,
113 Chapter 14
114 **63I-2-210**, as last amended by Laws of Utah 2025, First Special Session, Chapter 15
115 **63I-2-217**, as last amended by Laws of Utah 2025, First Special Session, Chapter 7

116 ENACTS:

117 **10-20-625**, Utah Code Annotated 1953
118 **10-20-626**, Utah Code Annotated 1953
119 **10-20-912**, Utah Code Annotated 1953
120 **10-21-304**, Utah Code Annotated 1953
121 **17-79-621**, Utah Code Annotated 1953
122 **17-79-813**, Utah Code Annotated 1953

123 REPEALS AND REENACTS:

124 **10-20-1105**, as renumbered and amended by Laws of Utah 2025, First Special Session,
125 Chapter 15
126 **17-79-1005**, as renumbered and amended by Laws of Utah 2025, First Special Session,
127 Chapter 14

128

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

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

131 **10-2a-106 . Feasibility request filed before changes to law take effect.**

132 (1) If an individual files a feasibility request for incorporation of a city or town before May
 133 14, 2019, the process for incorporating the city or town is not subject to Laws of Utah
 134 2019, Chapter 165 or Laws of Utah 2023, Chapter 224, and is instead subject to the
 135 municipal incorporation law in effect on the day on which the individual files the
 136 feasibility request.

137 (2) If an individual files a feasibility request for incorporation of a city or town before May
 138 3, 2023^[;] :

139 (a) except as provided in Subsection (2)(b), the process for incorporating the city or
 140 town is not subject to Laws of Utah 2023, Chapter 224, and is subject to the
 141 municipal incorporation law in effect on the day on which the individual files the
 142 feasibility request; and

143 (b) the process and requirements for filing a modified feasibility request on or after May
 144 6, 2026, shall be in accordance with the law in effect on the day on which the
 145 individual or an incorporation sponsor files a modified feasibility request.

146 Section 2. Section **10-2a-206** is amended to read:

147 **10-2a-206 . Modified feasibility request -- Supplemental feasibility study.**

148 (1) As used in this section, "specified landowner" means the same as that term is defined in
 149 Section 10-2a-204.5.

150 ~~(1)~~ (2)(a) The sponsors of a feasibility request may modify the request to alter the
 151 boundaries of the proposed municipality and refile the modified feasibility request
 152 with the county clerk if:

153 (i) the results of the feasibility study do not comply with Subsection 10-2a-205(5)(a);

154 or

155 (ii)(A) the feasibility request complies with Subsection 10-2a-201.5(4)(b);

156 (B) the annexation petition described in Subsection 10-2a-201.5(4)(b) that
 157 proposed the annexation of an area that is part of the area proposed for
 158 incorporation has been denied; and

159 (C) an incorporation petition based on the feasibility request has not been filed.

160 (b)(i) The sponsors of a feasibility request may not file a modified request under
 161 Subsection ~~(1)(a)(i)~~ (2)(a)(i) more than 90 days after the day on which the
 162 feasibility consultant submits the final results of the feasibility study under
 163 Subsection 10-2a-205(2)(c)(iii).

164 (ii) The sponsors of a feasibility request may not file a modified request under

- 165 Subsection ~~[(1)(a)(ii)]~~ (2)(a)(ii) more than 18 months after filing the original
166 feasibility request under Section 10-2a-202.
- 167 (c)(i) Subject to Subsection ~~[(1)(e)(ii)]~~ (2)(c)(ii), each modified feasibility request
168 under Subsection ~~[(1)(a)]~~ (2)(a) shall comply with Subsections 10-2a-202(1), (3),
169 (4), and (5) and Subsection 10-2a-201.5(4).
- 170 (ii) Notwithstanding Subsection ~~[(1)(e)(i)]~~ (2)(c)(i), a signature on a feasibility request
171 filed under Section 10-2a-202 may be used toward fulfilling the signature
172 requirement of Subsection 10-2a-202(1)(a) for the feasibility request as modified
173 under Subsection ~~[(1)(a)]~~ (2)(a), unless the modified feasibility request proposes
174 the incorporation of an area that is more than 20% larger or smaller than the area
175 described by the original feasibility request in terms of:
- 176 (A) private land area; or
177 (B) assessed fair market value of private real property, as of January 1 of the
178 current year.
- 179 (d) Within 20 days after the day on which the county clerk receives the modified
180 request, the county clerk and the lieutenant governor shall follow the same procedure
181 described in Subsections 10-2a-204(1) through (6) for the modified feasibility request
182 as for an original feasibility request.
- 183 (e)(i) If a sponsor files a modified feasibility request that includes an area of land that
184 was not included in the original feasibility request, the county clerk shall, within
185 seven days after the day on which the sponsor files the modified feasibility request
186 with the lieutenant governor, identify any new specified landowners located
187 within the added area of land and mail written notice to each of the new specified
188 landowners.
- 189 (ii) The notice described in Subsection (2)(e)(i) shall:
- 190 (A) describe the added area of land; and
191 (B) state that a specified landowner who owns land within the added area may
192 request exclusion of the land from the proposed incorporation boundaries by
193 filing a request for exclusion with the county clerk within 30 days after the day
194 on which the county clerk mails the notice.
- 195 (f)(i) A specified landowner who owns land within the added area described in
196 Subsection (2)(e)(i) may request exclusion of the land from the proposed
197 incorporation boundaries by filing a request for exclusion with the county clerk
198 within 30 days after the day on which the county clerk mails the notice described

- 199 in Subsection (2)(e)(i).
- 200 (ii) The county clerk shall process a request for exclusion filed under Subsection (
- 201 2)(f)(i) in accordance with Subsections 10-2a-204.5(3) through (7), except that the
- 202 deadlines calculated from the first public hearing in Section 10-2a-204.5 shall
- 203 instead be calculated from the day on which the county clerk mails notice
- 204 described in Subsection (2)(e)(i).
- 205 ~~[(e)]~~ (g) Within 10 days after [a] the day on which the time period for a specified
- 206 landowner to request exclusion under Subsection (2)(f) expires, or if a sponsor files a
- 207 modified feasibility request that does not include a new area of land, within 10 days
- 208 after the sponsor files the modified feasibility request[is filed], the lieutenant
- 209 governor shall:
- 210 (i) estimate the cost of a supplemental feasibility study under this section; and
- 211 (ii) provide the estimated cost to the feasibility request sponsors.
- 212 ~~[(f)]~~ (h) Within 20 days after the lieutenant governor provides the estimated
- 213 supplemental feasibility study cost, the feasibility request sponsors shall pay the
- 214 estimated cost to the lieutenant governor for a supplemental feasibility study
- 215 conducted on or after May 1, 2024.
- 216 ~~[(2)]~~ (3) The timely filing of a modified feasibility request under Subsection ~~[(1)]~~ (2) gives
- 217 the modified feasibility request the same processing priority under Subsection
- 218 10-2a-204(7) as the original feasibility request if the feasibility request sponsors pay the
- 219 estimated cost of the supplemental feasibility study as required in Subsection ~~[(1)]~~(e)]
- 220 (2)(e).
- 221 ~~[(3)]~~ (4) ~~Within~~ Except as provided in Subsection (5), within 10 days after the day on
- 222 which the lieutenant governor receives payment of the estimated supplemental
- 223 feasibility study cost, the lieutenant governor shall commission the feasibility consultant
- 224 who conducted the feasibility study to conduct a supplemental feasibility study that
- 225 accounts for the modified feasibility request.
- 226 (5) If a modified feasibility request includes an area of land that was not included in the
- 227 original feasibility request, the lieutenant governor may not commission a supplemental
- 228 feasibility study under Subsection (4) unless:
- 229 (a) the deadline for filing a request for exclusion described in Subsection (2)(f) has
- 230 passed; and
- 231 (b) the county clerk and lieutenant governor have issued a final determination on any
- 232 request for exclusion filed in accordance with Subsection (2)(f).

- 233 [(4)] (6) The lieutenant governor shall require the feasibility consultant to:
- 234 (a) submit a draft of the supplemental feasibility study to each applicable person with
- 235 whom the feasibility consultant is required to consult under Subsection
- 236 10-2a-205(3)(c) within 30 days after the day on which the feasibility consultant is
- 237 engaged to conduct the supplemental study;
- 238 (b) allow each person to whom the consultant provided a draft under Subsection [(4)(a)]
- 239 (6)(a) to review and provide comment on the draft; and
- 240 (c) submit a completed supplemental feasibility study, to the following within 45 days
- 241 after the day on which the feasibility consultant is engaged to conduct the feasibility
- 242 study:
- 243 (i) the lieutenant governor;
- 244 (ii) the county legislative body of the county in which the incorporation is proposed;
- 245 (iii) the contact sponsor; and
- 246 (iv) each person to whom the consultant provided a draft under Subsection [(4)(a)]
- 247 (6)(a).

- 248 [(5)] (7) If the results of the supplemental feasibility study do not comply with Subsection
- 249 10-2a-205(5)(a):
- 250 (a) the process to incorporate the area that is the subject of the supplemental feasibility
- 251 study may not proceed; and
- 252 (b) a feasibility request under Section 10-2a-202 may not be filed within 18 months after
- 253 the date of the supplemental feasibility study if the feasibility request proposes the
- 254 incorporation of an area included within the area described in the supplemental
- 255 feasibility study.

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

257 **10-2a-220 . Costs of incorporation -- Fees established by lieutenant governor.**

- 258 (1)(a) There is created an expendable special revenue fund known as the "Municipal
- 259 Incorporation Expendable Special Revenue Fund."
- 260 (b) The fund shall consist of:
- 261 (i) appropriations from the Legislature;
- 262 (ii) payments that feasibility request sponsors make to the lieutenant governor under
- 263 Subsections 10-2a-205(1)(b) and 10-2a-206(1)(f); and
- 264 (iii) fees the lieutenant governor collects and remits to the fund under this section.
- 265 (c) The lieutenant governor shall deposit all money collected under this section into the
- 266 fund.

- 267 (2)(a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504
268 for a cost incurred by the lieutenant governor or the county for an incorporation
269 proceeding, including:
- 270 (i) a request certification;
 - 271 (ii) a petition certification;
 - 272 (iii) publication of notices;
 - 273 (iv) public hearings;
 - 274 (v) all other incorporation activities occurring after the elections; and
 - 275 (vi) any other cost incurred by the lieutenant governor or county in relation to an
276 incorporation proceeding.
- 277 (b) A cost under Subsection (2)(a) does not include a cost incurred by a county for
278 holding an election under Section 10-2a-210.
- 279 (3) Subject to Subsections 10-2a-205(1)(b) and [~~10-2a-206(1)(f)~~] 10-2a-206(2)(h), the
280 lieutenant governor shall pay for a cost described in Subsection (2)(a) using funds from
281 the Municipal Incorporation Expendable Special Revenue Fund.
- 282 (4)(a) A newly incorporated municipality shall:
- 283 (i) pay to the lieutenant governor each fee established under Subsection (2) for each
284 cost described in Subsection (2)(a) incurred by the lieutenant governor or the
285 county;
 - 286 (ii) pay the county for a cost described in Subsection (2)(b); and
 - 287 (iii) reimburse feasibility request sponsors the cost the feasibility request sponsors
288 paid for:
 - 289 (A) a feasibility study under Section 10-2a-205; and
 - 290 (B) any supplemental feasibility study under Section 10-2a-206.
- 291 (b) The lieutenant governor shall execute a payback agreement with each new
292 municipality for the new municipality to pay the fees described in Subsection (4)(a)
293 over a period that, except as provided in Subsection (4)(c), may not exceed five years.
- 294 (c) If necessary, the lieutenant governor may extend a fee payment deadline beyond the
295 deadline described in Subsection (4)(b) by amending the payback agreement
296 described in Subsection (4)(b).
- 297 (d) The lieutenant governor shall deposit each fee the lieutenant governor collects under
298 Subsection (4)(a)(i) into the Municipal Incorporation Expendable Special Revenue
299 Fund.
- 300 (5) If the lieutenant governor expends funds from the Municipal Incorporation Expendable

301 Special Revenue Fund that are not repaid to the lieutenant governor under Subsection
 302 (4)(a)(i) because an area did not incorporate as a municipality, the Legislature shall
 303 appropriate money to the fund in an amount equal to the funds that are not repaid.

304 Section 4. Section **10-3-702** is amended to read:

305 **10-3-702 . Extent of power exercised by ordinance.**

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

309 [(2)] (1)[(a) Except as provided in Subsection (2)(b), the] The governing body of a
 310 municipality may pass any ordinance to regulate, require, prohibit, govern, control or
 311 supervise any activity, business, conduct or condition authorized by this title or any
 312 other provision of law.

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

315 [(ii) Any ordinance regulating an open house differently than a residential use is
 316 void.]

317 [(3)] (2)(a) An officer of the municipality may not be convicted of a criminal offense
 318 where the officer relied on or enforced an ordinance the officer reasonably believed
 319 to be a valid ordinance.

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

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

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

325 **10-20-102 . Definitions.**

326 As used in this chapter:

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

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

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

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

334 (3) "Affected entity" means a county, municipality, special district, special service district

335 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
336 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
337 specified public utility, property owner, property owners association, or the Department
338 of Transportation, if:

- 339 (a) the entity's services or facilities are likely to require expansion or significant
340 modification because of an intended use of land;
- 341 (b) the entity has filed with the municipality a copy of the entity's general or long-range
342 plan; or
- 343 (c) the entity has filed with the municipality a request for notice during the same
344 calendar year and before the municipality provides notice to an affected entity in
345 compliance with a requirement imposed under this chapter.

346 (4) "Affected owner" means the owner of real property that is:

- 347 (a) a single project; and
- 348 (b) the subject of a land use approval that:
- 349 (i) sponsors of a referendum timely challenged in accordance with Section 20A-7-601;
- 350 and
- 351 [~~(e)~~] (ii) is determined to be legally referable under Section 20A-7-602.8.

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

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

359 (7)(a) "Boundary adjustment" means an agreement between adjoining property owners
360 to relocate a common boundary that results in a conveyance of property between the
361 adjoining lots, adjoining parcels, or adjoining lots and parcels.

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

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

368 (b) "Boundary establishment" does not mean a modification of a lot or parcel boundary

- 369 that:
- 370 (i) creates an additional lot or parcel; or
- 371 (ii) is made by the Department of Transportation.
- 372 (9) "Building code adoption cycle" means the period of time beginning the day on which a
- 373 specific edition of a construction code from a nationally recognized code authority is
- 374 adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day
- 375 before a new edition of a construction code is adopted and effective in Title 15A, State
- 376 Construction and Fire Codes Act.
- 377 [(9)] (10)(a) "Charter school" means:
- 378 (i) an operating charter school;
- 379 (ii) a charter school applicant that a charter school authorizer approves in accordance
- 380 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
- 381 (iii) an entity that is working on behalf of a charter school or approved charter
- 382 applicant to develop or construct a charter school building.
- 383 (b) "Charter school" does not include a therapeutic school.
- 384 [~~(10) "Building code adoption cycle" means the period of time beginning the day on which~~
- 385 ~~a specific edition of a construction code from a nationally recognized code authority is~~
- 386 ~~adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day~~
- 387 ~~before a new edition of a construction code is adopted and effective in Title 15A, State~~
- 388 ~~Construction and Fire Codes Act.]~~
- 389 (11) "Conditional use" means a land use that, because of the unique characteristics or
- 390 potential detrimental impact of the land use on the municipality, surrounding neighbors,
- 391 or adjacent land uses, may not be compatible in some areas or may be compatible only if
- 392 certain conditions are required that mitigate or eliminate the detrimental impacts.
- 393 (12) "Constitutional taking" means a governmental action that results in a taking of private
- 394 property [~~so that~~] where compensation to the property owner[~~of the property~~] is required
- 395 by the:
- 396 (a) Fifth or Fourteenth Amendment [of] to the Constitution of the United States; or
- 397 (b) Utah Constitution, Article I, Section 22.
- 398 (13) "Conveyance document" means an instrument that:
- 399 (a) meets the definition of "document" in Section 57-1-1; and
- 400 (b) meets the requirements of Section 57-1-45.5.
- 401 (14) "Conveyance of property" means the transfer of ownership of any portion of real
- 402 property from one person to another person.

- 403 (15) "Culinary water authority" means the department, agency, or public entity with
404 responsibility to review and approve the feasibility of the culinary water system and
405 sources for the subject property.
- 406 (16) "Department of Transportation" means the entity created in Section 72-1-201.
- 407 (17) "Development activity" means:
- 408 (a) any construction or expansion of a building, structure, or use that creates additional
409 demand and need for public facilities;
- 410 (b) any change in use of a building or structure that creates additional demand and need
411 for public facilities; or
- 412 (c) any change in the use of land that creates additional demand and need for public
413 facilities.
- 414 (18)(a) "Development agreement" means a written agreement or amendment to a written
415 agreement between a municipality and one or more parties that regulates or controls
416 the use or development of a specific area of land.
- 417 (b) "Development agreement" does not include an improvement completion assurance.
- 418 (19)(a) "Disability" means a physical or mental impairment that substantially limits one
419 or more of a person's major life activities, including a person having a record of such
420 an impairment or being regarded as having such an impairment.
- 421 (b) "Disability" does not include current illegal use of, or addiction to, any federally
422 controlled substance, as defined in the Controlled Substances Act, 21 U.S.C. Sec. 802.
- 423 (20) "Document" means the same as that term is defined in Section 57-1-1.
- 424 (21) "Educational facility":
- 425 (a) means:
- 426 (i) a school district's building at which pupils assemble to receive instruction in a
427 program for any combination of grades from preschool through grade 12,
428 including kindergarten and a program for children with disabilities;
- 429 (ii) a structure or facility:
- 430 (A) located on the same property as a building described in Subsection (21)(a)(i);
431 and
- 432 (B) used in support of the use of that building; and
- 433 (iii) a building to provide office and related space to a school district's administrative
434 personnel; and
- 435 (b) does not include:
- 436 (i) land or a structure, including land or a structure for inventory storage, equipment

437 storage, food processing or preparing, vehicle storage or maintenance, or similar
438 use that is:

439 (A) not located on the same property as a building described in Subsection

440 (21)(a)(i); and

441 (B) used in support of the purposes of a building described in Subsection (21)(a)(i);

442 or

443 (ii) a therapeutic school.

444 (22) "Establishment document" means an instrument that:

445 (a) meets the definition of "document" in Section 57-1-1; and

446 (b) meets the requirements of Section 57-1-45.

447 [~~(23) "Full boundary adjustment" means a boundary adjustment that is not a simple~~
448 ~~boundary adjustment.~~]

449 [(24)] (23) "Fire authority" means the department, agency, or public entity with

450 responsibility to review and approve the feasibility of fire protection and suppression

451 services for the subject property.

452 [~~(25)] (24) "Flood plain" means land that:~~

453 (a) is within the 100-year flood plain designated by the Federal Emergency Management
454 Agency; or

455 (b) has not been studied or designated by the Federal Emergency Management Agency
456 but presents a likelihood of experiencing chronic flooding or a catastrophic flood
457 event because the land has characteristics that are similar to those of a 100-year flood
458 plain designated by the Federal Emergency Management Agency.

459 (25) "Full boundary adjustment" means a boundary adjustment that is not a simple
460 boundary adjustment.

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

463 (27) "Geologic hazard" means:

464 (a) a surface fault rupture;

465 (b) shallow groundwater;

466 (c) liquefaction;

467 (d) a landslide;

468 (e) a debris flow;

469 (f) unstable soil;

470 (g) a rock fall; or

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

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

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

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

- 607 authorized franchise or other agreement; and
608 (ii) is located in a utility easement granted for public use; or
609 (f) is described in Section 10-20-615 and is used by a specified public utility.
- 610 (51) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
611 spent and expenses incurred in:
- 612 (a) verifying that building plans are identical plans; and
 - 613 (b) reviewing and approving those minor aspects of identical plans that differ from the
614 previously reviewed and approved building plans.
- 615 (52) "Noncomplying structure" means a structure that:
- 616 (a) legally existed before the structure's current land use designation; and
 - 617 (b) because of one or more subsequent land use ordinance changes, does not conform to
618 the setback, height restrictions, or other regulations, excluding those regulations,
619 which govern the use of land.
- 620 (53) "Nonconforming use" means a use of land that:
- 621 (a) legally existed before [its] the land's current land use designation;
 - 622 (b) has been maintained continuously since the time the land use ordinance governing
623 the land changed; and
 - 624 (c) because of one or more subsequent land use ordinance changes, does not conform to
625 the regulations that now govern the use of the land.
- 626 (54) "Official map" means a map drawn by municipal authorities and recorded in a county
627 recorder's office that:
- 628 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
629 highways and other transportation facilities;
 - 630 (b) provides a basis for restricting development in designated rights-of-way or between
631 designated setbacks to allow the government authorities time to purchase or
632 otherwise reserve the land; and
 - 633 (c) has been adopted as an element of the municipality's general plan.
- 634 (55) "Parcel" means any real property that is not a lot.
- 635 (56) "Person" means an individual, corporation, partnership, organization, association, trust,
636 governmental agency, or any other legal entity.
- 637 (57) "Plan for moderate income housing" means a written document adopted by a
638 municipality's legislative body that includes:
- 639 (a) an estimate of the existing supply of moderate income housing located within the
640 municipality;

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

- 675 an area in which an owner of land may receive a transferable development right.
- 676 [(66)] (67) "Record of survey map" means a map of a survey of land prepared in accordance
677 with Section 17-73-504.
- 678 [(67)] (68) "Residential facility for persons with a disability" means a residence:
- 679 (a) in which more than one person with a disability resides; and
- 680 (b) which is licensed or certified by the Department of Health and Human Services
681 under:
- 682 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or
- 683 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 684 [(68)] (69) "Residential roadway" means a public local residential road that:
- 685 (a) will serve primarily to provide access to adjacent primarily residential areas and
686 property;
- 687 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;
- 688 (c) is not identified as a supplementary to a collector or other higher system classified
689 street in an approved municipal street or transportation master plan;
- 690 (d) has a posted speed limit of 25 miles per hour or less;
- 691 (e) does not have higher traffic volumes resulting from connecting previously separated
692 areas of the municipal road network;
- 693 (f) cannot have a primary access, but can have a secondary access, and does not abut lots
694 intended for high volume traffic or community centers, including schools, recreation
695 centers, sports complexes, or libraries; and
- 696 (g) primarily serves traffic within a neighborhood or limited residential area and is not
697 necessarily continuous through several residential areas.
- 698 [(69)] (70) "Rules of order and procedure" means a set of rules that govern and prescribe in
699 a public meeting:
- 700 (a) parliamentary order and procedure;
- 701 (b) ethical behavior; and
- 702 (c) civil discourse.
- 703 [(70)] (71) "Sanitary sewer authority" means the department, agency, or public entity with
704 responsibility to review and approve the feasibility of sanitary sewer services or onsite
705 wastewater systems.
- 706 [(71)] (72) "Sending zone" means an area that a municipality designates, by ordinance, as an
707 area from which an owner of land may transfer a transferable development right.
- 708 [(72)] (73) "Simple boundary adjustment" means a boundary adjustment that does not:

- 709 (a) affect a public right-of-way, municipal utility easement, or other public property;
- 710 (b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or
- 711 (c) result in a lot or parcel out of conformity with land use regulations.
- 712 ~~[(73)]~~ (74) "Special district" means an entity under Title 17B, Limited Purpose Local
- 713 Government Entities - Special Districts, and any other governmental or
- 714 quasi-governmental entity that is not a county, municipality, school district, or the state.
- 715 (75) "Specific land use law" means a requirement or restriction on the use of a specific
- 716 parcel in a development agreement that a legislative body approves with the consent of
- 717 an affected property owner.
- 718 ~~[(74)]~~ (76) "Specified public agency" means:
- 719 (a) the state;
- 720 (b) a school district; or
- 721 (c) a charter school.
- 722 ~~[(75)]~~ (77) "Specified public utility" means an electrical corporation, gas corporation, or
- 723 telephone corporation, as those terms are defined in Section 54-2-1.
- 724 ~~[(76)]~~ (78) "State" includes any department, division, or agency of the state.
- 725 ~~[(77)]~~ (79)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to
- 726 be divided into two or more lots or other division of land for the purpose, whether
- 727 immediate or future, for offer, sale, lease, or development either on the installment
- 728 plan or upon any and all other plans, terms, and conditions.
- 729 (b) "Subdivision" includes:
- 730 (i) the division or development of land, whether by deed, metes and bounds
- 731 description, devise and testacy, map, plat, or other recorded instrument, regardless
- 732 of whether the division includes all or a portion of a parcel or lot; and
- 733 (ii) except as provided in Subsection ~~[(77)(e)]~~ (79)(c), divisions of land for residential
- 734 and nonresidential uses, including land used or to be used for commercial,
- 735 agricultural, and industrial purposes.
- 736 (c) "Subdivision" does not include:
- 737 (i) a bona fide division or partition of land used for agricultural purposes as provided
- 738 in Subsection 10-20-808(2);
- 739 (ii) a recorded conveyance document:
- 740 (A) consolidating multiple lots or parcels into one legal description encompassing
- 741 all lots by reference to a recorded plat and all parcels by metes and bounds
- 742 description; or

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

- 777 (ii) in a public school; or
 778 (iii) in a nonresidential private school; and
 779 (c) that offers:
 780 (i) room and board; and
 781 (ii) an academic education integrated with:
 782 (A) specialized structure and supervision; or
 783 (B) services or treatment related to a disability, an emotional development, a
 784 behavioral development, a familial development, or a social development.

785 [(82)] (84) "Transferable development right" means a right to develop and use land that
 786 originates by an ordinance that authorizes a [~~land~~] property owner in a designated
 787 sending zone to transfer land use rights from a designated sending zone to a designated
 788 receiving zone.

789 [(83)] (85) "Unincorporated" means the area outside of the incorporated area of a city or
 790 town.

791 [(84)] (86) "Water interest" means any right to the beneficial use of water, including:

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

796 [(85)] (87) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
 797 land use zones, overlays, or districts.

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

799 **10-20-301 . Ordinance establishing planning commission required -- Ordinance**
 800 **requirements -- Compensation.**

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

802 (b) The ordinance shall ~~define~~:

- 803 (i) include the number and terms of the planning commission members and, if the
 804 municipality chooses, alternate members;
 805 (ii) ~~[the mode of appointment]~~ provide procedures for appointing a planning
 806 commission member;
 807 (iii) ~~[the]~~ provide procedures for filling vacancies [and] on the planning commission;
 808 (iv) ~~[removal from office;]~~ provide procedures for removing a planning commission
 809 member from the planning commission and specify that:
 810 (A) in a form of government described in Section 10-3b-301 or 10-3b-401, and

- 811 subject to any delegation of authority under Subsection 10-3b-303(1) or
 812 10-3b-403(1), the legislative body may remove a planning commission
 813 member; or
- 814 (B) in a form of government described in Section 10-3b-202, the mayor may
 815 remove a planning commission member;
- 816 (v) except as provided in Subsection (1)(b)(vi), describe the causes for which a
 817 planning commission member may be removed from the planning commission,
 818 which shall include:
- 819 (A) using public funds for a political purpose under Title 20A, Chapter 11, Part
 820 12, Political Activities of Public Entities Act;
- 821 (B) violating a provision of Title 10, Chapter 3, Part 13, Municipal Officers' and
 822 Employees' Ethics Act; and
- 823 (C) acting with the intent to influence a land use decision or an appeal of a
 824 pending land use application in a manner that creates actual impermissible bias
 825 or an unacceptable risk of impermissible bias in the planning commission
 826 member's administrative or quasi-judicial duties;
- 827 (vi) provide that a planning commission member deliberating about a specific
 828 pending land use application in a planning commission meeting with municipal
 829 staff, an elected official, or the land use applicant is not cause for removing a
 830 planning commission member from the planning commission;
- 831 (vii) provide requirements for when a planning commission member shall recuse
 832 oneself from deliberating or voting on certain land use applications;
- 833 ~~[(iv)]~~ (viii) define the authority of the planning commission;
- 834 ~~[(v)]~~ (ix) subject to Subsection (1)(c), [the] include rules of order and procedure for
 835 use by the planning commission in a public meeting; and
- 836 ~~[(vi)]~~ (x) include other details relating to the organization and procedures of the
 837 planning commission.
- 838 (c) Subsection ~~[(1)(b)(v)]~~ (1)(b)(ix) does not affect the planning commission's duty to
 839 comply with Title 52, Chapter 4, Open and Public Meetings Act.
- 840 (2) The legislative body may authorize a member to receive per diem and travel expenses
 841 for meetings actually attended, in accordance with Section 11-55-103.
- 842 Section 7. Section **10-20-302** is amended to read:
- 843 **10-20-302 . Planning commission powers and duties -- Training requirements.**
- 844 (1) The planning commission shall review and make a recommendation to the legislative

- 845 body for:
- 846 (a) a general plan and amendments to the general plan;
 - 847 (b) land use regulations, including:
 - 848 (i) ordinances regarding the subdivision of land within the municipality; and
 - 849 (ii) amendments to existing land use regulations;
 - 850 (c) an appropriate delegation of power to at least one designated land use authority to
 - 851 hear and act on a land use application;
 - 852 (d) an appropriate delegation of power to at least one appeal authority to hear and act on
 - 853 an appeal from a decision of the land use authority; and
 - 854 (e) application processes that:
 - 855 (i) may include a designation of routine land use matters that, upon application and
 - 856 proper notice, will receive informal streamlined review and action if the
 - 857 application is uncontested; and
 - 858 (ii) shall protect the right of each:
 - 859 (A) land use applicant and adversely affected party to require formal consideration
 - 860 of any application by a land use authority; and
 - 861 (B) land use applicant or adversely affected party to appeal a land use authority's
 - 862 decision to a separate appeal authority[; and] .
 - 863 [~~(C) participant to be heard in each public hearing on a contested application.~~]
 - 864 (2) Before making a recommendation to a legislative body on an item described in
 - 865 Subsection (1)(a) or (b), the planning commission shall hold a public hearing in
 - 866 accordance with Section 10-20-405.
 - 867 (3) A legislative body may adopt, modify, or reject a planning commission's
 - 868 recommendation to the legislative body under this section.
 - 869 [~~(4) A legislative body may consider a planning commission's failure to make a timely~~
 - 870 ~~recommendation as a negative recommendation.~~]
 - 871 [~~(5)~~] (4) Nothing in this section limits the right of a municipality to initiate or propose the
 - 872 actions described in this section.
 - 873 [~~(6)~~] (5)(a)(i) This Subsection [~~(6)~~] (5) applies to:
 - 874 (A) a city of the first, second, third, or fourth class; and
 - 875 (B) a city of the fifth class with a population of 5,000 or more, if the city is located
 - 876 within a county of the first, second, or third class.
 - 877 (ii) The population for each city described in Subsection [~~(6)(a)(i)~~] (5)(a)(i) shall be
 - 878 derived from:

- 879 (A) an estimate of the Utah Population Committee created in Section 63C-20-103;
 880 or
 881 (B) if the Utah Population Committee estimate is not available, the most recent
 882 official census or census estimate of the United States [~~Bureau of the~~]Census
 883 Bureau.
- 884 (b) A municipality described in Subsection [~~(6)(a)(i)~~] (5)(a)(i) shall ensure that each
 885 member of the municipality's planning commission completes four hours of annual
 886 land use training as follows:
- 887 (i) one hour of annual training on general powers and duties, including the role of the
 888 planning commission in administrative, legislative, and quasi-judicial functions
 889 under this chapter; and
- 890 (ii) three hours of annual training on a combination of land use and ethics topics,
 891 which may include:
- 892 (A) appeals and variances;
 893 (B) conditional use permits;
 894 (C) exactions;
 895 (D) impact fees;
 896 (E) vested rights;
 897 (F) subdivision regulations and improvement guarantees;
 898 (G) land use referenda;
 899 (H) property rights;
 900 (I) real estate procedures and financing;
 901 (J) zoning, including use-based and form-based; [~~and~~]
 902 (K) drafting ordinances and code that complies with statute[-] ;
 903 (L) ex parte communication; and
 904 (M) conflict of interest.
- 905 (c) A newly appointed planning commission member may not participate in a public
 906 meeting as an appointed member until the member completes the training described
 907 in Subsection [~~(6)(b)(i)~~] (5)(b)(i).
- 908 (d) A planning commission member may qualify for one completed hour of training
 909 required under Subsection [~~(6)(b)(ii)~~] (5)(b)(ii) if the member attends, as an appointed
 910 member, 12 public meetings of the planning commission within a calendar year.
- 911 (e) A municipality shall provide the training described in Subsection [~~(6)(b)~~] (5)(b)
 912 through:

- 913 (i) municipal staff;
- 914 (ii) the Utah League of Cities and Towns; or
- 915 (iii) a list of training courses selected by:
- 916 (A) the Utah League of Cities and Towns; or
- 917 (B) the Division of Real Estate created in Section 61-2-201.
- 918 (f) A municipality shall, for each planning commission member:
- 919 (i) monitor compliance with the training requirements in Subsection [~~(6)(b)~~] (5)(b);
- 920 and
- 921 (ii) maintain a record of training completion at the end of each calendar year.

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

923 **10-20-501 . Enactment of land use regulation, land use decision, or development**
 924 **agreement.**

- 925 (1) Only a legislative body, as the body authorized to weigh policy considerations, may
 926 enact a land use regulation.
- 927 (2)(a) Except as provided in Subsection (2)(b), a legislative body may enact a land use
 928 regulation only by ordinance.
- 929 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that
 930 imposes a fee.
- 931 (3) A legislative body shall ensure that a land use regulation is consistent with the purposes [
 932 ~~set forth in~~] of this chapter.
- 933 (4)(a) A legislative body shall adopt a land use regulation to:
- 934 (i) create or amend a zoning district under Subsection 10-20-503(1)(a); and
- 935 (ii) designate general uses allowed in each zoning district.
- 936 (b) A land use authority may establish or modify other restrictions or requirements other
 937 than those described in Subsection (4)(a), including the configuration or modification
 938 of uses or density, through a land use decision that applies criteria or policy elements
 939 that a land use regulation establishes or describes.
- 940 (5)(a) Except as provided in Subsection (5)(b) or (5)(c), a municipality shall publish on
 941 the municipality's website:
- 942 (i) all of the municipality's land use regulations; and
- 943 (ii) a fee schedule that lists all of the municipality's fees related to a land use
 944 application, land use permit, or land use regulation, including development review
 945 fees and impact fees.
- 946 (b) A municipality that does not have a maintained and active website shall provide for

947 inspection of the information described in Subsection (5)(a) at the municipality's
 948 place of business during normal business hours.

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

950 (i) posting a link on the municipality's website to a separate webpage or third-party
 951 website where the land use regulations or fee schedule described in Subsection
 952 (5)(a) are posted; and

953 (ii) submitting a new or modified land use regulation or fee schedule described in
 954 Subsection (5)(a) to the third-party website within six months after the day on
 955 which the legislative body adopts the new or modified land use regulation or fee
 956 schedule.

957 [~~(5)~~] (6) A municipality may not adopt a land use regulation[;] or development agreement, or
 958 make a land use decision, that restricts the type of crop that may be grown in an area that
 959 is:

960 (a) zoned agricultural; or

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

962 [~~(6)~~] (7) A municipal land use regulation pertaining to an airport or an airport influence area,
 963 as that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4,
 964 Airport Zoning Act.

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

966 **10-20-502 . Preparation and adoption of land use regulation.**

967 (1) A planning commission shall:

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

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

971 (c) if applicable, consider each written objection filed in accordance with Subsection
 972 10-20-205(5) before the public hearing; and

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

976 (ii) forward to the legislative body all objections filed in accordance with Subsection
 977 10-20-205(5).

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

980 (b) After providing notice as required by Subsection 10-20-205(1)(b) and holding a

981 public meeting, the legislative body may adopt or reject the land use regulation
982 described in Subsection (2)(a):

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

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

985 ~~[(e) A legislative body may consider a planning commission's failure to make a timely
986 recommendation as a negative recommendation if the legislative body has provided
987 for that consideration by ordinance.]~~

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

991 (i) a land use applicant makes a request described in Subsection 10-20-905(2)(b); or

992 (ii) a legislative body determines that a planning commission has had adequate time
993 to consider the land use regulation.

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

995 **10-20-507 . Classification of new and unlisted business uses.**

996 (1) As used in this section:

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

999 (b) "New or unlisted business use" means a business activity that does not align with an
1000 existing land use specified in a municipality's land use ordinances.

1001 (2)(a) Each municipality shall incorporate into the municipality's land use ordinances a
1002 process for reviewing and approving a new or unlisted business use and designating
1003 an appropriate zone or zones for an approved use.

1004 (b) The process described in Subsection (2)(a) shall:

1005 (i) detail how an applicant may submit a classification request;

1006 (ii) establish a procedure for the municipality to review a classification request,
1007 including:

1008 (A) providing a land use authority with criteria to determine whether a proposed
1009 use aligns with an existing use;~~and]~~

1010 (B) allowing an applicant to proceed under the regulations of an existing use if a
1011 land use authority determines a proposed use aligns with that existing use; and

1012 (C) providing the applicant an opportunity to appeal a land use authority's decision
1013 to a land use appeal authority;

1014 (iii) provide that if a use is determined to be a new or unlisted business use:

1015 (A) the applicant shall submit to the legislative body for review an application [~~for~~
 1016 ~~approval of the new or unlisted business use to the legislative body for review]~~
 1017 requesting that the legislative body adopt a land use ordinance that permits the
 1018 new or unlisted business as a permitted or conditional use;

1019 (B) notwithstanding Subsection 10-20-503(2) or (3), the legislative body shall
 1020 consider and [determine whether to-]approve or deny [the new or unlisted
 1021 business use] the application described in Subsection (2)(b)(iii)(A); and

1022 (C) the legislative body shall approve or deny [~~the new or unlisted business use]~~
 1023 the application described in Subsection (2)(b)(iii)(A), within a time frame the
 1024 legislative body establishes by ordinance, if the applicant responds to requests
 1025 for additional information within a time frame established by the municipality
 1026 and appears at required hearings;

1027 (iv) provide that if the legislative body approves [~~a proposed new or unlisted business~~
 1028 ~~use]~~ the application described in Subsection (2)(b)(iii)(A), the legislative body
 1029 shall designate an appropriate zone or zones for the approved use; and

1030 (v) provide that if the legislative body denies [~~a proposed new or unlisted business use]~~
 1031 the application described in Subsection (2)(b)(iii)(A), or if an applicant disagrees
 1032 with the land use authority's classification of the proposed use, the legislative
 1033 body shall:

1034 (A) notify the applicant in writing of each reason for the classification or denial;
 1035 and

1036 (B) [~~offer the applicant an opportunity to challenge the classification or denial~~
 1037 ~~through an administrative appeal process established by the municipality]~~ notify
 1038 the applicant of the process for appealing the legislative body's decision in
 1039 accordance with Section 10-20-1109.

1040 (c) A municipality may not require an applicant who submits an application described in
 1041 Subsection (2)(b)(iii)(A) to submit the application to the planning commission for
 1042 consideration, review, or approval.

1043 (3) Each municipality shall amend each land use ordinance that contains a list of approved
 1044 or prohibited business uses to include a reference to the process for petitioning to
 1045 approve a new or unlisted business use, as described in Subsection (2).

1046 Section 11. Section **10-20-625** is enacted to read:

1047 **10-20-625 . Model homes and open houses.**

1048 (1) As used in this section:

- 1049 (a) "Model home" means:
1050 (i) a single-family home that the homebuilder uses to promote the sale or lease of
1051 another single-family home; or
1052 (ii) a unit within a multi-family residential structure that the owner uses to promote
1053 the sale or lease of another unit within the multi-family residential structure.
1054 (b) "Open house" means an event held by a homeowner, including an event in
1055 association with a real estate agent, architect, builder, or developer, to showcase a
1056 home, including the outdoor landscaping around the home.
1057 (2) The legislative body of a municipality may not regulate a model home or open house
1058 differently than a residential use.
1059 (3) Any ordinance regulating a model home or an open house differently than a residential
1060 use is void.

1061 Section 12. Section **10-20-626** is enacted to read:

1062 **10-20-626 . Structure height.**

- 1063 (1) A municipality may regulate:
1064 (a) the number of habitable stories that a structure may contain; and
1065 (b) the overall height of a structure.
1066 (2) Notwithstanding a land use regulation described in Subsection (1), if a land use
1067 authority approved a land use application for a commercial lodging structure on or
1068 before September 1, 2025, the land use authority shall allow the land use applicant to
1069 build as many habitable stories within the approved structure as permitted under the
1070 State Construction Code.

1071 Section 13. Section **10-20-806** is amended to read:

1072 **10-20-806 . Review of subdivision applications and subdivision improvement**
1073 **plans.**

- 1074 (1) As used in this section:
1075 (a) "Review cycle" means the occurrence of:
1076 (i) the applicant's submittal of a complete subdivision application;
1077 (ii) the municipality's review of that subdivision application;
1078 (iii) the municipality's response to that subdivision application, in accordance with
1079 this section; and
1080 (iv) the applicant's reply to the municipality's response that addresses each of the
1081 municipality's required modifications or requests for additional information.
1082 (b) "Subdivision application" means a land use application for the subdivision of land.

- 1083 (c) "Subdivision improvement plans" means the civil engineering plans associated with
1084 required infrastructure improvements and municipally controlled utilities required for
1085 a subdivision.
- 1086 (d) "Subdivision ordinance review" means review by a municipality to verify that a
1087 subdivision application meets the criteria of the municipality's ordinances.
- 1088 (e) "Subdivision plan review" means a review of the applicant's subdivision
1089 improvement plans and other aspects of the subdivision application to verify that the
1090 application complies with municipal ordinances and applicable installation standards
1091 and inspection specifications for infrastructure improvements.
- 1092 (2) The review cycle restrictions and requirements of this section do not apply to the review
1093 of subdivision applications affecting property within identified geological hazard areas.
- 1094 (3)(a) A municipality may require a subdivision improvement plan to be submitted with
1095 a subdivision application.
- 1096 (b) A municipality may not require a subdivision improvement plan to be submitted with
1097 both a preliminary subdivision application and a final subdivision application.
- 1098 (4)(a) The review cycle requirements of this section apply:
- 1099 (i) to the review of a preliminary subdivision application, if the municipality requires
1100 a subdivision improvement plan to be submitted with a preliminary subdivision
1101 application; or
- 1102 (ii) to the review of a final subdivision application, if the municipality requires a
1103 subdivision improvement plan to be submitted with a final subdivision application.
- 1104 (b) A municipality may not, outside the review cycle, engage in a substantive review of
1105 required infrastructure improvements or a municipally controlled utility.
- 1106 (5)(a) A municipality shall complete the initial review of a complete subdivision
1107 application submitted for ordinance review for a residential subdivision for
1108 single-family dwellings, two-family dwellings, or town homes:
- 1109 (i) no later than 15 business days after the complete subdivision application is
1110 submitted, if the municipality has a population over 5,000; or
- 1111 (ii) no later than 30 business days after the complete subdivision application is
1112 submitted, if the municipality has a population of 5,000 or less.
- 1113 (b) A municipality shall maintain and publish a list of the items comprising the complete
1114 subdivision application, including:
- 1115 (i) the application;
- 1116 (ii) the owner's affidavit;

- 1117 (iii) an electronic copy of all plans in PDF format;
- 1118 (iv) the preliminary subdivision plat drawings; and
- 1119 (v) a breakdown of fees due upon approval of the application.
- 1120 (6) A municipality shall publish a list of the items that comprise a complete subdivision
- 1121 land use application.
- 1122 (7) A municipality shall complete a subdivision plan review of a subdivision improvement
- 1123 plan that is submitted with a complete subdivision application for a residential
- 1124 subdivision for single-family dwellings, two-family dwellings, or town homes:
- 1125 (a) within 20 business days after the complete subdivision application is submitted, if the
- 1126 municipality has a population over 5,000; or
- 1127 (b) within 40 business days after the complete subdivision application is submitted, if
- 1128 the municipality has a population of 5,000 or less.
- 1129 (8)(a) In reviewing a subdivision application, a municipality may require:
- 1130 (i) additional information relating to an applicant's plans to ensure compliance with
- 1131 municipal ordinances and approved standards and specifications for construction
- 1132 of public improvements; and
- 1133 (ii) modifications to plans that do not meet current ordinances, applicable standards
- 1134 or specifications, or do not contain complete information.
- 1135 (b) A municipality's request for additional information or modifications to plans under
- 1136 Subsection (8)(a)(i) or (ii) shall be specific and include citations to ordinances,
- 1137 standards, or specifications that require the modifications to subdivision
- 1138 improvement plans, and shall be logged in an index of requested modifications or
- 1139 additions.
- 1140 (c) A municipality may not require more than four review cycles for a subdivision
- 1141 improvement plan review.
- 1142 (d)(i) Subject to Subsection (8)(d)(ii), unless the change or correction is necessitated
- 1143 by the applicant's adjustment to a subdivision improvement plan or an update to a
- 1144 phasing plan that adjusts the infrastructure needed for the specific development, a
- 1145 change or correction not addressed or referenced in a municipality's subdivision
- 1146 improvement plan review is waived.
- 1147 (ii) A modification or correction necessary to protect public health and safety or to
- 1148 enforce state or federal law may not be waived.
- 1149 (iii) If an applicant makes a material change to a subdivision improvement plan, the
- 1150 municipality has the discretion to restart the review process at the first review of

1151 the subdivision improvement plan review, but only with respect to the portion of
1152 the subdivision improvement plan that the material change substantively affects.

1153 (e)(i) This Subsection (8)(e) applies if an applicant does not submit a revised
1154 subdivision improvement plan within :

1155 (A) 20 business days after the municipality requires a modification or correction,
1156 if the municipality has a population over 5,000; or

1157 (B) 40 business days after the municipality requires a modification or correction,
1158 if the municipality has a population of 5,000 or less.

1159 (ii) If an applicant does not submit a revised subdivision improvement plan within the
1160 time specified in Subsection (8)(e)(i), a municipality has an additional 20 business
1161 days after the time specified in Subsection (7) to respond to a revised subdivision
1162 improvement plan.

1163 (9) After the applicant has responded to the final review cycle, and the applicant has
1164 complied with each modification requested in the municipality's previous review cycle,
1165 the municipality may not require additional revisions if the applicant has not materially
1166 changed the plan, other than changes that were in response to requested modifications or
1167 corrections.

1168 (10)(a) In addition to revised plans, an applicant shall provide a written explanation in
1169 response to the municipality's review comments, identifying and explaining the
1170 applicant's revisions and reasons for declining to make revisions, if any.

1171 (b) The applicant's written explanation shall be comprehensive and specific, including
1172 citations to applicable standards and ordinances for the design and an index of
1173 requested revisions or additions for each required correction.

1174 (c) If an applicant fails to address a review comment in the response, the review cycle is
1175 not complete and the subsequent review cycle may not begin until all comments are
1176 addressed.

1177 (11)~~(a)~~ If, on the fourth or final review, a municipality fails to respond within 20
1178 business days, the municipality shall, upon request of the property owner, and within
1179 10 business days after the day on which the request is received:

1180 ~~(i)~~ (a) for a dispute arising from the subdivision improvement plans, assemble an
1181 appeal panel in accordance with Subsection ~~[10-20-911(5)(d)]~~ 10-20-911(4)(d) to
1182 review and approve or deny the final revised set of plans; or

1183 ~~(ii)~~ (b) for a dispute arising from the subdivision ordinance review, advise the
1184 applicant, in writing, of the deficiency in the application and of the right to appeal the

1185 determination to a designated appeal authority.

1186 Section 14. Section **10-20-807** is amended to read:

1187 **10-20-807 . Subdivision plat recording or development activity before required**
1188 **landscaping or infrastructure is completed -- Improvement completion assurance --**
1189 **Improvement warranty.**

1190 (1) As used in this section:

1191 (a) "Private landscaping plan" means a proposal:

1192 (i) to install landscaping on a lot owned by a private individual or entity; and

1193 (ii) submitted to a municipality by the private individual or entity, or on behalf of a
1194 private individual or entity, that owns the lot.

1195 (b) "Public landscaping improvement" means landscaping that an applicant is required to
1196 install to comply with published installation and inspection specifications for public
1197 improvements that:

1198 (i) will be dedicated to and maintained by the municipality; or

1199 (ii) are associated with and proximate to trail improvements that connect to planned
1200 or existing public infrastructure.

1201 (2) A land use authority shall establish objective inspection standards for acceptance of a
1202 public landscaping improvement or infrastructure improvement that the land use
1203 authority requires.

1204 (3)(a) Except as provided in Subsection (3)(d) or (e), before an applicant conducts any
1205 development activity or records a plat, the applicant shall:

1206 (i) complete any required public landscaping improvements or infrastructure
1207 improvements; or

1208 (ii) post an improvement completion assurance for any required public landscaping
1209 improvements or infrastructure improvements.

1210 (b) If an applicant elects to post an improvement completion assurance, the applicant
1211 shall, in accordance with Subsection (5), provide completion assurance for:

1212 (i) completion of 100% of the required public landscaping improvements or
1213 infrastructure improvements; or

1214 (ii) if the municipality has inspected and accepted a portion of the public landscaping
1215 improvements or infrastructure improvements, 100% of the incomplete or
1216 unaccepted public landscaping improvements or infrastructure improvements.

1217 (c) A municipality shall:

1218 (i) establish a minimum of two acceptable forms of completion assurance;

- 1219 (ii)(A) if an applicant elects to post an improvement completion assurance, allow
1220 the applicant to post an assurance that meets the conditions of this chapter and
1221 any local ordinances; and
- 1222 (B) beginning on May 7, 2025, if a municipality accepts cash deposits as a form of
1223 completion assurance and the applicant elects to post a new cash deposit as a
1224 form of completion assurance, place the cash deposit in an interest-bearing
1225 account upon receipt and return any earned interest to the applicant with the
1226 return of the completion assurance according to the conditions of this chapter
1227 and any local ordinances;
- 1228 (iii) establish a system for the partial release of an improvement completion
1229 assurance as portions of required public landscaping improvements or
1230 infrastructure improvements are completed and accepted in accordance with local
1231 ordinance; and
- 1232 (iv) issue or deny a building permit in accordance with Section 10-20-1001 based on
1233 the installation of public landscaping improvements or infrastructure
1234 improvements.
- 1235 (d) A municipality may not require an applicant to post an improvement completion
1236 assurance for:
- 1237 (i) public landscaping improvements or an infrastructure improvement that the
1238 municipality has previously inspected and accepted;
- 1239 (ii) infrastructure improvements that are private and not essential or required to meet
1240 the building code, fire code, flood or storm water management provisions, street
1241 and access requirements, or other essential necessary public safety improvements
1242 adopted in a land use regulation;
- 1243 (iii) in a municipality where ordinances require all infrastructure improvements
1244 within the area to be private, infrastructure improvements within a development
1245 that the municipality requires to be private;
- 1246 (iv) landscaping improvements that are not public landscaping improvements, unless
1247 the landscaping improvements and completion assurance are required under the
1248 terms of a development agreement;
- 1249 (v) a private landscaping plan;
- 1250 (vi) landscaping improvements or infrastructure improvements that an applicant
1251 elects to install at the applicant's own risk:
- 1252 (A) before the plat is recorded;

- 1253 (B) in accordance with inspections required by the municipality for the
1254 infrastructure improvement; and
- 1255 (C) in accordance with final civil engineering plan approval by the municipality; or
1256 (vii) any individual public landscaping improvement or individual infrastructure
1257 improvement when the individual public landscaping improvement or individual
1258 infrastructure improvement is also included as part of a separate improvement
1259 completion assurance.
- 1260 (e)(i) A municipality may not:
- 1261 (A) prohibit an applicant from installing a public landscaping improvement or an
1262 infrastructure improvement when the municipality has approved final civil
1263 engineering plans for the development activity or plat for which the public
1264 landscaping improvement or infrastructure improvement is required; or
- 1265 (B) require an applicant to sign an agreement, release, or other document
1266 inconsistent with this chapter as a condition of posting an improvement
1267 completion assurance, security for an improvement warranty, or receiving a
1268 building permit.
- 1269 (ii) Notwithstanding Subsection (3)(e)(i)(A), public infrastructure improvements and
1270 infrastructure improvements that are installed by an applicant are subject to
1271 inspection by the municipality in accordance with the municipality's adopted
1272 inspection standards.
- 1273 (f)(i) Each improvement completion assurance and improvement warranty posted by
1274 an applicant with a municipality shall be independent of any other improvement
1275 completion assurance or improvement warranty posted by the same applicant with
1276 the municipality.
- 1277 (ii) Subject to Section 10-20-905, if an applicant has posted a form of security with a
1278 municipality for more than one infrastructure improvement or public landscaping
1279 improvement, the municipality may not withhold acceptance of an applicant's
1280 required subdivision improvements, public landscaping improvement,
1281 infrastructure improvements, or the performance of warranty work for the same
1282 applicant's failure to complete a separate subdivision improvement, public
1283 landscaping improvement, infrastructure improvement, or warranty work under a
1284 separate improvement completion assurance or improvement warranty.
- 1285 (4)(a) Except as provided in Subsection (4)(c), as a condition for increased density or
1286 other entitlement benefit not currently available under the existing zone, a

- 1287 municipality may require a completion assurance bond for landscaped amenities and
1288 common area that are dedicated to and maintained by a homeowners association.
- 1289 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)
1290 between the applicant and the municipality shall be memorialized in a development
1291 agreement.
- 1292 (c) A municipality may not require a completion assurance bond for or dictate who
1293 installs or is responsible for the cost of the landscaping of residential lots or the
1294 equivalent open space surrounding single-family attached homes, whether platted as
1295 lots or common area.
- 1296 (5) The sum of the improvement completion assurance required under Subsections (3) and
1297 (4) may not exceed the sum of:
- 1298 (a) 100% of the estimated cost of the public landscaping improvements or infrastructure
1299 improvements, as evidenced by an engineer's estimate or licensed contractor's bid;
1300 and
- 1301 (b) 10% of the amount of the bond to cover administrative costs incurred by the
1302 municipality to complete the improvements, if necessary.
- 1303 (6)(a) Upon an applicant's written request that the land use authority accept or reject the
1304 applicant's installation of required subdivision improvements or performance of
1305 warranty work as set forth in Section 10-20-905, and for the duration of each
1306 improvement warranty period, the municipality may require the applicant to:
- 1307 (i) execute an improvement warranty for the improvement warranty period; and
1308 (ii) post a cash deposit, surety bond, letter of credit, or other similar security, as
1309 required by the municipality, in the amount of up to 10% of the lesser of the:
- 1310 (A) municipal engineer's original estimated cost of completion; or
1311 (B) applicant's reasonable proven cost of completion.
- 1312 (b) A municipality may not require the payment of the deposit of the improvement
1313 warranty assurance described in Subsection (6)(a)(i) for an infrastructure
1314 improvement or public landscaping improvement before the applicant indicates
1315 through written request that the applicant has completed the infrastructure
1316 improvement or public landscaping improvement.
- 1317 (7) When a municipality accepts an improvement completion assurance for public
1318 landscaping improvements or infrastructure improvements for a development in
1319 accordance with Subsection (3)(c)(ii), the municipality may not deny an applicant a
1320 building permit if the development meets the requirements for the issuance of a building

1321 permit under the building code and fire code.

1322 (8) A municipality may not require the submission of a private landscaping plan as part of
1323 an application for a building permit.

1324 (9) The provisions of this section do not supersede the terms of a valid development
1325 agreement, an adopted phasing plan, or the [~~state construction code~~] State Construction
1326 Code.

1327 Section 15. Section **10-20-902** is amended to read:

1328 **10-20-902 . Applicant's entitlement to land use application approval --**

1329 **Municipality's requirements and limitations -- Vesting upon submission of development**
1330 **plan and schedule.**

1331 (1)(a)(i) An applicant who has submitted a complete land use application as
1332 described in Subsection (1)(c), including the payment of all application fees, is
1333 entitled to substantive review of the application under the land use regulations:

1334 (A) in effect on the date that the application is complete; and

1335 (B) applicable to the application or to the information shown on the application.

1336 (ii) An applicant is entitled to approval of a land use application if the application
1337 conforms to the requirements of the applicable land use regulations, land use
1338 decisions, and development standards in effect when the applicant submits a
1339 complete application and pays application fees, unless:

1340 (A) the land use authority, on the record, formally finds that a compelling,
1341 countervailing public interest would be jeopardized by approving the
1342 application and specifies the compelling, countervailing public interest in
1343 writing; or

1344 (B) in the manner provided by local ordinance and before the applicant submits
1345 the application, the municipality formally initiates proceedings to amend the
1346 municipality's land use regulations in a manner that would prohibit approval of
1347 the application as submitted.

1348 (b) The municipality shall process an application without regard to proceedings the
1349 municipality initiated to amend the municipality's ordinances as described in
1350 Subsection (1)(a)(ii)(B) if:

1351 (i) 180 days have passed since the municipality initiated the proceedings; and

1352 (ii)(A) the proceedings have not resulted in an enactment that prohibits approval
1353 of the application as submitted; or

1354 (B) during the 12 months before the municipality processing the application, or

- 1355 multiple applications of the same type, are impaired or prohibited under the
1356 terms of a temporary land use regulation adopted under Section 10-20-504.
- 1357 (c) A land use application is considered submitted and complete when the applicant
1358 provides the application in a form that complies with the requirements of applicable
1359 ordinances and pays all applicable fees.
- 1360 (d) A subsequent incorporation of a municipality or a petition that proposes the
1361 incorporation of a municipality does not affect a land use application approved by a
1362 county in accordance with Section 17-79-803.
- 1363 (e) Unless a phasing sequence is required in an executed development agreement, a
1364 municipality shall, without regard to any other separate and distinct land use
1365 application, accept and process a complete land use application.
- 1366 (f) The continuing validity of an approval of a land use application is conditioned upon
1367 the applicant proceeding after approval to implement the approval with reasonable
1368 diligence.
- 1369 (g) A municipality may not impose on an applicant who has submitted a complete
1370 application a requirement that is not expressed in:
- 1371 (i) this chapter;
- 1372 (ii) a municipal ordinance in effect on the date that the applicant submits a complete
1373 application, subject to Subsection 10-20-902(1)(a)(ii); or
- 1374 (iii) a municipal specification for public improvements applicable to a subdivision or
1375 development that is in effect on the date that the applicant submits an application.
- 1376 (h) A municipality may not impose on a holder of an issued land use permit or a final,
1377 unexpired subdivision plat a requirement that is not expressed:
- 1378 (i) in a land use permit;
- 1379 (ii) on the subdivision plat;
- 1380 (iii) in a document on which the land use permit or subdivision plat is based;
- 1381 (iv) in the written record evidencing approval of the land use permit or subdivision
1382 plat;
- 1383 (v) in this chapter;
- 1384 (vi) in a municipal ordinance; or
- 1385 (vii) in a municipal specification for residential roadways in effect at the time a
1386 residential subdivision was approved.
- 1387 (i) Except as provided in Subsection (1)(j) or (k), a municipality may not withhold
1388 issuance of a certificate of occupancy or acceptance of subdivision improvements

- 1389 because of an applicant's failure to comply with a requirement that is not expressed:
- 1390 (i) in the building permit or subdivision plat, documents on which the building permit
- 1391 or subdivision plat is based, or the written record evidencing approval of the land
- 1392 use permit or subdivision plat; or
- 1393 (ii) in this chapter or the municipality's ordinances.
- 1394 (j) A municipality may not unreasonably withhold issuance of a certificate of occupancy
- 1395 where an applicant has met all requirements essential for the public health, public
- 1396 safety, and general welfare of the occupants, in accordance with this chapter, unless:
- 1397 (i) the applicant and the municipality have agreed in a written document to the
- 1398 withholding of a certificate of occupancy; or
- 1399 (ii) the applicant has not provided a financial assurance for required and uncompleted
- 1400 public landscaping improvements or infrastructure improvements in accordance
- 1401 with an applicable local ordinance.
- 1402 (k) A municipality may not conduct a final inspection required before issuing a
- 1403 certificate of occupancy for a residential unit that is within the boundary of an
- 1404 infrastructure financing district, as defined in Section 17B-1-102, until the applicant
- 1405 for the certificate of occupancy provides adequate proof to the municipality that any
- 1406 lien on the unit arising from the infrastructure financing district's assessment against
- 1407 the unit under Title 11, Chapter 42, Assessment Area Act, has been released after
- 1408 payment in full of the infrastructure financing district's assessment against that unit.
- 1409 (l) A municipality:
- 1410 (i) may require the submission of a private landscaping plan, as defined in Section
- 1411 10-20-807, before landscaping is installed; and
- 1412 (ii) may not withhold an applicant's building permit or certificate of occupancy
- 1413 because the applicant has not submitted a private landscaping plan.
- 1414 (2) A municipality is bound by the terms and standards of applicable land use regulations
- 1415 and shall comply with mandatory provisions of those regulations.
- 1416 (3)(a) Beginning on October 1, 2026, and except as provided in Subsection (3)(b), a
- 1417 municipality shall publish on the municipality's website an application checklist for
- 1418 each land use application type that includes a checklist of all required plans and
- 1419 documents that make a complete application.
- 1420 (b) A municipality that does have a maintained and active website shall provide for
- 1421 inspection of the information described in Subsection (3)(a) at the municipality's
- 1422 place of business during normal business hours.

1423 [~~(3)~~] (4) A municipality may not, as a condition of land use application approval, require a
 1424 person filing a land use application to obtain documentation regarding a school district's
 1425 willingness, capacity, or ability to serve the development proposed in the land use
 1426 application.

1427 [~~(4)~~] (5) Upon a specified public agency's submission of a development plan and schedule as
 1428 required in Subsection 10-20-304(8) that complies with the requirements of that
 1429 subsection, the specified public agency vests in the municipality's applicable land use
 1430 maps, zoning map, hookup fees, impact fees, other applicable development fees, and
 1431 land use regulations in effect on the date of submission.

1432 [~~(5)~~] (6)(a) If sponsors of a referendum timely challenge a project in accordance with
 1433 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land
 1434 use approval by delivering a written notice:

1435 (i) to the local clerk as defined in Section 20A-7-101; and

1436 (ii) no later than seven days after the day on which a petition for a referendum is
 1437 determined sufficient under Subsection 20A-7-607(5).

1438 (b) Upon delivery of a written notice described in Subsection [~~(5)~~](a) (6)(a) the following
 1439 are rescinded and are of no further force or effect:

1440 (i) the relevant land use approval; and

1441 (ii) any land use regulation enacted specifically in relation to the land use approval.

1442 [~~(6)~~] (7)(a) After issuance of a building permit, a municipality may not:

1443 (i) change or add to the requirements expressed in the building permit, unless the
 1444 change or addition is:

1445 (A) requested by the building permit holder; or

1446 (B) necessary to comply with an applicable state building code; or

1447 (ii) revoke the building permit or take action that has the effect of revoking the
 1448 building permit.

1449 (b) Subsection [~~(6)~~](a) (7)(a) does not prevent a municipality from issuing a building
 1450 permit that contains an expiration date defined in the building permit.

1451 Section 16. Section **10-20-910** is amended to read:

1452 **10-20-910 . Provisions applicable to a provider of culinary or secondary water.**

1453 A provider of culinary or secondary water that commits to provide a water service required
 1454 by a land use application process is subject to the following as if it were a municipality:

1455 (1) Subsections 10-20-904(5) and (6);

1456 (2) Section 10-20-905; [~~and~~]

1457 (3) Section 10-20-911; and

1458 (4) Section 10-20-912.

1459 Section 17. Section **10-20-911** is amended to read:

1460 **10-20-911 . Exactions -- Requirement to offer to original owner property**
 1461 **acquired by exaction -- Exaction for right-of-way improvements -- Improvement**
 1462 **completion assurance requirements.**

1463 (1) A municipality may impose an exaction or exactions on development proposed in a land
 1464 use application, including, subject to [~~Subsection (3)~~] Section 10-20-912, an exaction for
 1465 a water interest, if:

1466 (a) an essential link exists between a legitimate governmental interest and each exaction;
 1467 and

1468 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the
 1469 proposed development.

1470 (2) If a land use authority imposes an exaction for another governmental entity:

1471 (a) the governmental entity shall request the exaction; and

1472 (b) the land use authority shall transfer the exaction to the governmental entity for which
 1473 it was exacted.

1474 [~~(3)(a)(i) Subject to the requirements of this Subsection (3), a municipality shall base~~
 1475 ~~an exaction for a water interest on the culinary water authority's established~~
 1476 ~~calculations of projected water interest requirements.]~~

1477 [(ii) ~~Except as described in Subsection (3)(a)(iii), a culinary water authority shall~~
 1478 ~~base an exaction for a culinary water interest on:~~]

1479 [(A) ~~consideration of the system-wide minimum sizing standards established for~~
 1480 ~~the culinary water authority by the Division of Drinking Water in accordance~~
 1481 ~~with Section 19-4-114; and]~~

1482 [(B) ~~the number of equivalent residential connections associated with the culinary~~
 1483 ~~water demand for each specific development proposed in the development's~~
 1484 ~~land use application, applying lower exactions for developments with lower~~
 1485 ~~equivalent residential connections as demonstrated by at least five years of~~
 1486 ~~usage data for like land uses within the municipality.]~~

1487 [(iii) ~~A municipality may impose an exaction for a culinary water interest that results~~
 1488 ~~in less water being exacted than would otherwise be exacted under Subsection~~
 1489 ~~(3)(a)(ii) if the municipality, at the municipality's sole discretion, determines there~~
 1490 ~~is good cause to do so.]~~

- 1491 ~~[(iv)(A) A municipality shall make public the methodology used to comply with~~
 1492 ~~Subsection (3)(a)(ii)(B).]~~
- 1493 ~~[(B) A land use applicant may appeal to the municipality's governing body an~~
 1494 ~~exaction calculation used by the municipality under Subsection (3)(a)(ii).]~~
- 1495 ~~[(C) A land use applicant may present data and other information that illustrates a~~
 1496 ~~need for an exaction recalculation and the municipality's governing body shall~~
 1497 ~~respond with due process.]~~
- 1498 ~~[(v) Upon an applicant's request, the culinary water authority shall provide the~~
 1499 ~~applicant with the basis for the culinary water authority's calculations under~~
 1500 ~~Subsection (3)(a)(i) on which an exaction for a water interest is based.]~~
- 1501 ~~[(b) A municipality may not impose an exaction for a water interest if the culinary water~~
 1502 ~~authority's existing available water interests exceed the water interests needed to meet~~
 1503 ~~the reasonable future water requirement of the public, as determined under~~
 1504 ~~Subsection 73-1-4(2)(f).]~~
- 1505 ~~[(4)] (3)(a) If a municipality plans to dispose of surplus real property that was acquired~~
 1506 ~~under this section and has been owned by the municipality for less than 15 years, the~~
 1507 ~~municipality shall first offer to reconvey the property, without receiving additional~~
 1508 ~~consideration, to the person who granted the property to the municipality.~~
- 1509 ~~(b) A person to whom a municipality offers to reconvey property under Subsection [~~
 1510 ~~(4)(a)] (3)(a) has 90 days to accept or reject the municipality's offer.~~
- 1511 ~~(c) If a person to whom a municipality offers to reconvey property declines the offer, the~~
 1512 ~~municipality may offer the property for sale.~~
- 1513 ~~(d) Subsection [(4)(a)] (3)(a) does not apply to the disposal of property acquired by~~
 1514 ~~exaction by a community reinvestment agency.~~
- 1515 ~~[(5)] (4)(a) A municipality may not, as part of an infrastructure improvement, require the~~
 1516 ~~installation of pavement on a residential roadway at a width in excess of 32 feet.~~
- 1517 ~~(b) Subsection [(5)(a)] (4)(a) does not apply if a municipality requires the installation of~~
 1518 ~~pavement in excess of 32 feet:~~
- 1519 ~~(i) in a vehicle turnaround area;~~
- 1520 ~~(ii) in a cul-de-sac;~~
- 1521 ~~(iii) to address specific traffic flow constraints at an intersection, mid-block~~
 1522 ~~crossings, or other areas;~~
- 1523 ~~(iv) to address an applicable general or master plan improvement, including~~
 1524 ~~transportation, bicycle lanes, trails, or other similar improvements that are not~~

- 1525 included within an impact fee area;
- 1526 (v) to address traffic flow constraints for service to or abutting higher density
1527 developments or uses that generate higher traffic volumes, including community
1528 centers, schools, and other similar uses;
- 1529 (vi) as needed for the installation or location of a utility which is maintained by the
1530 municipality and is considered a transmission line or requires additional roadway
1531 width;
- 1532 (vii) for third-party utility lines that have an easement preventing the installation of
1533 utilities maintained by the municipality within the roadway;
- 1534 (viii) for utilities over 12 feet in depth;
- 1535 (ix) for roadways with a design speed that exceeds 25 miles per hour;
- 1536 (x) as needed for flood and stormwater routing;
- 1537 (xi) as needed to meet fire code requirements for parking and hydrants; or
1538 (xii) as needed to accommodate street parking.
- 1539 (c) Nothing in this section shall be construed to prevent a municipality from approving a
1540 road cross section with a pavement width less than 32 feet.
- 1541 (d)(i) A land use applicant may appeal a municipal requirement for pavement in
1542 excess of 32 feet on a residential roadway.
- 1543 (ii) A land use applicant that has appealed a municipal specification for a residential
1544 roadway pavement width in excess of 32 feet may request that the municipality
1545 assemble a panel of qualified experts to serve as the appeal authority for purposes
1546 of determining the technical aspects of the appeal.
- 1547 (iii) Unless otherwise agreed by the applicant and the municipality, the panel
1548 described in Subsection [~~(5)(d)(ii)~~] (4)(d)(ii) shall consist of the following three
1549 experts:
- 1550 (A) one licensed engineer, designated by the municipality;
- 1551 (B) one licensed engineer, designated by the land use applicant; and
- 1552 (C) one licensed engineer, agreed upon and designated by the two designated
1553 engineers under Subsections [~~(5)(d)(iii)(A)~~] (4)(d)(iii)(A) and (B).
- 1554 (iv) A member of the panel assembled by the municipality under Subsection [
1555 ~~(5)(d)(ii)~~] (4)(d)(ii) may not have an interest in the application that is the subject of
1556 the appeal.
- 1557 (v) The land use applicant shall pay:
- 1558 (A) 50% of the cost of the panel; and

- 1559 (B) the municipality's published appeal fee.
- 1560 (vi) The decision of the panel is a final decision, subject to a petition for review under
- 1561 Subsection [~~(5)(d)(vii)~~] (4)(d)(vii).
- 1562 (vii) In accordance with Section 10-20-1109, a land use applicant or the municipality
- 1563 may file a petition for review of the decision with the district court within 30 days
- 1564 after the date that the decision is final.

1565 [~~(6) A provider of culinary or secondary water that commits to provide a water service~~

1566 ~~required by a land use application process is subject to the provisions of this section the~~

1567 ~~same as if the provider were a municipality.]~~

1568 Section 18. Section **10-20-912** is enacted to read:

1569 **10-20-912 . Exactions for water rights.**

- 1570 (1) Subject to the requirements of this section, a municipality shall base an exaction for a
- 1571 water interest on the culinary water authority's established calculations of projected
- 1572 water interest requirements.
- 1573 (2) Except as provided in Subsection (3), a culinary water authority shall base an exaction
- 1574 for a culinary water interest on:
- 1575 (a) consideration of the system-wide minimum sizing standards established for the
- 1576 culinary water authority by the Division of Drinking Water under Section 19-4-114;
- 1577 and
- 1578 (b) the number of equivalent residential connections associated with the culinary water
- 1579 demand for each specific development proposed in the development's land use
- 1580 application, applying lower exactions for developments with lower equivalent
- 1581 residential connections as demonstrated by at least five years of usage data for like
- 1582 land uses within the municipality.
- 1583 (3) If a municipality determines, in the sole discretion of the municipality, that good cause
- 1584 exists, the municipality may impose an exaction for a culinary water interest that results
- 1585 in less water being exacted than would otherwise be exacted under Subsection (2).
- 1586 (4)(a) A municipality shall make public the methodology used to comply with
- 1587 Subsection (2)(b).
- 1588 (b) A land use applicant may submit a request to the municipality's legislative body to
- 1589 review an exaction calculation used by the municipality under Subsection (2).
- 1590 (c) A land use applicant may present data and other information that illustrates a need
- 1591 for an exaction recalculation and the municipality's legislative body shall respond
- 1592 with due process.

- 1593 (5) Upon an applicant's request, the culinary water authority shall provide the applicant
1594 with the basis for the culinary water authority's calculations under Subsection (2) on
1595 which an exaction for a water interest is based.
- 1596 (6) A municipality may not impose an exaction for a water interest if the culinary water
1597 authority's existing available water interests exceed the water interests needed to meet
1598 the reasonable future water requirement of the public, as determined under Subsection
1599 73-1-4(2)(f).
- 1600 (7) A provider of culinary or secondary water that commits to provide a water service
1601 required by a land use application process is subject to the provisions of this section and
1602 Section 10-20-911 the same as if the provider were a municipality.

1603 Section 19. Section **10-20-1001** is amended to read:

1604 **10-20-1001 . Enforcement -- Limitations on a municipality's ability to enforce an**
1605 **ordinance by withholding a permit or certificate.**

- 1606 (1)(a) A municipality or [~~an adversely affected party~~] a land use applicant may, in
1607 addition to other remedies provided by law, institute:
- 1608 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
1609 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 1610 (b) A municipality need only establish the violation to obtain the injunction.
- 1611 (2)(a) Except as provided in Subsections (3) [~~though~~] through (6), a municipality may
1612 enforce the municipality's ordinance by withholding a building permit or certificate
1613 of occupancy.
- 1614 (b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any
1615 building or other structure within a municipality without approval of a building
1616 permit.
- 1617 (c) A municipality may not issue a building permit unless the plans of and for the
1618 proposed erection, construction, reconstruction, alteration, or use fully conform to all
1619 regulations then in effect.
- 1620 (d) A municipality may require an applicant to maintain and repair a temporary fire
1621 apparatus road during the construction of a structure accessed by the temporary fire
1622 apparatus road in accordance with the municipality's adopted standards.
- 1623 (e) A municipality may require temporary signs to be installed at each street intersection
1624 once construction of a new roadway allows passage by a motor vehicle.
- 1625 (f) A municipality may adopt and enforce any appendix of the International Fire Code,
1626 2021 Edition.

- 1627 (3)(a) A municipality may not deny an applicant a building permit or certificate of
1628 occupancy because the applicant has not completed an infrastructure improvement:
- 1629 (i) unless the infrastructure improvement is essential to meet the requirements for the
1630 issuance of a building permit or certificate of occupancy under Title 15A, State
1631 Construction and Fire Codes Act; and
 - 1632 (ii) for which the municipality has accepted an improvement completion assurance
1633 for a public landscaping improvement, as defined in Section 10-20-807, or an
1634 infrastructure improvement for the development.
- 1635 (b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6,
1636 infrastructure improvement that is essential means:
- 1637 (i) for a building permit:
 - 1638 (A) operable fire hydrants installed in a manner that is consistent with the
1639 municipality's adopted engineering standards; and
 - 1640 (B) for temporary roads used during construction, a properly compacted road base
1641 installed in a manner consistent with the municipality's adopted engineering
1642 standards;
 - 1643 (ii) for a certificate of occupancy, at the discretion of the municipality, at least one of
1644 the following:
 - 1645 (A) a permanent road;
 - 1646 (B) a temporary road covered with asphalt or concrete; or
 - 1647 (C) another method for accessing a structure consistent with Appendix D of the
1648 International Fire Code; and
 - 1649 (iii) public infrastructure necessary for the health, life, and safety of the occupant.
- 1650 (c) A municipality may not adopt an engineering standard that requires an applicant to
1651 install a permanent road or a temporary road with asphalt or concrete before
1652 receiving a building permit.
- 1653 (4) A municipality may not deny an applicant a building permit or certificate of occupancy
1654 for failure to:
- 1655 (a) submit a private landscaping plan, as defined in Section 10-20-807; or
 - 1656 (b) complete a landscaping improvement that is not a public landscaping improvement,
1657 as defined in Section 10-20-807.
- 1658 (5) A municipality may not withhold a building permit based on the lack of completion of a
1659 portion of a public sidewalk to be constructed within a public right-of-way serving a lot
1660 where a single-family or two-family residence or town home is proposed in a building

- 1661 permit application if an improvement completion assurance has been posted for the
 1662 incomplete portion of the public sidewalk.
- 1663 (6) A municipality may not prohibit the construction of a single-family or two-family
 1664 residence or town home, withhold recording a plat, or withhold acceptance of a public
 1665 landscaping improvement, as defined in Section 10-20-807, or an infrastructure
 1666 improvement based on the lack of installation of a public sidewalk if an improvement
 1667 completion assurance has been posted for the public sidewalk.
- 1668 (7) A municipality may not redeem an improvement completion assurance securing the
 1669 installation of a public sidewalk sooner than 18 months after the date the improvement
 1670 completion assurance is posted.
- 1671 (8) A municipality shall allow an applicant to post an improvement completion assurance
 1672 for a public sidewalk separate from an improvement completion assurance for:
 1673 (a) another infrastructure improvement; or
 1674 (b) a public landscaping improvement, as defined in Section 10-20-807.
- 1675 (9) A municipality may withhold a certificate of occupancy for a single-family or
 1676 two-family residence or town home until the portion of the public sidewalk to be
 1677 constructed within a public right-of-way and located immediately adjacent to the
 1678 single-family or two-family residence or town home is completed and accepted by the
 1679 municipality.
- 1680 Section 20. Section **10-20-1101** is amended to read:
- 1681 **10-20-1101 . Appeal authority required -- Condition precedent to judicial review**
 1682 **-- Appeal authority duties.**
- 1683 (1)(a) ~~[Each]~~ Subject to Subsection (1)(d), each municipality adopting a land use
 1684 ordinance shall, by ordinance, establish one or more appeal authorities.
- 1685 (b) An appeal authority described in Subsection (1)(a) shall hear and decide:
 1686 (i) requests for ~~[variances]~~ a variance from ~~[the terms of]~~ a land use [ordinances]
 1687 ordinance;
- 1688 (ii) appeals from a land use [decisions] decision applying a land use [ordinances]
 1689 ordinance; and
- 1690 (iii) appeals from a fee charged in accordance with Section 10-20-904.
- 1691 (c) An appeal authority described in Subsection (1)(a) may not hear an appeal from the
 1692 enactment of a land use regulation.
- 1693 (d) Beginning on July 1, 2026, a city described in Subsection 10-20-302(6)(a)(i) may not
 1694 designate the city's legislative body as an appeal authority.

- 1695 (e) Notwithstanding Subsection (1)(d), a legislative body shall continue to be the appeal
 1696 authority for an appeal if:
 1697 (i) a land use ordinance designated the legislative body as the appeal authority when
 1698 the appellant filed the appeal; and
 1699 (ii) the appellant filed the appeal on or before June 30, 2026.
- 1700 (2) As a condition precedent to judicial review, each adversely affected party or land use
 1701 applicant shall timely and specifically challenge a land use authority's land use decision,
 1702 in accordance with local ordinance.
- 1703 (3) An appeal authority described in Subsection (1)(a):
 1704 (a) shall:
 1705 (i) act in a quasi-judicial manner; and
 1706 (ii) serve as the final arbiter of issues involving the interpretation or application of a
 1707 land use [ordinances] ordinance; and
- 1708 (b) may not entertain an appeal of a matter in which the appeal authority, or any
 1709 participating member, had first acted as the land use authority.
- 1710 (4) By ordinance, a municipality may:
 1711 (a) designate a separate appeal authority to hear requests for variances than the appeal
 1712 authority the municipality designates to hear appeals;
 1713 (b) designate one or more separate appeal authorities to hear distinct types of appeals of
 1714 land use authority decisions;
 1715 (c) require an adversely affected party to present to an appeal authority every theory of
 1716 relief that the adversely affected party can raise in district court; and
 1717 [~~(d) not require a land use applicant or adversely affected party to pursue duplicate or~~
 1718 ~~successive appeals before the same or separate appeal authorities as a condition of an~~
 1719 ~~appealing party's duty to exhaust administrative remedies; and]~~
 1720 [(e)] (d) provide that specified types of land use decisions may be appealed directly to the
 1721 district court.
- 1722 (5) A municipality may not:
 1723 (a) require a public hearing for a request for a variance or land use appeal[-] ; or
 1724 (b) require a land use applicant or adversely affected party to pursue successive appeals
 1725 before the same or separate appeal authorities as a condition of an appealing party's
 1726 duty to exhaust administrative remedies.
- 1727 (6) If the municipality establishes or, before the effective date of this chapter, has
 1728 established a multiperson board, body, or panel to act as an appeal authority, at a

1729 minimum the board, body, or panel shall:

- 1730 (a) notify each of the members of the board, body, or panel of any meeting or hearing of
 1731 the board, body, or panel;
- 1732 (b) provide each of the members of the board, body, or panel with the same information
 1733 and access to municipal resources as any other member;
- 1734 (c) convene only if a quorum of the members of the board, body, or panel is present; and
 1735 (d) act only upon the vote of a majority of the convened members of the board, body, or
 1736 panel.

1737 Section 21. Section **10-20-1105** is repealed and reenacted to read:

1738 **10-20-1105 . Burden of proof.**

1739 In an appeal described in this part:

- 1740 (1) if the appellant is a land use applicant, the appellant has the burden of proving that the
 1741 land use authority's land use decision is illegal or is not supported by substantial
 1742 evidence; or
- 1743 (2) if the appellant is an adversely affected party, the appellant has the burden of proving
 1744 that the land use authority's land use decision is illegal, or that the factual findings are
 1745 clearly erroneous.

1746 Section 22. Section **10-20-1106** is amended to read:

1747 **10-20-1106 . Due process.**

- 1748 (1) ~~[Each]~~ An appeal authority shall conduct each appeal and variance request as provided
 1749 in local ordinance.
- 1750 (2) ~~[Each]~~ An appeal authority shall respect the due process rights of ~~[each of the~~
 1751 ~~participants]~~ an appeal participant.
- 1752 (3) An appeal authority may only allow the following people to present or speak during an
 1753 appeal hearing:
- 1754 (a) the appellant or the appellant's representatives;
 1755 (b) the land use applicant or the land use applicant's representatives; and
 1756 (c) the municipality's representatives.

1757 Section 23. Section **10-20-1107** is amended to read:

1758 **10-20-1107 . Scope of review of factual matters on appeal -- Appeal authority**
 1759 **requirements.**

- 1760 (1) A municipality may, by ordinance, designate the scope of review of factual matters for
 1761 appeals of land use authority decisions.
- 1762 (2) If the municipality fails to designate a scope of review of factual matters, the appeal

1763 authority shall review the ~~[matter]~~ factual matters de novo, without deference to the land
 1764 use authority's determination of the factual matters.

1765 (3) If the scope of review of factual matters is on the record, the appeal authority shall
 1766 determine whether the record on appeal includes substantial evidence for each essential
 1767 finding of fact.

1768 (4) The appeal authority shall:

1769 (a) determine the correctness of the land use authority's interpretation and application of
 1770 the plain meaning of the land use regulations; and

1771 (b) interpret and apply a land use regulation to favor a land use application unless the
 1772 land use regulation plainly restricts the land use application.

1773 (5)(a) An appeal authority's land use decision is a quasi-judicial act.

1774 (b) ~~[A]~~ Except as provided in Subsection (5)(c), a legislative body may act as an appeal
 1775 authority unless both the legislative body and the appealing party agree to allow a
 1776 third party to act as the appeal authority.

1777 (c) Beginning on July 1, 2026, the legislative body of a city described in Subsection
 1778 10-20-302(6)(a)(i) may not act as an appeal authority unless:

1779 (i) a land use ordinance designated the legislative body as the appeal authority when
 1780 the appellant filed the appeal; and

1781 (ii) the appellant filed the appeal on or before June 30, 2026.

1782 (6) Only a decision in which a land use authority has applied a land use regulation to a
 1783 particular land use application, person, or parcel may be appealed to an appeal authority.

1784 Section 24. Section **10-20-1109** is amended to read:

1785 **10-20-1109 . No district court review until administrative remedies exhausted --**

1786 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**
 1787 **-- Staying of decision.**

1788 (1) ~~[No]~~ A person may challenge in district court a land use decision ~~[until that]~~ if the person
 1789 has exhausted the person's administrative remedies as provided in this part, if applicable.

1790 (2)(a) Subject to Subsection (1), a land use applicant or adversely affected party may file
 1791 a petition for review of a land use decision with the district court within 30 days after
 1792 the decision is final.

1793 (b)(i) The time under Subsection (2)(a) to file a petition is tolled from the date a
 1794 property owner files a request for arbitration of a constitutional taking issue with
 1795 the property rights ombudsman under Section 13-43-204 until 30 days after:

1796 (A) the arbitrator issues a final award; or

- 1797 (B) the property rights ombudsman issues a written statement under Subsection
1798 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.
- 1799 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
1800 taking issue that is the subject of the request for arbitration filed with the property
1801 rights ombudsman by a property owner.
- 1802 (iii) A request for arbitration filed with the property rights ombudsman after the time
1803 under Subsection (2)(a) to file a petition has expired does not affect the time to
1804 file a petition.
- 1805 (3)(a) A court shall:
- 1806 (i) presume that a land use regulation properly enacted under the authority of this
1807 chapter is valid; and
- 1808 (ii) determine only whether:
- 1809 (A) the land use regulation is expressly preempted by, or was enacted contrary to,
1810 state or federal law; and
- 1811 (B) it is reasonably debatable that the land use regulation is consistent with this
1812 chapter.
- 1813 (b) A court shall presume that a final land use decision of a land use authority or an
1814 appeal authority is valid unless the land use decision is:
- 1815 (i) arbitrary and capricious; or
- 1816 (ii) illegal.
- 1817 (c)(i) A land use decision is arbitrary and capricious if the land use decision is not
1818 supported by substantial evidence in the record.
- 1819 (ii) A land use decision is illegal if the land use decision:
- 1820 (A) is based on an incorrect interpretation of a land use regulation;
- 1821 (B) conflicts with the authority granted by this title; or
- 1822 (C) is contrary to law.
- 1823 (d)(i) A court may affirm or reverse a land use decision.
- 1824 (ii) If the court reverses a land use decision, the court shall remand the matter to the
1825 land use authority with instructions to issue a land use decision consistent with the
1826 court's ruling.
- 1827 (4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes
1828 final action on a land use application, if the municipality conformed with the notice
1829 provisions of Part 2, Notice, or for any person who had actual notice of the pending land
1830 use decision.

- 1831 (5) If the municipality has complied with Section 10-20-205, a challenge to the enactment
1832 of a land use regulation[~~or~~], general plan, or specified land use law may not be filed
1833 with the district court more than 30 days after the enactment.
- 1834 (6) A challenge to a land use decision is barred unless the challenge is filed within 30 days
1835 after the land use decision is final.
- 1836 (7)(a) The land use authority or appeal authority, as the case may be, shall transmit to
1837 the reviewing court the record of the proceedings of the land use authority or appeal
1838 authority, including the minutes, findings, orders, and, if available, a true and correct
1839 transcript of the proceedings.
- 1840 (b) If the proceeding was recorded, a transcript of that recording is a true and correct
1841 transcript for purposes of this Subsection (7).
- 1842 (8)(a)(i) If there is a record, the district court's review is limited to the record
1843 provided by the land use authority or appeal authority, as the case may be.
- 1844 (ii) The court may not accept or consider any evidence outside the record of the land
1845 use authority or appeal authority, as the case may be, unless that evidence was
1846 offered to the land use authority or appeal authority, respectively, and the court
1847 determines that the evidence was improperly excluded.
- 1848 (b) If there is no record, the court may call witnesses and take evidence.
- 1849 (9)(a) The filing of a petition does not stay the land use decision of the land use
1850 authority or appeal authority, as the case may be.
- 1851 (b)(i) Before filing a petition under this section or a request for mediation or
1852 arbitration of a constitutional taking issue under Section 13-43-204, a land use
1853 applicant may petition the appeal authority to stay the appeal authority's land use
1854 decision.
- 1855 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal
1856 authority's land use decision stayed pending district court review if the appeal
1857 authority finds the order to be in the best interest of the municipality.
- 1858 (iii) After a petition is filed under this section or a request for mediation or arbitration
1859 of a constitutional taking issue is filed under Section 13-43-204, the petitioner
1860 may seek an injunction staying the appeal authority's land use decision.
- 1861 (10) If the court determines that a party initiated or pursued a challenge to a land use
1862 decision on a land use application in bad faith, the court may award attorney fees.
- 1863 Section 25. Section **10-21-101** is amended to read:
1864 **10-21-101 . Definitions.**

1865 As used in this part:

- 1866 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
1867 detached from a single-family dwelling and contained on one lot or parcel.
- 1868 (2) "Accessory structure" means a detached structure located on the same lot or parcel as a
1869 principal structure and is incidental and subordinate to the size and use of the principal
1870 structure.
- 1871 (3) "Affordable housing" means housing offered for sale at 80% or less of the median
1872 county home price for housing of that type.
- 1873 [~~(2)~~] (4) "Agency" means the same as that term is defined in Section 17C-1-102.
- 1874 [~~(3)~~] (5) "Applicable metropolitan planning organization" means the metropolitan planning
1875 organization that has jurisdiction over the area in which a fixed guideway public transit
1876 station is located.
- 1877 [~~(4)~~] (6) "Applicable public transit district" means the public transit district, as defined in
1878 Section 17B-2a-802, of which a fixed guideway public transit station is included.
- 1879 [~~(5)~~] (7) "Base taxable value" means a property's taxable value as shown upon the
1880 assessment roll last equalized during the base year.
- 1881 [~~(6)~~] (8) "Base year" means, for a proposed home ownership promotion zone area, a year
1882 beginning the first day of the calendar quarter determined by the last equalized tax roll
1883 before the adoption of the home ownership promotion zone.
- 1884 (9) "Detached accessory dwelling unit" means an accessory dwelling unit that is not
1885 attached to or within a primary detached single-family dwelling and located on the same
1886 lot or parcel as the primary detached single-family dwelling.
- 1887 [~~(7)~~] (10) "Division" means the Housing and Community Development Division within the
1888 Department of Workforce Services.
- 1889 [~~(8)~~] (11) "Existing fixed guideway public transit station" means a fixed guideway public
1890 transit station for which construction begins before June 1, 2022.
- 1891 [~~(9)~~] (12) "Fixed guideway" means the same as that term is defined in Section 59-12-102.
- 1892 [~~(10)~~] (13) "Home ownership promotion zone" means a home ownership promotion zone
1893 created in accordance with this part.
- 1894 [~~(11)~~] (14) "Implementation plan" means the implementation plan adopted as part of the
1895 moderate income housing element of a specified municipality's general plan as provided
1896 in Subsection 10-21-201(4).
- 1897 [~~(12)~~] (15) "Initial report" or "initial moderate income housing report" means the one-time
1898 report described in Subsection 10-21-202(1).

- 1899 ~~[(13)]~~ (16) "Internal accessory dwelling unit" means an accessory dwelling unit created:
- 1900 (a) within a primary dwelling;
- 1901 (b) within the footprint of the primary dwelling described in ~~[Subsection (13)(a)]~~
- 1902 Subsection (16)(a) at the time the internal accessory dwelling unit is created; and
- 1903 (c) for the purpose of offering a long-term rental of 30 consecutive days or longer.
- 1904 ~~[(14)]~~ (17) "Moderate income housing strategy" means a strategy described in Subsection
- 1905 10-21-201(3)(a)(iii).
- 1906 ~~[(15)]~~ (18) "New fixed guideway public transit station" means a fixed guideway public
- 1907 transit station for which construction begins on or after June 1, 2022.
- 1908 ~~[(16)]~~ (19) "Participant" means the same as that term is defined in Section 17C-1-102.
- 1909 ~~[(17)]~~ (20) "Participation agreement" means the same as that term is defined in Section
- 1910 17C-1-102.
- 1911 ~~[(18)]~~ (21)(a) "Primary dwelling" means a single-family dwelling that:
- 1912 (i) is detached; and
- 1913 (ii) is occupied as the primary residence of the owner of record.
- 1914 (b) "Primary dwelling" includes a garage if the garage:
- 1915 (i) is a habitable space; and
- 1916 (ii) is connected to the primary dwelling by a common wall.
- 1917 ~~[(19)]~~ (22) "Project improvements" means the same as that term is defined in Section
- 1918 11-36a-102.
- 1919 ~~[(20)]~~ (23) "Qualifying land use petition" means a petition:
- 1920 (a) that involves land located within a station area for an existing public transit station
- 1921 that provides rail services;
- 1922 (b) that involves land located within a station area for which the municipality has not yet
- 1923 satisfied the requirements of Subsection 10-21-203(1)(a);
- 1924 (c) that proposes the development of an area greater than five contiguous acres, with no
- 1925 less than 51% of the acreage within the station area;
- 1926 (d) that would require the municipality to amend the municipality's general plan or
- 1927 change a zoning designation for the land use application to be approved;
- 1928 (e) that would require a higher density than the density currently allowed by the
- 1929 municipality;
- 1930 (f) that proposes the construction of new residential units, at least 10% of which are
- 1931 dedicated to moderate income housing; and
- 1932 (g) for which the land use applicant requests the municipality to initiate the process of

- 1933 satisfying the requirements of Subsection 10-21-203(1)(a) for the station area in
 1934 which the development is proposed, subject to Subsection 10-21-203(2)(d).
- 1935 [~~(21)~~] (24) "Report" means an initial report or a subsequent progress report.
- 1936 [~~(22)~~] (25) "Specified municipality" means:
- 1937 (a) a city of the first, second, third, or fourth class; or
- 1938 (b) a city of the fifth class with a population of 5,000 or more, if the city is located
 1939 within a county of the first, second, or third class.
- 1940 [~~(23)~~] (26)(a) "Station area" means:
- 1941 (i) for a fixed guideway public transit station that provides rail services, the area
 1942 within a one-half mile radius of the center of the fixed guideway public transit
 1943 station platform; or
- 1944 (ii) for a fixed guideway public transit station that provides bus services only, the
 1945 area within a one-fourth mile radius of the center of the fixed guideway public
 1946 transit station platform.
- 1947 (b) "Station area" includes any parcel bisected by the radius limitation described in [
 1948 ~~Subsection (a)(i)] Subsection (26)(a)(i) or (ii).~~
- 1949 [~~(24)~~] (27) "Station area plan" means a plan that:
- 1950 (a) establishes a vision, and the actions needed to implement that vision, for the
 1951 development of land within a station area; and
- 1952 (b) is developed and adopted in accordance with this section.
- 1953 [~~(25)~~] (28) "Subsequent progress report" means the annual report described in Subsection
 1954 10-21-202(2).
- 1955 [~~(26)~~] (29) "System improvements" means the same as that term is defined in Section
 1956 11-36a-102.
- 1957 [~~(27)~~] (30) "Tax commission" means the State Tax Commission created in Section 59-1-201.
- 1958 [~~(28)~~] (31)(a) "Tax increment" means the difference between:
- 1959 (i) the amount of property tax revenue generated each tax year by a taxing entity from
 1960 the area within a home ownership promotion zone, using the current assessed
 1961 value and each taxing entity's current certified tax rate as defined in Section
 1962 59-2-924; and
- 1963 (ii) the amount of property tax revenue that would be generated from that same area
 1964 using the base taxable value and each taxing entity's current certified tax rate as
 1965 defined in Section 59-2-924.
- 1966 (b) "Tax increment" does not include property revenue from:

1967 (i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2);
 1968 or

1969 (ii) a county additional property tax described in Subsection 59-2-1602(4).

1970 [(29)] (32) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

1971 Section 26. Section **10-21-304** is enacted to read:

1972 **10-21-304 . Detached accessory dwelling units.**

1973 (1)(a) A specified municipality shall adopt a land use regulation that permits a detached
 1974 accessory dwelling unit on any lot or parcel that is 10,000 square feet or larger and
 1975 contains a single-family dwelling, if the single-family dwelling is a permitted use on
 1976 the lot or parcel.

1977 (b) This section does not prohibit a municipality from adopting a land use regulation that
 1978 permits a detached accessory dwelling unit on a lot or parcel that is smaller than
 1979 10,000 square feet.

1980 (2) A land use regulation described in Subsection (1) shall:

1981 (a) require that a detached accessory dwelling unit comply with all applicable building,
 1982 health, and fire codes; and

1983 (b) include a process for the owner of a legally constructed accessory structure to
 1984 convert the accessory structure to a detached accessory dwelling unit subject to
 1985 applicable:

1986 (i) dwelling and accessory structure setback requirements; and

1987 (ii) building, health, and fire codes.

1988 (3) A land use regulation described in Subsection (1) may not:

1989 (a) require a conditional use permit for a detached accessory dwelling unit if the
 1990 proposed detached accessory dwelling unit is located in a primarily residential zone;

1991 (b) require more than two on-site parking spaces assigned to a detached accessory
 1992 dwelling unit that is 650 square feet or larger;

1993 (c) require more than one on-site parking space assigned to a detached accessory
 1994 dwelling unit that is smaller than 650 square feet; or

1995 (d) include design standards for a detached accessory dwelling unit that conflict with
 1996 Section 10-20-618.

1997 (4) A land use regulation described in Subsection (1) may:

1998 (a) require a detached accessory dwelling unit to:

1999 (i) conform to applicable land use regulations that regulate structure size, dimension,
 2000 height, and maximum lot coverage;

- 2001 (ii) conform to setback requirements, that may take into account proximity to
 2002 property lines and other structures, easements, window orientation, massing, or
 2003 other elements; and
- 2004 (iii) be designed consistent with the design of the single-family dwelling;
- 2005 (b) prohibit a detached accessory dwelling unit from being:
- 2006 (i) larger in size than the single-family dwelling located on the same lot or parcel;
 2007 (ii) located within a public utility easement or other recorded easement;
 2008 (iii) located in a front-yard area of a lot or parcel; or
 2009 (iv) rented for less than 90 consecutive days;
- 2010 (c) require that the owner of a lot or parcel where a detached accessory dwelling unit is
 2011 located reside in the detached single-family dwelling or detached accessory dwelling
 2012 unit located on the lot or parcel;
- 2013 (d) require that when a detached garage is converted to a detached accessory dwelling
 2014 unit, any parking spaces required for the single-family dwelling that were located
 2015 with the detached garage are replaced on-site;
- 2016 (e) prohibit more than one accessory dwelling unit on a lot or parcel; and
- 2017 (f) prohibit a detached accessory dwelling unit if:
- 2018 (i) the detached accessory dwelling unit will not have adequate access to a required
 2019 utility service that is a project improvement, including sanitary sewer, culinary
 2020 water, electrical, or storm water; or
- 2021 (ii) a utility service that is a system improvement, including sanitary sewer, culinary
 2022 water, electrical, or storm water, to which the detached accessory dwelling unit is
 2023 required to connect does not have sufficient capacity to support the addition of the
 2024 detached accessory dwelling unit to the utility service system improvements.
- 2025 (5) This section does not supersede:
- 2026 (a) a land use regulation that regulates a detached accessory building that is not a
 2027 detached accessory dwelling unit;
- 2028 (b) prohibitions or restrictions on detached accessory dwelling units in a development
 2029 agreement signed by a municipality on or before May 6, 2026; or
- 2030 (c) a land use regulation or administrative action that:
- 2031 (i) is not prohibited by law; and
- 2032 (ii) relates to a detached accessory dwelling unit.
- 2033 Section 27. Section **13-43-205** is amended to read:
 2034 **13-43-205 . Advisory opinion.**

- 2035 (1) A local government, private entity, or a potentially aggrieved person may, in accordance
2036 with Section 13-43-206, request a written advisory opinion:
- 2037 (a) from a neutral third party to determine compliance with:
- 2038 (i) Sections 10-20-506, 10-20-507, 10-20-602, 10-20-604, 10-20-605, 10-20-902,
2039 10-20-904, 10-20-905, 10-20-910, 10-20-911, 10-20-912, and 10-20-1003;
- 2040 (ii) Sections 17-79-506, 17-79-507, 17-79-601, 17-79-602, 17-79-603, 17-79-803,
2041 17-79-804, 17-79-805, 17-79-811, 17-79-812, 17-79-813, and 17-79-903; and
- 2042 (iii) Title 11, Chapter 36a, Impact Fees Act; and
- 2043 (b) at any time before:
- 2044 (i) a final decision on a land use application by a local appeal authority under Title
2045 11, Chapter 36a, Impact Fees Act, or Section 10-20-1108 or 17-79-1008;
- 2046 (ii) the deadline for filing an appeal with the district court under Title 11, Chapter
2047 36a, Impact Fees Act, or Section 10-20-1109 or 17-79-1009, if no local appeal
2048 authority is designated to hear the issue that is the subject of the request for an
2049 advisory opinion; or
- 2050 (iii) the enactment of an impact fee, if the request for an advisory opinion is a request
2051 to review and comment on a proposed impact fee facilities plan or a proposed
2052 impact fee analysis as defined in Section 11-36a-102.
- 2053 (2) A private property owner may, in accordance with Section 13-43-206, request a written
2054 advisory opinion from a neutral third party to determine if a condemning entity:
- 2055 (a) is in occupancy of the owner's property;
- 2056 (b) is occupying the property:
- 2057 (i) for a public use authorized by law; and
- 2058 (ii) without colorable legal or equitable authority; and
- 2059 (c) continues to occupy the property without the owner's consent, the occupancy would
2060 constitute a taking of private property for a public use without just compensation.
- 2061 (3) An advisory opinion issued under Subsection (2) may justify an award of attorney fees
2062 against a condemning entity in accordance with Section 13-43-206 only if the court
2063 finds that the condemning entity:
- 2064 (a) does not have a colorable claim or defense for the entity's actions; and
- 2065 (b) continued occupancy without payment of just compensation and in disregard of the
2066 advisory opinion.
- 2067 Section 28. Section **17-79-102** is amended to read:
- 2068 **17-79-102 . Definitions.**

2069 As used in this chapter:

- 2070 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
2071 detached from a primary single-family dwelling and contained on one lot.
- 2072 (2) "Adversely affected party" means a person other than a land use applicant who:
2073 (a) owns real property adjoining the property that is the subject of a land use application
2074 or land use decision; or
2075 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
2076 general community as a result of the land use decision.
- 2077 (3) "Affected entity" means a county, municipality, special district, special service district
2078 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
2079 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
2080 specified property owner, property owner's association, public utility, or the Department
2081 of Transportation, if:
2082 (a) the entity's services or facilities are likely to require expansion or significant
2083 modification because of an intended use of land;
2084 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
2085 or
2086 (c) the entity has filed with the county a request for notice during the same calendar year
2087 and before the county provides notice to an affected entity in compliance with a
2088 requirement imposed under this chapter.
- 2089 (4) "Affected owner" means the owner of real property that is:
2090 (a) a single project; and
2091 (b) the subject of a land use approval that:
2092 (i) sponsors of a referendum timely challenged in accordance with Subsection
2093 20A-7-601(6); and
2094 [(e)] (ii) is determined to be legally referable under Section 20A-7-602.8.
- 2095 (5) "Appeal authority" means the person, board, commission, agency, or other body
2096 designated by ordinance to decide an appeal of a decision of a land use application or a
2097 variance.
- 2098 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
2099 residential property if the sign is designed or intended to direct attention to a business,
2100 product, or service that is not sold, offered, or existing on the property where the sign is
2101 located.
- 2102 [(7) "Building code adoption cycle" means the period of time beginning the day on which a

2103 specific edition of a construction code from a nationally recognized code authority is
2104 adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day
2105 before a new edition of a construction code is adopted and effective in Title 15A, State
2106 Construction and Fire Codes Act.]

2107 [(8)] (7)(a) "Boundary adjustment" means an agreement between adjoining property
2108 owners to relocate a common boundary that results in a conveyance of property
2109 between the adjoining lots, adjoining parcels, or adjoining lots and parcels.

2110 (b) "Boundary adjustment" does not mean a modification of a lot or parcel boundary that:

2111 (i) creates an additional lot or parcel; or

2112 (ii) is made by the Department of Transportation.

2113 [(9)] (8)(a) "Boundary establishment" means an agreement between adjoining property
2114 owners to clarify the location of an ambiguous, uncertain, or disputed common
2115 boundary.

2116 (b) "Boundary establishment" does not mean a modification of a lot or parcel boundary
2117 that:

2118 (i) creates an additional lot or parcel; or

2119 (ii) is made by the Department of Transportation.

2120 (9) "Building code adoption cycle" means the period of time beginning the day on which a
2121 specific edition of a construction code from a nationally recognized code authority is
2122 adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day
2123 before a new edition of a construction code is adopted and effective in Title 15A, State
2124 Construction and Fire Codes Act.

2125 (10)(a) "Charter school" means:

2126 (i) an operating charter school;

2127 (ii) a charter school applicant that a charter school authorizer approves in accordance
2128 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

2129 (iii) an entity that is working on behalf of a charter school or approved charter
2130 applicant to develop or construct a charter school building.

2131 (b) "Charter school" does not include a therapeutic school.

2132 (11) "Chief executive officer" means the person or body that exercises the executive powers
2133 of the county.

2134 (12) "Conditional use" means a land use that, because of the unique characteristics or
2135 potential detrimental impact of the land use on the county, surrounding neighbors, or
2136 adjacent land uses, may not be compatible in some areas or may be compatible only if

- 2137 certain conditions are required that mitigate or eliminate the detrimental impacts.
- 2138 (13) "Constitutional taking" means a governmental action that results in a taking of private
2139 property [~~so that~~] where compensation to the property owner[~~of the property~~] is required
2140 by the:
- 2141 (a) Fifth or Fourteenth Amendment [of] to the Constitution of the United States; or
 - 2142 (b) Utah Constitution, Article I, Section 22.
- 2143 (14) "Conveyance document" means an instrument that:
- 2144 (a) meets the definition of "document" in Section 57-1-1; and
 - 2145 (b) meets the requirements of Section 57-1-45.5.
- 2146 (15) "Conveyance of property" means the transfer of ownership of any portion of real
2147 property from one person to another person.
- 2148 (16) "County utility easement" means an easement that:
- 2149 (a) a plat recorded in a county recorder's office described as a county utility easement or
2150 otherwise as a utility easement;
 - 2151 (b) is not a protected utility easement or a public utility easement as defined in Section
2152 54-3-27;
 - 2153 (c) the county or the county's affiliated governmental entity owns or creates; and
 - 2154 (d)(i) either:
 - 2155 (A) no person uses or occupies; or
 - 2156 (B) the county or the county's affiliated governmental entity uses and occupies to
2157 provide a utility service, including sanitary sewer, culinary water, electrical,
2158 storm water, or communications or data lines; or
 - 2159 (ii) a person uses or occupies with or without an authorized franchise or other
2160 agreement with the county.
- 2161 (17) "Culinary water authority" means the department, agency, or public entity with
2162 responsibility to review and approve the feasibility of the culinary water system and
2163 sources for the subject property.
- 2164 (18) "Department of Transportation" means the entity created in Section 72-1-201.
- 2165 (19) "Development activity" means:
- 2166 (a) any construction or expansion of a building, structure, or use that creates additional
2167 demand and need for public facilities;
 - 2168 (b) any change in use of a building or structure that creates additional demand and need
2169 for public facilities; or
 - 2170 (c) any change in the use of land that creates additional demand and need for public

2171 facilities.

2172 (20)(a) "Development agreement" means a written agreement or amendment to a written
2173 agreement between a county and one or more parties that regulates or controls the use
2174 or development of a specific area of land.

2175 (b) "Development agreement" does not include an improvement completion assurance.

2176 (21)(a) "Disability" means a physical or mental impairment that substantially limits one
2177 or more of a person's major life activities, including a person having a record of such
2178 an impairment or being regarded as having such an impairment.

2179 (b) "Disability" does not include current illegal use of, or addiction to, any federally
2180 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21
2181 U.S.C. Sec. 802.

2182 (22) "Document" means the same as that term is defined in Section 57-1-1.

2183 (23) "Educational facility":

2184 (a) means:

2185 (i) a school district's building at which pupils assemble to receive instruction in a
2186 program for any combination of grades from preschool through grade 12,
2187 including kindergarten and a program for children with disabilities;

2188 (ii) a structure or facility:

2189 (A) located on the same property as a building described in Subsection (23)(a)(i);
2190 and

2191 (B) used in support of the use of that building; and

2192 (iii) a building to provide office and related space to a school district's administrative
2193 personnel; and

2194 (b) does not include:

2195 (i) land or a structure, including land or a structure for inventory storage, equipment
2196 storage, food processing or preparing, vehicle storage or maintenance, or similar
2197 use that is:

2198 (A) not located on the same property as a building described in Subsection
2199 (23)(a)(i); and

2200 (B) used in support of the purposes of a building described in Subsection (23)(a)(i);
2201 or

2202 (ii) a therapeutic school.

2203 (24) "Establishment document" means an instrument that:

2204 (a) meets the definition of "document" in Section 57-1-1; and

- 2205 (b) meets the requirements of Section 57-1-45.
- 2206 [~~(25)~~ "Full boundary adjustment" means a boundary adjustment that is not a simple
- 2207 boundary adjustment.]
- 2208 [~~(26)~~ (25) "Fire authority" means the department, agency, or public entity with
- 2209 responsibility to review and approve the feasibility of fire protection and suppression
- 2210 services for the subject property.
- 2211 [~~(27)~~ (26) "Flood plain" means land that:
- 2212 (a) is within the 100-year flood plain designated by the Federal Emergency Management
- 2213 Agency; or
- 2214 (b) has not been studied or designated by the Federal Emergency Management Agency
- 2215 but presents a likelihood of experiencing chronic flooding or a catastrophic flood
- 2216 event because the land has characteristics that are similar to those of a 100-year flood
- 2217 plain designated by the Federal Emergency Management Agency.
- 2218 (27) "Full boundary adjustment" means a boundary adjustment that is not a simple
- 2219 boundary adjustment.
- 2220 (28) "Gas corporation" has the same meaning as defined in Section 54-2-1.
- 2221 (29) "General plan" means a document that a county adopts that sets forth general
- 2222 guidelines for proposed future development of:
- 2223 (a) the unincorporated land within the county; or
- 2224 (b) for a mountainous planning district, the land within the mountainous planning
- 2225 district.
- 2226 (30) "Geologic hazard" means:
- 2227 (a) a surface fault rupture;
- 2228 (b) shallow groundwater;
- 2229 (c) liquefaction;
- 2230 (d) a landslide;
- 2231 (e) a debris flow;
- 2232 (f) unstable soil;
- 2233 (g) a rock fall; or
- 2234 (h) any other geologic condition that presents a risk:
- 2235 (i) to life;
- 2236 (ii) of substantial loss of real property; or
- 2237 (iii) of substantial damage to real property.
- 2238 (31) "Home-based microschool" means the same as that term is defined in Section

- 2239 53G-6-201.
- 2240 (32) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter,
2241 or appurtenance to connect to a county water, sewer, storm water, power, or other utility
2242 system.
- 2243 (33)(a) "Identical plans" means floor plans submitted to a county that:
- 2244 (i) are submitted within the same building code adoption cycle as floor plans that
2245 were previously approved by the county;
- 2246 (ii) have no structural differences from floor plans that were previously approved by
2247 the county; and
- 2248 (iii) describe a building that:
- 2249 (A) is located on land zoned the same as the land on which the building described
2250 in the previously approved plans is located;
- 2251 (B) has a substantially identical floor plan to a floor plan previously approved by
2252 the county; and
- 2253 (C) does not require any engineering or analysis beyond a review to confirm the
2254 submitted floor plans are substantially identical to a floor plan previously
2255 approved by the county or a review of the site plan and associated geotechnical
2256 reports for the site.
- 2257 (b) "Identical plans" include floor plans that are oriented differently as the floor plan that
2258 was previously approved by the county.
- 2259 (34) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact
2260 Fees Act.
- 2261 (35) "Improvement completion assurance" means a surety bond, letter of credit, financial
2262 institution bond, cash, assignment of rights, lien, or other equivalent security required by
2263 a county to guaranty the proper completion of landscaping or an infrastructure
2264 improvement required as a condition precedent to:
- 2265 (a) recording a subdivision plat; or
- 2266 (b) development of a commercial, industrial, mixed use, or multifamily project.
- 2267 (36) "Improvement warranty" means an applicant's unconditional warranty that the
2268 applicant's installed and accepted landscaping or infrastructure improvement:
- 2269 (a) complies with the county's written standards for design, materials, and workmanship;
2270 and
- 2271 (b) will not fail in any material respect, as a result of poor workmanship or materials,
2272 within the improvement warranty period.

- 2273 (37) "Improvement warranty period" means a period:
- 2274 (a) no later than one year after a county's acceptance of required public landscaping; or
- 2275 (b) no later than one year after a county's acceptance of required infrastructure, unless
- 2276 the county:
- 2277 (i) determines, based on accepted industry standards and for good cause, that a
- 2278 one-year period would be inadequate to protect the public health, safety, and
- 2279 welfare; and
- 2280 (ii) has substantial evidence, on record:
- 2281 (A) of prior poor performance by the applicant; or
- 2282 (B) that the area upon which the infrastructure will be constructed contains
- 2283 suspect soil and the county has not otherwise required the applicant to mitigate
- 2284 the suspect soil.
- 2285 (38) "Infrastructure improvement" means permanent infrastructure that is essential for the
- 2286 public health and safety or that:
- 2287 (a) is required for human consumption; and
- 2288 (b) an applicant shall install:
- 2289 (i) in accordance with published installation and inspection specifications for public
- 2290 improvements; and
- 2291 (ii) as a condition of:
- 2292 (A) recording a subdivision plat;
- 2293 (B) obtaining a building permit; or
- 2294 (C) developing a commercial, industrial, mixed use, condominium, or multifamily
- 2295 project.
- 2296 (39) "Internal lot restriction" means a platted note, platted demarcation, or platted
- 2297 designation that:
- 2298 (a) runs with the land; and
- 2299 (b)(i) creates a restriction that is enclosed within the perimeter of a lot described on
- 2300 the plat; or
- 2301 (ii) designates a development condition that is enclosed within the perimeter of a lot
- 2302 described on the plat.
- 2303 (40) "Interstate pipeline company" means a person or entity engaged in natural gas
- 2304 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
- 2305 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 2306 (41) "Intrastate pipeline company" means a person or entity engaged in natural gas

- 2307 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
2308 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 2309 (42) "Land use applicant" means a property owner, or the property owner's designee, who
2310 submits a land use application regarding the property owner's land.
- 2311 (43) "Land use application":
- 2312 (a) means an application that is:
- 2313 (i) required by a county; and
- 2314 (ii) submitted by a land use applicant to obtain a land use decision; and
- 2315 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 2316 (44) "Land use authority" means:
- 2317 (a) a person, board, commission, agency, or body, including the local legislative body,
2318 designated by the local legislative body to act upon a land use application; or
- 2319 (b) if the local legislative body has not designated a person, board, commission, agency,
2320 or body, the local legislative body.
- 2321 (45) "Land use decision" means an administrative decision of a land use authority or appeal
2322 authority regarding:
- 2323 (a) a land use permit;
- 2324 (b) a land use application; or
- 2325 (c) the enforcement of a land use regulation, land use permit, or development agreement.
- 2326 (46) "Land use permit" means a permit issued by a land use authority.
- 2327 (47) "Land use regulation":
- 2328 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
2329 engineering or development standard, specification for public improvement, fee, or
2330 rule that governs the use or development of land;
- 2331 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
2332 and
- 2333 (c) does not include:
- 2334 (i) a land use decision of the legislative body acting as the land use authority, even if
2335 the decision is expressed in a resolution or ordinance; or
- 2336 (ii) a temporary revision to an engineering specification that does not materially:
- 2337 (A) increase a land use applicant's cost of development compared to the existing
2338 specification; or
- 2339 (B) impact a land use applicant's use of land.
- 2340 (48) "Legislative body" means the county legislative body, or for a county that has adopted

- 2341 an alternative form of government, the body exercising legislative powers.
- 2342 (49) "Lot" means a tract of land, regardless of any label, that is created by and shown on a
2343 subdivision plat that has been recorded in the office of the county recorder.
- 2344 (50) "Major transit investment corridor" means public transit service that uses or occupies:
2345 (a) public transit rail right-of-way;
2346 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
2347 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
2348 municipality or county and:
2349 (i) a public transit district as defined in Section 17B-2a-802; or
2350 (ii) an eligible political subdivision as defined in Section 59-12-2202.
- 2351 (51) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.
- 2352 (52) "Moderate income housing" means housing occupied or reserved for occupancy by
2353 households with a gross household income equal to or less than 80% of the median gross
2354 income for households of the same size in the county in which the housing is located.
- 2355 (53) "Mountainous planning district" means an area designated by a county legislative body
2356 in accordance with Section 17-79-408.
- 2357 (54) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and
2358 expenses incurred in:
2359 (a) verifying that building plans are identical plans; and
2360 (b) reviewing and approving those minor aspects of identical plans that differ from the
2361 previously reviewed and approved building plans.
- 2362 (55) "Noncomplying structure" means a structure that:
2363 (a) legally existed before the structure's current land use designation; and
2364 (b) because of one or more subsequent land use ordinance changes, does not conform to
2365 the setback, height restrictions, or other regulations, excluding those regulations that
2366 govern the use of land.
- 2367 (56) "Nonconforming use" means a use of land that:
2368 (a) legally existed before the land's current land use designation;
2369 (b) has been maintained continuously since the time the land use ordinance regulation
2370 governing the land changed; and
2371 (c) because of one or more subsequent land use ordinance changes, does not conform to
2372 the regulations that now govern the use of the land.
- 2373 (57) "Official map" means a map drawn by county authorities and recorded in the county
2374 recorder's office that:

- 2375 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
2376 highways and other transportation facilities;
- 2377 (b) provides a basis for restricting development in designated rights-of-way or between
2378 designated setbacks to allow the government authorities time to purchase or
2379 otherwise reserve the land; and
- 2380 (c) has been adopted as an element of the county's general plan.
- 2381 (58) "Parcel" means any real property that is not a lot.
- 2382 (59) "Person" means an individual, corporation, partnership, organization, association, trust,
2383 governmental agency, or any other legal entity.
- 2384 (60) "Plan for moderate income housing" means a written document adopted by a county
2385 legislative body that includes:
- 2386 (a) an estimate of the existing supply of moderate income housing located within the
2387 county;
- 2388 (b) an estimate of the need for moderate income housing in the county for the next five
2389 years;
- 2390 (c) a survey of total residential land use;
- 2391 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
2392 income housing; and
- 2393 (e) a description of the county's program to encourage an adequate supply of moderate
2394 income housing.
- 2395 (61) "Planning advisory area" means a contiguous, geographically defined portion of the
2396 unincorporated area of a county established under this part with planning and zoning
2397 functions as exercised through the planning advisory area planning commission, as
2398 provided in this chapter, but with no legal or political identity separate from the county
2399 and no taxing authority.
- 2400 (62) "Plat" means an instrument subdividing property into lots as depicted on a map or
2401 other graphical representation of lands that a licensed professional land surveyor makes
2402 and prepares in accordance with Section 17-79-703 or 57-8-13.
- 2403 (63) "Potential geologic hazard area" means an area that:
- 2404 (a) is designated by a Utah Geological Survey map, county geologist map, or other
2405 relevant map or report as needing further study to determine the area's potential for
2406 geologic hazard; or
- 2407 (b) has not been studied by the Utah Geological Survey or a county geologist but
2408 presents the potential of geologic hazard because the area has characteristics similar

- 2409 to those of a designated geologic hazard area.
- 2410 (64) "Property owner" means a person that holds legal title in real property.
- 2411 [~~(64)~~] (65) "Public agency" means:
- 2412 (a) the federal government;
- 2413 (b) the state;
- 2414 (c) a county, municipality, school district, special district, special service district, or
- 2415 other political subdivision of the state; or
- 2416 (d) a charter school.
- 2417 [~~(65)~~] (66) "Public hearing" means a hearing at which members of the public are provided a
- 2418 reasonable opportunity to comment on the subject of the hearing.
- 2419 [~~(66)~~] (67) "Public meeting" means a meeting that is required to be open to the public under
- 2420 Title 52, Chapter 4, Open and Public Meetings Act.
- 2421 [~~(67)~~] (68) "Public street" means a public right-of-way, including a public highway, public
- 2422 avenue, public boulevard, public parkway, public road, public lane, public alley, public
- 2423 viaduct, public subway, public tunnel, public bridge, public byway, other public
- 2424 transportation easement, or other public way.
- 2425 [~~(68)~~] (69) "Receiving zone" means an unincorporated area that a county designates, by
- 2426 ordinance, as an area in which an owner of land may receive a transferable development
- 2427 right.
- 2428 [~~(69)~~] (70) "Record of survey map" means a map of a survey of land prepared in accordance
- 2429 with Section 17-73-504.
- 2430 [~~(70)~~] (71) "Residential facility for persons with a disability" means a residence:
- 2431 (a) in which more than one person with a disability resides; and
- 2432 (b) which is licensed or certified by the Department of Health and Human Services
- 2433 under:
- 2434 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or
- 2435 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 2436 [~~(71)~~] (72) "Residential roadway" means a public local residential road that:
- 2437 (a) will serve primarily to provide access to adjacent primarily residential areas and
- 2438 property;
- 2439 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;
- 2440 (c) is not identified as a supplementary to a collector or other higher system classified
- 2441 street in an approved municipal street or transportation master plan;
- 2442 (d) has a posted speed limit of 25 miles per hour or less;

- 2443 (e) does not have higher traffic volumes resulting from connecting previously separated
 2444 areas of the municipal road network;
- 2445 (f) cannot have a primary access, but can have a secondary access, and does not abut lots
 2446 intended for high volume traffic or community centers, including schools, recreation
 2447 centers, sports complexes, or libraries; and
- 2448 (g) primarily serves traffic within a neighborhood or limited residential area and is not
 2449 necessarily continuous through several residential areas.
- 2450 ~~[(72)]~~ (73) "Rules of order and procedure" means a set of rules that govern and prescribe in
 2451 a public meeting:
- 2452 (a) parliamentary order and procedure;
- 2453 (b) ethical behavior; and
- 2454 (c) civil discourse.
- 2455 ~~[(73)]~~ (74) "Sanitary sewer authority" means the department, agency, or public entity with
 2456 responsibility to review and approve the feasibility of sanitary sewer services or onsite
 2457 wastewater systems.
- 2458 ~~[(74)]~~ (75) "Sending zone" means an unincorporated area that a county designates, by
 2459 ordinance, as an area from which an owner of land may transfer a transferable
 2460 development right.
- 2461 ~~[(75)]~~ (76) "Simple boundary adjustment" means a boundary adjustment that does not:
- 2462 (a) affect a public right-of-way, county utility easement, or other public property;
- 2463 (b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or
- 2464 (c) result in a lot or parcel out of conformity with land use regulations.
- 2465 ~~[(76)]~~ (77) "Site plan" means a document or map that may be required by a county during a
 2466 preliminary review before the issuance of a building permit to demonstrate that an
 2467 owner's or developer's proposed development activity meets a land use requirement.
- 2468 ~~[(77)]~~ (78)(a) "Special district" means an entity under Title 17B, Limited Purpose Local
 2469 Government Entities - Special Districts.
- 2470 (b) "Special district" includes a governmental or quasi-governmental entity that is not a
 2471 county, municipality, school district, or the state.
- 2472 (79) "Specific land use law" means a requirement or restriction on the use of a specific
 2473 parcel in a development agreement that a legislative body approves with the consent of
 2474 an affected property owner.
- 2475 ~~[(78)]~~ (80) "Specified public agency" means:
- 2476 (a) the state;

- 2477 (b) a school district; or
2478 (c) a charter school.
- 2479 ~~[(79)]~~ (81) "Specified public utility" means an electrical corporation, gas corporation, or
2480 telephone corporation, as those terms are defined in Section 54-2-1.
- 2481 ~~[(80)]~~ (82) "State" includes any department, division, or agency of the state.
- 2482 ~~[(81)]~~ (83)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to
2483 be divided into two or more lots or other division of land for the purpose, whether
2484 immediate or future, for offer, sale, lease, or development either on the installment
2485 plan or upon any and all other plans, terms, and conditions.
- 2486 (b) "Subdivision" includes:
- 2487 (i) the division or development of land, whether by deed, metes and bounds
2488 description, devise and testacy, map, plat, or other recorded instrument, regardless
2489 of whether the division includes all or a portion of a parcel or lot; and
- 2490 (ii) except as provided in Subsection ~~[(81)(e)]~~ (83)(c), divisions of land for residential
2491 and nonresidential uses, including land used or to be used for commercial,
2492 agricultural, and industrial purposes.
- 2493 (c) "Subdivision" does not include:
- 2494 (i) a bona fide division or partition of agricultural land for agricultural purposes;
- 2495 (ii) a recorded conveyance document:
- 2496 (A) consolidating multiple lots or parcels into one legal description encompassing
2497 all lots by reference to a recorded plat and all parcels by metes and bounds
2498 description; or
- 2499 (B) joining a lot to a parcel;
- 2500 (iii) a bona fide division or partition of land in a county other than a first class county
2501 for the purpose of siting, on one or more of the resulting separate parcels:
- 2502 (A) an electrical transmission line or a substation;
- 2503 (B) a natural gas pipeline or a regulation station; or
- 2504 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
2505 utility service regeneration, transformation, retransmission, or amplification
2506 facility;
- 2507 (iv) a bona fide division of land by deed or other instrument if the deed or other
2508 instrument states in writing that the division:
- 2509 (A) is in anticipation of future land use approvals on the parcel or parcels;
- 2510 (B) does not confer any land use approvals; and

- 2511 (C) has not been approved by the land use authority;
- 2512 (v) a boundary adjustment;
- 2513 (vi) a boundary establishment;
- 2514 (vii) a road, street, or highway dedication plat;
- 2515 (viii) a deed or easement for a road, street, or highway purpose; or
- 2516 (ix) any other division of land authorized by law.
- 2517 ~~[(82)]~~ (84)(a) "Subdivision amendment" means an amendment to a recorded subdivision
- 2518 in accordance with Section 17-79-711 that:
- 2519 (i) vacates all or a portion of the subdivision;
- 2520 (ii) increases the number of lots within the subdivision;
- 2521 (iii) alters a public right-of-way, a public easement, or public infrastructure within the
- 2522 subdivision; or
- 2523 (iv) alters a common area or other common amenity within the subdivision.
- 2524 (b) "Subdivision amendment" does not include a simple boundary adjustment.
- 2525 ~~[(83)]~~ (85) "Substantial evidence" means evidence that:
- 2526 (a) is beyond a scintilla; and
- 2527 (b) a reasonable mind would accept as adequate to support a conclusion.
- 2528 ~~[(84)]~~ (86) "Suspect soil" means soil that has:
- 2529 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 2530 3% swell potential;
- 2531 (b) bedrock units with high shrink or swell susceptibility; or
- 2532 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 2533 commonly associated with dissolution and collapse features.
- 2534 ~~[(85)]~~ (87) "Therapeutic school" means a residential group living facility:
- 2535 (a) for four or more individuals who are not related to:
- 2536 (i) the owner of the facility; or
- 2537 (ii) the primary service provider of the facility;
- 2538 (b) that serves students who have a history of failing to function:
- 2539 (i) at home;
- 2540 (ii) in a public school; or
- 2541 (iii) in a nonresidential private school; and
- 2542 (c) that offers:
- 2543 (i) room and board; and
- 2544 (ii) an academic education integrated with:

- 2545 (A) specialized structure and supervision; or
 2546 (B) services or treatment related to a disability, an emotional development, a
 2547 behavioral development, a familial development, or a social development.

2548 [(86)] (88) "Transferable development right" means a right to develop and use land that
 2549 originates by an ordinance that authorizes a [land] property owner in a designated
 2550 sending zone to transfer land use rights from a designated sending zone to a designated
 2551 receiving zone.

2552 [(87)] (89) "Unincorporated" means the area outside of the incorporated area of a
 2553 municipality.

2554 [(88)] (90) "Water interest" means any right to the beneficial use of water, including:

- 2555 (a) each of the rights listed in Section 73-1-11; and
 2556 (b) an ownership interest in the right to the beneficial use of water represented by:
 2557 (i) a contract; or
 2558 (ii) a share in a water company, as defined in Section 73-3-3.5.

2559 [(89)] (91) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
 2560 land use zones, overlays, or districts.

2561 Section 29. Section **17-79-205** is amended to read:

2562 **17-79-205 . Notice of public hearings and public meetings on adoption or**
 2563 **modification of land use regulation.**

- 2564 (1) Each county shall give:
 2565 (a) notice of the date, time, and place of the first public hearing to consider the adoption
 2566 or modification of a land use regulation; and
 2567 (b) notice of each public meeting on the subject.
 2568 (2) Each notice of a public hearing under Subsection (1)(a) shall be:
 2569 (a) mailed to each affected entity at least 10 calendar days before the public hearing; and
 2570 (b)(i) provided for the area affected by the land use ordinance changes, as a class B
 2571 notice under Section 63G-30-102, for at least 10 calendar days before the day of
 2572 the public hearing; or
 2573 (ii) if the proposed land use ordinance adoption or modification is ministerial in
 2574 nature, as described in Subsections (6)(a) and (b), provided as a class A notice
 2575 under Section 63G-30-102 for at least 10 calendar days before the day of the
 2576 public hearing.
 2577 (3) In addition to the notice requirements described in Subsections (1) and (2), for any
 2578 proposed modification to the text of a zoning code, the notice posted in accordance with

- 2579 Subsection (2) shall:
- 2580 (a) include:
- 2581 (i) a summary of the effect of the proposed modifications to the text of the zoning
- 2582 code designed to be understood by a lay person; or
- 2583 (ii) a direct link to the county's webpage where a person can find a summary of the
- 2584 effect of the proposed modifications to the text of the zoning code designed to be
- 2585 understood by a lay person; and
- 2586 (b) be provided to any person upon written request.
- 2587 (4) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before
- 2588 the hearing and shall be published for the county, as a class A notice under Section
- 2589 63G-30-102, for at least 24 hours.
- 2590 (5)(a) A county shall send a courtesy notice to each owner of private real property
- 2591 whose property is located entirely or partially within the proposed zoning map
- 2592 enactment or amendment at least 10 days before the scheduled day of the public
- 2593 hearing.
- 2594 (b) The notice shall:
- 2595 (i) identify with specificity each owner of record of real property that will be affected
- 2596 by the proposed zoning map or map amendments;
- 2597 (ii) state the current zone in which the real property is located;
- 2598 (iii) state the proposed new zone for the real property;
- 2599 (iv) provide information regarding or a reference to the proposed regulations,
- 2600 prohibitions, and permitted uses that the property will be subject to if the zoning
- 2601 map or map amendment is adopted;
- 2602 (v) state that the owner of real property may no later than 10 days after the day of the
- 2603 first public hearing file a written objection to the inclusion of the owner's property
- 2604 in the proposed zoning map or map amendment;
- 2605 (vi) state the address where the property owner should file the protest;
- 2606 (vii) notify the property owner that each written objection filed with the county will
- 2607 be provided to the county legislative body; and
- 2608 (viii) state the location, date, and time of the public hearing described in Section
- 2609 17-79-502.
- 2610 (c) If a county mails notice to a property owner under Subsection (2)(b)(i) for a public
- 2611 hearing on a zoning map or map amendment, the notice required in this Subsection
- 2612 (5) may be included in or part of the notice described in Subsection (2)(b)(i) rather

2613 than sent separately.

2614 (6)(a) [A] For purposes of the notice requirements in Subsection (2)(b) only, a proposed
2615 land use ordinance is ministerial in nature if the proposed land use ordinance change
2616 is to:

2617 (i) bring the county's land use ordinances into compliance with a state or federal law;

2618 (ii) adopt a county land use update that affects:

2619 (A) an entire zoning district; or

2620 (B) multiple zoning districts;

2621 (iii) adopt a non-substantive, clerical text amendment to an existing land use
2622 ordinance;

2623 (iv) recodify the county's existing land use ordinances; or

2624 (v) designate or define an affected area for purposes of a boundary adjustment or
2625 annexation.

2626 (b) A proposed land use ordinance may include more than one of the purposes described
2627 in Subsection (6)(a) and remain ministerial in nature.

2628 (c) If a proposed land use ordinance includes an adoption or modification not described
2629 in Subsection (6)(a):

2630 (i) the proposed land use ordinance is not ministerial in nature, even if the proposed
2631 land use ordinance also includes a change or modification described in Subsection
2632 (6)(a); and

2633 (ii) the notice requirements of Subsection (2)(b)(i) apply.

2634 Section 30. Section **17-79-301** is amended to read:

2635 **17-79-301 . Ordinance establishing planning commission required -- Exception --**

2636 **Ordinance requirements -- Planning advisory area planning commission --**

2637 **Compensation.**

2638 (1)(a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
2639 establishing a countywide planning commission for the unincorporated areas of the
2640 county not within a planning advisory area.

2641 (b) Subsection (1)(a) does not apply if all of the county is included within any
2642 combination of:

2643 (i) municipalities;

2644 (ii) planning advisory areas each with a separate planning commission; and

2645 (iii) mountainous planning districts.

2646 (c)(i) Notwithstanding Subsection (1)(a), a county that designates a mountainous

- 2647 planning district shall enact an ordinance, subject to Subsection (1)(c)(ii),
2648 establishing a planning commission that has jurisdiction over the entire
2649 mountainous planning district.
- 2650 (ii) A planning commission described in Subsection (1)(c)(i) has jurisdiction subject
2651 to a local health department exercising the local health department's authority in
2652 accordance with Title 26A, Chapter 1, Local Health Departments, and a
2653 municipality exercising the municipality's authority in accordance with Section
2654 10-8-15.
- 2655 (iii) The ordinance shall require that members of the planning commission be
2656 appointed by the county executive with the advice and consent of the county
2657 legislative body.
- 2658 (2)(a) Notwithstanding Subsection (1)(b), the county legislative body of a county of the
2659 first or second class that includes more than one planning advisory area each with a
2660 separate planning commission may enact an ordinance that:
- 2661 (i) dissolves each planning commission within the county; and
2662 (ii) establishes a countywide planning commission that has jurisdiction over:
2663 (A) each planning advisory area within the county; and
2664 (B) the unincorporated areas of the county not within a planning advisory area.
- 2665 (b) A countywide planning commission established under Subsection (2)(a) shall assume
2666 the duties of each dissolved planning commission.
- 2667 (3)(a) The ordinance described in Subsection (1)(a), (1)(c), or (2)(a) shall~~[-define]~~:
- 2668 (i) include the number and terms of the planning commission members and, if the
2669 county chooses, alternate members;
- 2670 (ii) ~~[the mode of appointment]~~ provide procedures for appointing a planning
2671 commission member;
- 2672 (iii) ~~[the]~~ provide procedures for filling vacancies on the planning commission;
- 2673 (iv) ~~[-and removal from office]~~ provide procedures for removing a planning
2674 commission member from the planning commission;
- 2675 (v) except as provided in Subsection (3)(a)(vi), describe the causes for which a
2676 planning commission member may be removed from the planning commission,
2677 which shall include:
- 2678 (A) using public funds for a political purpose under Title 20A, Chapter 11, Part
2679 12, Political Activities of Public Entities Act;
- 2680 (B) violating a provision of Title 10, Chapter 3, Part 13, Municipal Officers' and

- 2681 Employees' Ethics Act; and
- 2682 (C) acting with the intent to influence a land use decision or an appeal of a
- 2683 pending land use application in a manner that creates actual impermissible bias
- 2684 or an unacceptable risk of impermissible bias in the planning commission
- 2685 member's administrative or quasi-judicial duties;
- 2686 (vi) provide that a planning commission member deliberating about a specific
- 2687 pending land use application in a planning commission meeting with municipal
- 2688 staff, an elected official, or the land use applicant is not cause for removing a
- 2689 planning commission member from the planning commission;
- 2690 (vii) provide requirements for when a planning commission member shall recuse
- 2691 oneself from deliberating or voting on certain land use applications;
- 2692 [(iv)] (viii) define the authority of the planning commission;
- 2693 [(v)] (ix) subject to Subsection (3)(b), [the] include rules of order and procedure for
- 2694 use by the planning commission in a public meeting; and
- 2695 [(vi)] (x) include other details relating to the organization and procedures of the
- 2696 planning commission.
- 2697 (b) Subsection [(3)(a)(v)] (3)(a)(ix) does not affect the planning commission's duty to
- 2698 comply with Title 52, Chapter 4, Open and Public Meetings Act.
- 2699 (4)(a)(i) If the county establishes a planning advisory area planning commission, the
- 2700 county legislative body shall enact an ordinance that defines:
- 2701 (A) appointment procedures;
- 2702 (B) procedures for filling vacancies and removing members from office;
- 2703 (C) subject to Subsection (4)(a)(ii), the rules of order and procedure for use by the
- 2704 planning advisory area planning commission in a public meeting; and
- 2705 (D) details relating to the organization and procedures of each planning advisory
- 2706 area planning commission.
- 2707 (ii) Subsection (4)(a)(i)(C) does not affect the planning advisory area planning
- 2708 commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings
- 2709 Act.
- 2710 (b) The planning commission for each planning advisory area shall consist of seven
- 2711 members who shall be appointed by:
- 2712 (i) in a county operating under a form of government in which the executive and
- 2713 legislative functions of the governing body are separated, the county executive
- 2714 with the advice and consent of the county legislative body; or

- 2715 (ii) in a county operating under a form of government in which the executive and
2716 legislative functions of the governing body are not separated, the county
2717 legislative body.
- 2718 (c)(i) Members shall serve four-year terms and until their successors are appointed
2719 and qualified.
- 2720 (ii) Notwithstanding the provisions of Subsection (4)(c)(i), members of the first
2721 planning commissions shall be appointed so that, for each commission, the terms
2722 of at least one member and no more than two members expire each year.
- 2723 (d)(i) Each member of a planning advisory area planning commission shall be a
2724 registered voter residing within the planning advisory area.
- 2725 (ii) Subsection (4)(d)(i) does not apply to a member described in Subsection (5)(a) if
2726 that member was, before May 12, 2015, authorized to reside outside of the
2727 planning advisory area.
- 2728 (5)(a) A member of a planning commission who was elected to and served on a planning
2729 commission on May 12, 2015, shall serve out the term to which the member was
2730 elected.
- 2731 (b) Upon the expiration of an elected term described in Subsection (5)(a), the vacant seat
2732 shall be filled by appointment in accordance with this section.
- 2733 (6) Upon the appointment of all members of a planning advisory area planning commission,
2734 each planning advisory area planning commission under this section shall begin to
2735 exercise the powers and perform the duties provided in Section 17-79-302 with respect
2736 to all matters then pending that previously had been under the jurisdiction of the
2737 countywide planning commission or planning advisory area planning and zoning board.
- 2738 (7) The legislative body may authorize a member of a planning commission to receive per
2739 diem and travel expenses for meetings actually attended, in accordance with Section
2740 11-55-103.
- 2741 Section 31. Section **17-79-302** is amended to read:
- 2742 **17-79-302 . Planning commission powers and duties -- Training requirements.**
- 2743 (1) Each countywide, planning advisory area, or mountainous planning district planning
2744 commission shall, with respect to the unincorporated area of the county, the planning
2745 advisory area, or the mountainous planning district, review and make a recommendation
2746 to the county legislative body for:
- 2747 (a) a general plan and amendments to the general plan;
- 2748 (b) land use regulations, including:

- 2749 (i) ordinances regarding the subdivision of land within the county; and
 2750 (ii) amendments to existing land use regulations;
- 2751 (c) an appropriate delegation of power to at least one designated land use authority to
 2752 hear and act on a land use application;
- 2753 (d) an appropriate delegation of power to at least one appeal authority to hear and act on
 2754 an appeal from a decision of the land use authority; and
- 2755 (e) application processes that:
- 2756 (i) may include a designation of routine land use matters that, upon application and
 2757 proper notice, will receive informal streamlined review and action if the
 2758 application is uncontested; and
- 2759 (ii) shall protect the right of each:
- 2760 (A) land use applicant and adversely affected party to require formal consideration
 2761 of any application by a land use authority; and
- 2762 (B) land use applicant or adversely affected party to appeal a land use authority's
 2763 decision to a separate appeal authority[; and] .
- 2764 [~~(C) participant to be heard in each public hearing on a contested application.~~]
- 2765 (2) Before making a recommendation to a legislative body on an item described in
 2766 Subsection (1)(a) or (b), the planning commission shall hold a public hearing in
 2767 accordance with Section 17-79-404.
- 2768 (3) A legislative body may adopt, modify, or reject a planning commission's
 2769 recommendation to the legislative body under this section.
- 2770 [~~(4) A legislative body may consider a planning commission's failure to make a timely~~
 2771 ~~recommendation as a negative recommendation.~~]
- 2772 [~~(5)~~] (4) Nothing in this section limits the right of a county to initiate or propose the actions
 2773 described in this section.
- 2774 [~~(6)~~] (5)(a)(i) This Subsection [~~(6)~~] (5) applies to a county that:
- 2775 (A) is a county of the first, second, or third class; and
- 2776 (B) has a population in the county's unincorporated areas of 5,000 or more.
- 2777 (ii) The population for each county described in Subsection [~~(6)~~](a)(i) (5)(a)(i) shall
 2778 be derived from:
- 2779 (A) an estimate of the Utah Population Committee created in Section 63C-20-103;
 2780 or
- 2781 (B) if the Utah Population Committee estimate is not available, the most recent
 2782 official census or census estimate of the United States [~~Bureau of the~~] Census

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- (b) A county described in Subsection [~~(6)(a)(i)~~] (5)(a)(i) shall ensure that each member of the county's planning commission completes four hours of annual land use training as follows:
- (i) one hour of annual training on general powers and duties, including the role of the planning commission in administrative, legislative, and quasi-judicial functions under [~~Title 17, Chapter 27a, County Land Use, Development, and Management Act~~] this chapter; and
 - (ii) three hours of annual training on a combination of land use and ethics, which may include:
 - (A) appeals and variances;
 - (B) conditional use permits;
 - (C) exactions;
 - (D) impact fees;
 - (E) vested rights;
 - (F) subdivision regulations and improvement guarantees;
 - (G) land use referenda;
 - (H) property rights;
 - (I) real estate procedures and financing;
 - (J) zoning, including use-based and form-based; [~~and~~]
 - (K) drafting ordinances and code that complies with statute[-];
 - (L) ex parte communication; and
 - (M) conflict of interest.
- (c) A newly appointed planning commission member may not participate in a public meeting as an appointed member until the member completes the training described in Subsection [~~(6)(b)(i)~~] (5)(b)(i).
- (d) A planning commission member may qualify for one completed hour of training required under Subsection [~~(6)(b)(ii)~~] (5)(b)(ii) if the member attends, as an appointed member, 12 public meetings of the planning commission within a calendar year.
- (e) A county shall provide the training described in Subsection [~~(6)(b)~~] (5)(b) through:
- (i) county staff;
 - (ii) the Utah Association of Counties; or
 - (iii) a list of training courses selected by:
 - (A) the Utah Association of Counties; or

2817 (B) the Division of Real Estate created in Section 61-2-201.

2818 (f) A county shall, for each planning commission member:

2819 (i) monitor compliance with the training requirements in Subsection [~~(6)(b)~~] (5)(b);

2820 and

2821 (ii) maintain a record of training completion at the end of each calendar year.

2822 Section 32. Section **17-79-501** is amended to read:

2823 **17-79-501 . Enactment of land use regulation.**

2824 (1) Only a legislative body, as the body authorized to weigh policy considerations, may
2825 enact a land use regulation.

2826 (2)(a) Except as provided in Subsection (2)(b), a legislative body may enact a land use
2827 regulation only by ordinance.

2828 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that
2829 imposes a fee.

2830 (3) A land use regulation shall be consistent with the purposes [~~set forth in~~] of this chapter.

2831 (4)(a) A legislative body shall adopt a land use regulation to:

2832 (i) create or amend a zoning district under Subsection 17-79-503(1)(a); and

2833 (ii) designate general uses allowed in each zoning district.

2834 (b) A land use authority may establish or modify other restrictions or requirements other
2835 than those described in Subsection (4)(a), including the configuration or modification
2836 of uses or density, through a land use decision that applies criteria or policy elements
2837 that a land use regulation establishes or describes.

2838 (5)(a) A county shall publish on the county's website:

2839 (i) all of the county's land use regulations; and

2840 (ii) a fee schedule that lists all of the county's fees related to a land use application,
2841 land use permit, or land use regulation, including development review fees and
2842 impact fees.

2843 (b) A county may comply with Subsection (5)(a) by:

2844 (i) posting a link on the county's website to a separate webpage or third-party website
2845 where the land use regulations or fee schedule described in Subsection (5)(a) are
2846 posted; and

2847 (ii) submitting a new or modified land use regulation or fee schedule described in
2848 Subsection (5)(a) to the third-party website within six months after the day on
2849 which the legislative body adopts the new or modified land use regulation or fee
2850 schedule.

2851 [(5)] (6) A county may not adopt a land use regulation[,;] or development agreement, or
 2852 make a land use decision that restricts the type of crop that may be grown in an area that
 2853 is:

- 2854 (a) zoned agricultural; or
 2855 (b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

2856 [(6)] (7) A county land use regulation pertaining to an airport or an airport influence area, as
 2857 that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4,
 2858 Airport Zoning Act.

2859 Section 33. Section **17-79-502** is amended to read:

2860 **17-79-502 . Preparation and adoption of land use regulation.**

2861 (1) A planning commission shall:

- 2862 (a) provide notice as required by Subsection 17-79-205(1)(a) and, if applicable,
 2863 Subsection 17-79-205(4);
 2864 (b) hold a public hearing on a proposed land use regulation;
 2865 (c) if applicable, consider each written objection filed in accordance with Subsection
 2866 17-79-205(4) before the public hearing; and
 2867 (d)(i) review and recommend to the legislative body a proposed land use regulation
 2868 that represents the planning commission's recommendation for regulating the use
 2869 and development of land within:
 2870 (A) all or any part of the unincorporated area of the county; or
 2871 (B) for a mountainous planning district, all or any part of the area in the
 2872 mountainous planning district; and
 2873 (ii) forward to the legislative body all objections filed in accordance with Subsection
 2874 17-79-205(4).

2875 (2)(a) The legislative body shall consider each proposed land use regulation that the
 2876 planning commission recommends to the legislative body.

2877 (b) After providing notice as required by Subsection 17-79-205(1)(b) and holding a
 2878 public meeting, the legislative body may adopt or reject the proposed land use
 2879 regulation described in Subsection (2)(a):

- 2880 (i) as proposed by the planning commission; or
 2881 (ii) after making any revision the legislative body considers appropriate.

2882 [~~(e) A legislative body may consider a planning commission's failure to make a timely~~
 2883 ~~recommendation as a negative recommendation if the legislative body has provided~~
 2884 ~~for that consideration by ordinance.]~~

2885 (c) Beginning on September 15, 2026, a legislative body may adopt or reject a proposed
 2886 land use regulation without waiting for a recommendation from the planning
 2887 commission if:

2888 (i) a land use applicant makes a request described in Subsection 17-79-805(2)(b); or
 2889 (ii) a legislative body determines that a planning commission has had adequate time
 2890 to consider the land use regulation.

2891 Section 34. Section **17-79-507** is amended to read:

2892 **17-79-507 . Classification of new and unlisted business uses.**

2893 (1) As used in this section:

2894 (a) "Classification request" means a request to determine whether a proposed business
 2895 use aligns with an existing land use specified in a county's land use ordinances.

2896 (b) "New or unlisted business use" means a business activity that does not align with an
 2897 existing land use specified in a county's land use ordinances.

2898 (2)(a) Each county shall incorporate into the county's land use ordinances a process for
 2899 reviewing and approving a new or unlisted business use and designating an
 2900 appropriate zone or zones for an approved use.

2901 (b) The process described in Subsection (2)(a) shall:

2902 (i) detail how an applicant may submit a classification request;

2903 (ii) establish a procedure for the county to review a classification request, including:

2904 (A) providing a land use authority with criteria to determine whether a proposed
 2905 use aligns with an existing use; ~~and~~

2906 (B) allowing an applicant to proceed under the regulations of an existing use if a
 2907 land use authority determines a proposed use aligns with that existing use; and

2908 (C) providing the applicant an opportunity to appeal a land use authority's decision
 2909 to the land use appeal authority;

2910 (iii) provide that if a use is determined to be a new or unlisted business use:

2911 (A) the applicant shall submit to the legislative body for review an application [for
 2912 approval of the new or unlisted business use to the legislative body for review]
 2913 requesting that the legislative body adopt a land use ordinance that permits the
 2914 new or unlisted business as a permitted or conditional use;

2915 (B) notwithstanding Subsection 17-79-503(2) or (3), the legislative body shall
 2916 consider and [determine whether to-]approve or deny [the new or unlisted
 2917 business use] the application described in Subsection (2)(b)(iii)(A); and

2918 (C) the legislative body shall approve or deny ~~[the new or unlisted business use]~~

2919 the application described in Subsection (2)(b)(iii)(A), within a time frame the
 2920 legislative body establishes by ordinance, if the applicant responds to requests
 2921 for additional information within a time frame established by the county and
 2922 appears at required hearings;

2923 (iv) provide that if the legislative body approves [~~a proposed new or unlisted business~~
 2924 ~~use~~] the application described in Subsection (2)(b)(iii)(A), the legislative body
 2925 shall designate an appropriate zone or zones for the approved use; and

2926 (v) provide that if the legislative body denies [~~a proposed new or unlisted business use~~]
 2927 the application described in Subsection (2)(b)(iii)(A), or if an applicant disagrees
 2928 with a land use authority's classification of the proposed use, the legislative body
 2929 shall:

2930 (A) notify the applicant in writing of each reason for the classification or denial;
 2931 and

2932 (B) [~~offer the applicant an opportunity to challenge the classification or denial~~
 2933 ~~through an administrative appeal process established by the county~~] notify the
 2934 applicant of the process for appealing the legislative body's decision in
 2935 accordance with Section 17-79-1009.

2936 (c) A county may not require an applicant who submits an application described in
 2937 Subsection (2)(b)(iii)(A) to submit the application to the planning commission for
 2938 consideration, review, or approval.

2939 (3) Each county shall amend each land use ordinance that contains a list of approved or
 2940 prohibited business uses to include a reference to the process for petitioning to approve a
 2941 new or unlisted business use, as described in Subsection (2).

2942 Section 35. Section **17-79-621** is enacted to read:

2943 **17-79-621 . Structure height.**

2944 (1) A county may regulate:

2945 (a) the number of habitable stories that a structure may contain; and

2946 (b) the overall height of a structure.

2947 (2) Notwithstanding a land use regulation described in Subsection (1), if a land use
 2948 authority approved a land use application for a commercial lodging structure on or
 2949 before September 1, 2025, the land use authority shall allow the land use applicant to
 2950 build as many habitable stories within the approved structure as permitted under the
 2951 State Construction Code.

2952 Section 36. Section **17-79-706** is amended to read:

2953 **17-79-706 . Review of subdivision applications and subdivision improvement**
2954 **plans.**

2955 (1) As used in this section:

2956 (a) "Review cycle" means the occurrence of:

2957 (i) the applicant's submittal of a complete subdivision application;

2958 (ii) the county's review of that subdivision application;

2959 (iii) the county's response to that subdivision application, in accordance with this
2960 section; and

2961 (iv) the applicant's reply to the county's response that addresses each of the county's
2962 required modifications or requests for additional information.

2963 (b) "Subdivision application" means a land use application for the subdivision of land
2964 located within the unincorporated area of a county.

2965 (c) "Subdivision improvement plans" means the civil engineering plans associated with
2966 required infrastructure improvements and county-controlled utilities required for a
2967 subdivision.

2968 (d) "Subdivision ordinance review" means review by a county to verify that a
2969 subdivision application meets the criteria of the county's ordinances.

2970 (e) "Subdivision plan review" means a review of the applicant's subdivision
2971 improvement plans and other aspects of the subdivision application to verify that the
2972 application complies with county ordinances and applicable installation standards and
2973 inspection specifications for infrastructure improvements.

2974 (2) The review cycle restrictions and requirements of this section do not apply to the review
2975 of subdivision applications affecting property within identified geological hazard areas.

2976 (3)(a) A county may require a subdivision improvement plan to be submitted with a
2977 subdivision application.

2978 (b) A county may not require a subdivision improvement plan to be submitted with both
2979 a preliminary subdivision application and a final subdivision application.

2980 (4)(a) The review cycle requirements of this section apply:

2981 (i) to the review of a preliminary subdivision application, if the county requires a
2982 subdivision improvement plan to be submitted with a preliminary subdivision
2983 application; or

2984 (ii) to the review of a final subdivision application, if the county requires a
2985 subdivision improvement plan to be submitted with a final subdivision application.

2986 (b) A county may not, outside the review cycle, engage in a substantive review of

- 2987 required infrastructure improvements or a county controlled utility.
- 2988 (5)(a) A county shall complete the initial review of a complete subdivision application
- 2989 submitted for ordinance review for a residential subdivision for single-family
- 2990 dwellings, two-family dwellings, or town homes:
- 2991 (i) no later than 15 business days after the complete subdivision application is
- 2992 submitted, if the county has a population over 5,000; or
- 2993 (ii) no later than 30 business days after the complete subdivision application is
- 2994 submitted, if the county has a population of 5,000 or less.
- 2995 (b) A county shall maintain and publish a list of the items comprising the complete
- 2996 subdivision application, including:
- 2997 (i) the application;
- 2998 (ii) the owner's affidavit;
- 2999 (iii) an electronic copy of all plans in PDF format;
- 3000 (iv) the preliminary subdivision plat drawings; and
- 3001 (v) a breakdown of fees due upon approval of the application.
- 3002 (6) A county shall publish a list of the items that comprise a complete subdivision land use
- 3003 application.
- 3004 (7) A county shall complete a subdivision plan review of a subdivision improvement plan
- 3005 that is submitted with a complete subdivision application for a residential subdivision for
- 3006 single-family dwellings, two-family dwellings, or town homes:
- 3007 (a) within 20 business days after the complete subdivision application is submitted, if the
- 3008 county has a population over 5,000; or
- 3009 (b) within 40 business days after the complete subdivision application is submitted, if
- 3010 the county has a population of 5,000 or less.
- 3011 (8)(a) In reviewing a subdivision application, a county may require:
- 3012 (i) additional information relating to an applicant's plans to ensure compliance with
- 3013 county ordinances and approved standards and specifications for construction of
- 3014 public improvements; and
- 3015 (ii) modifications to plans that do not meet current ordinances, applicable standards,
- 3016 or specifications or do not contain complete information.
- 3017 (b) A county's request for additional information or modifications to plans under
- 3018 Subsection (8)(a)(i) or (ii) shall be specific and include citations to ordinances,
- 3019 standards, or specifications that require the modifications to subdivision
- 3020 improvement plans, and shall be logged in an index of requested modifications or

- 3021 additions.
- 3022 (c) A county may not require more than four review cycles for a subdivision
3023 improvement plan review.
- 3024 (d)(i) Subject to Subsection (8)(d)(ii), unless the change or correction is necessitated
3025 by the applicant's adjustment to a subdivision improvement plan or an update to a
3026 phasing plan that adjusts the infrastructure needed for the specific development, a
3027 change or correction not addressed or referenced in a county's subdivision
3028 improvement plan review is waived.
- 3029 (ii) A modification or correction necessary to protect public health and safety or to
3030 enforce state or federal law may not be waived.
- 3031 (iii) If an applicant makes a material change to a subdivision improvement plan, the
3032 county has the discretion to restart the review process at the first review of the
3033 subdivision improvement plan review, but only with respect to the portion of the
3034 subdivision improvement plan that the material change substantively affects.
- 3035 (e)(i) This Subsection (8) applies if an applicant does not submit a revised
3036 subdivision improvement plan within:
- 3037 (A) 20 business days after the county requires a modification or correction, if the
3038 county has a population over 5,000; or
- 3039 (B) 40 business days after the county requires a modification or correction, if the
3040 county has a population of 5,000 or less.
- 3041 (ii) If an applicant does not submit a revised subdivision improvement plan within the
3042 time specified in Subsection (8)(e)(i), a county has an additional 20 business days
3043 after the time specified in Subsection (7) to respond to a revised subdivision
3044 improvement plan.
- 3045 (9) After the applicant has responded to the final review cycle, and the applicant has
3046 complied with each modification requested in the county's previous review cycle, the
3047 county may not require additional revisions if the applicant has not materially changed
3048 the plan, other than changes that were in response to requested modifications or
3049 corrections.
- 3050 (10)(a) In addition to revised plans, an applicant shall provide a written explanation in
3051 response to the county's review comments, identifying and explaining the applicant's
3052 revisions and reasons for declining to make revisions, if any.
- 3053 (b) The applicant's written explanation shall be comprehensive and specific, including
3054 citations to applicable standards and ordinances for the design and an index of

3055 requested revisions or additions for each required correction.

3056 (c) If an applicant fails to address a review comment in the response, the review cycle is
3057 not complete and the subsequent review cycle may not begin until all comments are
3058 addressed.

3059 (11)[(a)] If, on the fourth or final review, a county fails to respond within 20 business
3060 days, the county shall, upon request of the property owner, and within 10 business
3061 days after the day on which the request is received:

3062 [(i)] (a) for a dispute arising from the subdivision improvement plans, assemble an
3063 appeal panel in accordance with Subsection [~~17-79-812(5)(d)~~] 17-79-812(4)(d) to
3064 review and approve or deny the final revised set of plans; or

3065 [(ii)] (b) for a dispute arising from the subdivision ordinance review, advise the
3066 applicant, in writing, of the deficiency in the application and of the right to appeal the
3067 determination to a designated appeal authority.

3068 Section 37. Section **17-79-707** is amended to read:

3069 **17-79-707 . Subdivision plat recording or development activity before required**
3070 **infrastructure is completed -- Improvement completion assurance -- Improvement**
3071 **warranty.**

3072 (1) As used in this section:

3073 (a) "Private landscaping plan" means a proposal:

3074 (i) to install landscaping on a lot owned by a private individual or entity; and
3075 (ii) submitted to a county by the private individual or entity, or on behalf of a private
3076 individual or entity, that owns the lot.

3077 (b) "Public landscaping improvement" means landscaping that an applicant is required to
3078 install to comply with published installation and inspection specifications for public
3079 improvements that:

3080 (i) will be dedicated to and maintained by the county; or
3081 (ii) are associated with and proximate to trail improvements that connect to planned
3082 or existing public infrastructure.

3083 (2) A land use authority shall establish objective inspection standards for acceptance of a
3084 required public landscaping improvement or infrastructure improvement.

3085 (3)(a) Except as provided in Subsection (3)(d) or (3)(e), before an applicant conducts
3086 any development activity or records a plat, the applicant shall:

3087 (i) complete any required public landscaping improvements or infrastructure
3088 improvements; or

- 3089 (ii) post an improvement completion assurance for any required public landscaping
3090 improvements or infrastructure improvements.
- 3091 (b) If an applicant elects to post an improvement completion assurance, the applicant
3092 shall, in accordance with Subsection (5), provide completion assurance for:
- 3093 (i) completion of 100% of the required public landscaping improvements or
3094 infrastructure improvements; or
- 3095 (ii) if the county has inspected and accepted a portion of the public landscaping
3096 improvements or infrastructure improvements, 100% of the incomplete or
3097 unaccepted public landscaping improvements or infrastructure improvements.
- 3098 (c) A county shall:
- 3099 (i) establish a minimum of two acceptable forms of completion assurance;
- 3100 (ii)(A) if an applicant elects to post an improvement completion assurance, allow
3101 the applicant to post an assurance that meets the conditions of this chapter and
3102 any local ordinances; and
- 3103 (B) beginning on May 7, 2025, if a county accepts cash deposits as a form of
3104 completion assurance and an applicant elects to post a new cash deposit as a
3105 form of completion assurance, place the cash deposit in an interest-bearing
3106 account upon receipt and return any earned interest to the applicant with the
3107 return of the completion assurance according to the conditions of this chapter
3108 and any local ordinances;
- 3109 (iii) establish a system for the partial release of an improvement completion
3110 assurance as portions of required public landscaping improvements or
3111 infrastructure improvements are completed and accepted in accordance with local
3112 ordinance; and
- 3113 (iv) issue or deny a building permit in accordance with Section 17-79-901 based on
3114 the installation of public landscaping improvements or infrastructure
3115 improvements.
- 3116 (d) A county may not require an applicant to post an improvement completion assurance
3117 for:
- 3118 (i) public landscaping improvements or infrastructure improvements that the county
3119 has previously inspected and accepted;
- 3120 (ii) infrastructure improvements that are private and not essential or required to meet
3121 the building code, fire code, flood or storm water management provisions, street
3122 and access requirements, or other essential necessary public safety improvements

- 3123 adopted in a land use regulation;
- 3124 (iii) in a county where ordinances require all infrastructure improvements within the
3125 area to be private, infrastructure improvements within a development that the
3126 county requires to be private;
- 3127 (iv) landscaping improvements that are not public landscaping improvements, unless
3128 the landscaping improvements and completion assurance are required under the
3129 terms of a development agreement;
- 3130 (v) a private landscaping plan;
- 3131 (vi) landscaping improvements or infrastructure improvements that an applicant
3132 elects to install at the applicant's own risk:
- 3133 (A) before the plat is recorded;
- 3134 (B) pursuant to inspections required by the county for the infrastructure
3135 improvement; and
- 3136 (C) pursuant to final civil engineering plan approval by the county; or
- 3137 (vii) any individual public landscaping improvement or individual infrastructure
3138 improvement when the individual public landscaping improvement or individual
3139 infrastructure improvement is also included as part of a separate improvement
3140 completion assurance.
- 3141 (e)(i) A county may not:
- 3142 (A) prohibit an applicant from installing a public landscaping improvement or an
3143 infrastructure improvement when the [municipality] county has approved final
3144 civil engineering plans for the development activity or plat for which the public
3145 landscaping improvement or infrastructure improvement is required; or
- 3146 (B) require an applicant to sign an agreement, release, or other document
3147 inconsistent with this chapter as a condition of posting an improvement
3148 completion assurance, security for an improvement warranty, or receiving a
3149 building permit.
- 3150 (ii) Notwithstanding Subsection (3)(e)(i)(A), public infrastructure improvements and
3151 infrastructure improvements that are installed by an applicant are subject to
3152 inspection by the county in accordance with the county's adopted inspection
3153 standards.
- 3154 (f)(i) Each improvement completion assurance and improvement warranty posted by
3155 an applicant with a county shall be independent of any other improvement
3156 completion assurance or improvement warranty posted by the same applicant with

- 3157 the county.
- 3158 (ii) Subject to Section 17-79-805, if an applicant has posted a form of security with a
3159 county for more than one infrastructure improvement or public landscaping
3160 improvement, the county may not withhold acceptance of an applicant's required
3161 subdivision improvements, public landscaping improvement, infrastructure
3162 improvements, or the performance of warranty work for the same applicant's
3163 failure to complete a separate subdivision improvement, public landscaping
3164 improvement, infrastructure improvement, or warranty work under a separate
3165 improvement completion assurance or improvement warranty.
- 3166 (4)(a) Except as provided in Subsection (4)(c), as a condition for increased density or
3167 other entitlement benefit not currently available under the existing zone, a county
3168 may require a completion assurance bond for landscaped amenities and common area
3169 that are dedicated to and maintained by a homeowners association.
- 3170 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)
3171 between the applicant and the county shall be memorialized in a development
3172 agreement.
- 3173 (c) A county may not require a completion assurance bond for or dictate who installs or
3174 is responsible for the cost of the landscaping of residential lots or the equivalent open
3175 space surrounding single-family attached homes, whether platted as lots or common
3176 area.
- 3177 (5) The sum of the improvement completion assurance required under Subsections (3) and
3178 (4) may not exceed the sum of:
- 3179 (a) 100% of the estimated cost of the public landscaping improvements or infrastructure
3180 improvements, as evidenced by an engineer's estimate or licensed contractor's bid;
3181 and
- 3182 (b) 10% of the amount of the bond to cover administrative costs incurred by the county
3183 to complete the improvements, if necessary.
- 3184 (6)(a) Upon an applicant's written request that the land use authority accept or reject the
3185 applicant's installation of required subdivision improvements or performance of
3186 warranty work as set forth in Section 17-79-805, and for the duration of each
3187 improvement warranty period, the land use authority may require the applicant to:
- 3188 (i) execute an improvement warranty for the improvement warranty period; and
3189 (ii) post a cash deposit, surety bond, letter of credit, or other similar security, as
3190 required by the county, in the amount of up to 10% of the lesser of the:

- 3191 (A) county engineer's original estimated cost of completion; or
 3192 (B) applicant's reasonable proven cost of completion.
- 3193 (b) A county may not require the payment of the deposit of the improvement warranty
 3194 assurance described in Subsection (6)(a) for an infrastructure improvement or public
 3195 landscaping improvement before the applicant indicates through written request that
 3196 the applicant has completed the infrastructure improvement or public landscaping
 3197 improvement.
- 3198 (7) When a county accepts an improvement completion assurance for public landscaping
 3199 improvements or infrastructure improvements for a development in accordance with
 3200 Subsection (3)(c)(ii)(A), the county may not deny an applicant a building permit if the
 3201 development meets the requirements for the issuance of a building permit under the
 3202 building code and fire code.
- 3203 (8) A county may not require the submission of a private landscaping plan as part of an
 3204 application for a building permit.
- 3205 (9) The provisions of this section do not supersede the terms of a valid development
 3206 agreement, an adopted phasing plan, or the ~~[state construction code]~~ State Construction
 3207 Code.

3208 Section 38. Section **17-79-803** is amended to read:

3209 **17-79-803 . Applicant's entitlement to land use application approval --**
 3210 **Application relating to land in a high priority transportation corridor -- County's**
 3211 **requirements and limitations -- Vesting upon submission of development plan and**
 3212 **schedule.**

- 3213 (1)(a)(i) Subject to Subsection ~~[(7)]~~ (8), an applicant who has submitted a complete
 3214 land use application, including the payment of all application fees, is entitled to
 3215 substantive review of the application under the land use regulations:
- 3216 (A) in effect on the date that the application is complete; and
 3217 (B) applicable to the application or to the information shown on the submitted
 3218 application.
- 3219 (ii) An applicant is entitled to approval of a land use application if the application
 3220 conforms to the requirements of the applicable land use regulations, land use
 3221 decisions, and development standards in effect when the applicant submits a
 3222 complete application and pays all application fees, unless:
- 3223 (A) the land use authority, on the record, formally finds that a compelling,
 3224 countervailing public interest would be jeopardized by approving the

- 3225 application and specifies the compelling, countervailing public interest in
3226 writing; or
- 3227 (B) in the manner provided by local ordinance and before the applicant submits
3228 the application, the county formally initiates proceedings to amend the county's
3229 land use regulations in a manner that would prohibit approval of the
3230 application as submitted.
- 3231 (b) The county shall process an application without regard to proceedings the county
3232 initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:
- 3233 (i) 180 days have passed since the county initiated the proceedings; and
3234 (ii)(A) the proceedings have not resulted in an enactment that prohibits approval
3235 of the application as submitted; or
3236 (B) during the 12 months before the county processing the application or multiple
3237 applications of the same type, the application is impaired or prohibited under
3238 the terms of a temporary land use regulation adopted under Section 17-79-504.
- 3239 (c) A land use application is considered submitted and complete when the applicant
3240 provides the application in a form that complies with the requirements of applicable
3241 ordinances and pays all applicable fees.
- 3242 (d) Unless a phasing sequence is required in an executed development agreement, a
3243 county shall, without regard to any other separate and distinct land use application,
3244 accept and process a complete land use application in accordance with this chapter.
- 3245 (e) The continuing validity of an approval of a land use application is conditioned upon
3246 the applicant proceeding after approval to implement the approval with reasonable
3247 diligence.
- 3248 (f) Subject to Subsection [~~(7)~~] (8), a county may not impose on an applicant who has
3249 submitted a complete application a requirement that is not expressed in:
- 3250 (i) this chapter;
3251 (ii) a county ordinance in effect on the date that the applicant submits a complete
3252 application, subject to Subsection (1)(a)(ii); or
3253 (iii) a county specification for public improvements applicable to a subdivision or
3254 development that is in effect on the date that the applicant submits an application.
- 3255 (g) A county may not impose on a holder of an issued land use permit or a final,
3256 unexpired subdivision plat a requirement that is not expressed:
- 3257 (i) in a land use permit;
3258 (ii) on the subdivision plat;

- 3259 (iii) in a document on which the land use permit or subdivision plat is based;
- 3260 (iv) in the written record evidencing approval of the land use permit or subdivision
- 3261 plat;
- 3262 (v) in this chapter;
- 3263 (vi) in a county ordinance; or
- 3264 (vii) in a county specification for residential roadways in effect at the time a
- 3265 residential subdivision was approved.
- 3266 (h) Except as provided in Subsection (1)(i) or (j), a county may not withhold issuance of
- 3267 a certificate of occupancy or acceptance of subdivision improvements because of an
- 3268 applicant's failure to comply with a requirement that is not expressed:
- 3269 (i) in the building permit or subdivision plat, documents on which the building permit
- 3270 or subdivision plat is based, or the written record evidencing approval of the
- 3271 building permit or subdivision plat; or
- 3272 (ii) in this chapter or the county's ordinances.
- 3273 (i) A county may not unreasonably withhold issuance of a certificate of occupancy
- 3274 where an applicant has met all requirements essential for the public health, public
- 3275 safety, and general welfare of the occupants, in accordance with this chapter, unless:
- 3276 (i) the applicant and the county have agreed in a written document to the withholding
- 3277 of a certificate of occupancy; or
- 3278 (ii) the applicant has not provided a financial assurance for required and uncompleted
- 3279 public landscaping improvements or infrastructure improvements in accordance
- 3280 with an applicable local ordinance.
- 3281 (j) A county may not conduct a final inspection required before issuing a certificate of
- 3282 occupancy for a residential unit that is within the boundary of an infrastructure
- 3283 financing district, as defined in Section 17B-1-102, until the applicant for the
- 3284 certificate of occupancy provides adequate proof to the county that any lien on the
- 3285 unit arising from the infrastructure financing district's assessment against the unit
- 3286 under Title 11, Chapter 42, Assessment Area Act, has been released after payment in
- 3287 full of the infrastructure financing district's assessment against that unit.
- 3288 (k) A county:
- 3289 (i) may require the submission of a private landscaping plan, as defined in Section
- 3290 17-79-707, before landscaping is installed; and
- 3291 (ii) may not withhold an applicant's building permit or certificate of occupancy
- 3292 because the applicant has not submitted a private landscaping plan.

- 3293 (2) A county is bound by the terms and standards of applicable land use regulations and
3294 shall comply with mandatory provisions of those regulations.
- 3295 (3) Beginning on October 1, 2026, a county shall publish on the county's website an
3296 application checklist for each land use application type that includes a checklist of all
3297 required plans and documents that make a complete application.
- 3298 [~~3~~] (4) A county may not, as a condition of land use application approval, require a person
3299 filing a land use application to obtain documentation regarding a school district's
3300 willingness, capacity, or ability to serve the development proposed in the land use
3301 application.
- 3302 [~~4~~] (5) Subject to Subsection [~~7~~] (8), a specified public agency's submission of a
3303 development plan and schedule as required in Subsection 17-79-305(8) that complies
3304 with the requirements of that subsection, the specified public agency vests in the
3305 county's applicable land use maps, zoning map, hookup fees, impact fees, other
3306 applicable development fees, and land use regulations in effect on the date of submission.
- 3307 [~~5~~] (6)(a) If sponsors of a referendum timely challenge a project in accordance with
3308 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land
3309 use approval by delivering a written notice:
- 3310 (i) to the local clerk as defined in Section 20A-7-101; and
3311 (ii) no later than seven days after the day on which a petition for a referendum is
3312 determined sufficient under Subsection 20A-7-607(4).
- 3313 (b) Upon delivery of a written notice described in Subsection [~~5~~](a) (6)(a) the following
3314 are rescinded and are of no further force or effect:
- 3315 (i) the relevant land use approval; and
3316 (ii) any land use regulation enacted specifically in relation to the land use approval.
- 3317 [~~6~~] (7)(a) After issuance of a building permit, a county may not:
- 3318 (i) change or add to the requirements expressed in the building permit, unless the
3319 change or addition is:
3320 (A) requested by the building permit holder; or
3321 (B) necessary to comply with an applicable state building code; or
3322 (ii) revoke the building permit or take action that has the effect of revoking the
3323 building permit.
- 3324 (b) Subsection [~~6~~](a) (7)(a) does not prevent a county from issuing a building permit
3325 that contains an expiration date defined in the building permit.
- 3326 [~~7~~] (8) A county shall comply with the provisions of this chapter regarding all pending

3327 land use applications and new land use applications submitted under this chapter.

3328 Section 39. Section **17-79-811** is amended to read:

3329 **17-79-811 . Provisions applicable to a provider of culinary or secondary water.**

3330 A provider of culinary or secondary water that commits to provide a water service required
3331 by a land use application process is subject to the following provisions the same as if the
3332 provider were a county:

3333 (1) Subsections 17-79-804(5) and (6);

3334 (2) Section 17-79-805; [~~and~~]

3335 (3) Section 17-79-812; and

3336 (4) Section 17-79-813.

3337 Section 40. Section **17-79-812** is amended to read:

3338 **17-79-812 . Exactions -- Requirement to offer to original owner property**
3339 **acquired by exaction -- Exaction for right-of-way improvements -- Improvement**
3340 **completion assurance requirements.**

3341 (1) A county may impose an exaction or exactions on development proposed in a land use
3342 application, including, subject to [~~Subsection (3)~~] Section 17-79-813, an exaction for a
3343 water interest, if:

3344 (a) an essential link exists between a legitimate governmental interest and each exaction;
3345 and

3346 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the
3347 proposed development.

3348 (2) If a land use authority imposes an exaction for another governmental entity:

3349 (a) the governmental entity shall request the exaction; and

3350 (b) the land use authority shall transfer the exaction to the governmental entity for which
3351 it was exacted.

3352 [~~(3)(a)(i) Subject to the requirements of this Subsection (3), a county or, if~~
3353 ~~applicable, the county's culinary water authority shall base any exaction for a~~
3354 ~~water interest on the culinary water authority's established calculations of~~
3355 ~~projected water interest requirements.]~~

3356 [(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall
3357 base an exaction for a culinary water interest on:]

3358 [(A) consideration of the system-wide minimum sizing standards established for
3359 the culinary water authority by the Division of Drinking Water in accordance
3360 with Section 19-4-114; and]

3361 ~~[(B) the number of equivalent residential connections associated with the culinary~~
 3362 ~~water demand for each specific development proposed in the development's~~
 3363 ~~land use application, applying lower exactions for developments with lower~~
 3364 ~~equivalent residential connections as demonstrated by at least five years of~~
 3365 ~~usage data for like land uses within the county.]~~

3366 ~~[(iii) A county or culinary water authority may impose an exaction for a culinary~~
 3367 ~~water interest that results in less water being exacted than would otherwise be~~
 3368 ~~exacted under Subsection (3)(a)(ii) if the county or culinary water authority, at the~~
 3369 ~~county's or culinary water authority's sole discretion, determines there is good~~
 3370 ~~cause to do so.]~~

3371 ~~[(iv) A county shall make public the methodology used to comply with Subsection~~
 3372 ~~(3)(a)(ii)(B). A land use applicant may appeal to the county's governing body an~~
 3373 ~~exaction calculation used by the county or the county's culinary water authority~~
 3374 ~~under Subsection (3)(a)(ii). A land use applicant may present data and other~~
 3375 ~~information that illustrates a need for an exaction recalculation and the county's~~
 3376 ~~governing body shall respond with due process.]~~

3377 ~~[(v) Upon an applicant's request, the culinary water authority shall provide the~~
 3378 ~~applicant with the basis for the culinary water authority's calculations under~~
 3379 ~~Subsection (3)(a)(i) on which an exaction for a water interest is based.]~~

3380 ~~[(b) A county or the county's culinary water authority may not impose an exaction for a~~
 3381 ~~water interest if the culinary water authority's existing available water interests~~
 3382 ~~exceed the water interests needed to meet the reasonable future water requirement of~~
 3383 ~~the public, as determined under Subsection 73-1-4(2)(f).]~~

3384 ~~[(4)] (3)(a) If a county plans to dispose of surplus real property under Section 17-78-103~~
 3385 ~~that was acquired under this section and has been owned by the county for less than~~
 3386 ~~15 years, the county shall first offer to reconvey the property, without receiving~~
 3387 ~~additional consideration, to the person who granted the property to the county.~~

3388 ~~(b) A person to whom a county offers to reconvey property under Subsection [(4)(a)]~~
 3389 ~~(3)(a) has 90 days to accept or reject the county's offer.~~

3390 ~~(c) If a person to whom a county offers to reconvey property declines the offer, the~~
 3391 ~~county may offer the property for sale.~~

3392 ~~(d) Subsection [(4)(a)] (3)(a) does not apply to the disposal of property acquired by~~
 3393 ~~exaction by a community development or urban renewal agency.~~

3394 ~~[(5)] (4)(a) A county may not, as part of an infrastructure improvement, require the~~

- 3395 installation of pavement on a residential roadway at a width in excess of 32 feet.
- 3396 (b) Subsection [~~(5)(a)~~] (4)(a) does not apply if a county requires the installation of
- 3397 pavement in excess of 32 feet:
- 3398 (i) in a vehicle turnaround area;
- 3399 (ii) in a cul-de-sac;
- 3400 (iii) to address specific traffic flow constraints at an intersection, mid-block
- 3401 crossings, or other areas;
- 3402 (iv) to address an applicable general or master plan improvement, including
- 3403 transportation, bicycle lanes, trails, or other similar improvements that are not
- 3404 included within an impact fee area;
- 3405 (v) to address traffic flow constraints for service to or abutting higher density
- 3406 developments or uses that generate higher traffic volumes, including community
- 3407 centers, schools, and other similar uses;
- 3408 (vi) as needed for the installation or location of a utility which is maintained by the
- 3409 county and is considered a transmission line or requires additional roadway width;
- 3410 (vii) for third-party utility lines that have an easement preventing the installation of
- 3411 utilities maintained by the county within the roadway;
- 3412 (viii) for utilities over 12 feet in depth;
- 3413 (ix) for roadways with a design speed that exceeds 25 miles per hour;
- 3414 (x) as needed for flood and stormwater routing;
- 3415 (xi) as needed to meet fire code requirements for parking and hydrants; or
- 3416 (xii) as needed to accommodate street parking.
- 3417 (c) Nothing in this section shall be construed to prevent a county from approving a road
- 3418 cross section with a pavement width less than 32 feet.
- 3419 (d)(i) A land use applicant may appeal a municipal requirement for pavement in
- 3420 excess of 32 feet on a residential roadway.
- 3421 (ii) A land use applicant that has appealed a municipal specification for a residential
- 3422 roadway pavement width in excess of 32 feet may request that the county
- 3423 assemble a panel of qualified experts to serve as the appeal authority for purposes
- 3424 of determining the technical aspects of the appeal.
- 3425 (iii) Unless otherwise agreed by the applicant and the county, the panel described in
- 3426 Subsection [~~(5)(d)(ii)~~] (4)(d)(ii) shall consist of the following three experts:
- 3427 (A) one licensed engineer, designated by the county;
- 3428 (B) one licensed engineer, designated by the land use applicant; and

- 3429 (C) one licensed engineer, agreed upon and designated by the two designated
 3430 engineers under Subsections [~~(5)(d)(iii)(A)~~] (4)(d)(iii)(A) and (B).
- 3431 (iv) A member of the panel assembled by the county under Subsection [~~(5)(d)(ii)~~]
 3432 (4)(d)(ii) may not have an interest in the application that is the subject of the
 3433 appeal.
- 3434 (v) The land use applicant shall pay:
 3435 (A) 50% of the cost of the panel; and
 3436 (B) the county's published appeal fee.
- 3437 (vi) The decision of the panel is a final decision, subject to a petition for review under
 3438 Subsection [~~(5)(d)(vii)~~] (4)(d)(vii).
- 3439 (vii) In accordance with Section 17-79-1009, a land use applicant or the county may
 3440 file a petition for review of the decision with the district court within 30 days after
 3441 the date that the decision is final.

3442 Section 41. Section **17-79-813** is enacted to read:

3443 **17-79-813 . Exactions for water rights.**

- 3444 (1) Subject to the requirements of this section, a county or, if applicable, the county's
 3445 culinary water authority shall base any exaction for a water interest on the culinary water
 3446 authority's established calculations of projected water interest requirements.
- 3447 (2) Except as described in Subsection (3), a culinary water authority shall base an exaction
 3448 for a culinary water interest on:
- 3449 (a) consideration of the system-wide minimum sizing standards established for the
 3450 culinary water authority by the Division of Drinking Water in accordance with
 3451 Section 19-4-114; and
- 3452 (b) the number of equivalent residential connections associated with the culinary water
 3453 demand for each specific development proposed in the development's land use
 3454 application, applying lower exactions for developments with lower equivalent
 3455 residential connections as demonstrated by at least five years of usage data for like
 3456 land uses within the county.
- 3457 (3) If a county or culinary water authority determines, in the sole discretion of the county or
 3458 culinary water authority, that good cause exists, the county or culinary water authority
 3459 may impose an exaction for a culinary water interest that results in less water being
 3460 exacted than would otherwise be exacted under Subsection (2).
- 3461 (4)(a) A county shall make public the methodology used to comply with Subsection
 3462 (2)(b).

- 3463 (b) A land use applicant may submit a request to the county's governing body an
 3464 exaction calculation used by the county or the county's culinary water authority under
 3465 Subsection (2).
- 3466 (c) A land use applicant may present data and other information that illustrates a need
 3467 for an exaction recalculation and the county's governing body shall respond with due
 3468 process.
- 3469 (5) Upon an applicant's request, the culinary water authority shall provide the applicant
 3470 with the basis for the culinary water authority's calculations under Subsection (2) on
 3471 which an exaction for a water interest is based.
- 3472 (6) A county or the county's culinary water authority may not impose an exaction for a
 3473 water interest if the culinary water authority's existing available water interests exceed
 3474 the water interests needed to meet the reasonable future water requirement of the public,
 3475 as determined under Subsection 73-1-4(2)(f).

3476 Section 42. Section **17-79-901** is amended to read:

3477 **17-79-901 . Enforcement -- Limitations on a county's ability to enforce an**
 3478 **ordinance by withholding a permit or certificate.**

- 3479 (1)(a) A county or [~~an adversely affected party~~] a land use applicant may, in addition to
 3480 other remedies provided by law, institute:
- 3481 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
 3482 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 3483 (b) A county need only establish the violation to obtain the injunction.
- 3484 (2)(a) Except as provided in Subsections (3) through (6), a county may enforce the
 3485 county's ordinance by withholding a building permit or certificate of occupancy.
- 3486 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building
 3487 or other structure within a county without approval of a building permit.
- 3488 (c) The county may not issue a building permit unless the plans of and for the proposed
 3489 erection, construction, reconstruction, alteration, or use fully conform to all
 3490 regulations then in effect.
- 3491 (d) A county may require an applicant to install a permanent road, cover a temporary
 3492 road with asphalt or concrete, or create another method for servicing a structure that
 3493 is consistent with Appendix D of the International Fire Code, before receiving a
 3494 certificate of occupancy for that structure.
- 3495 (e) A county may require an applicant to maintain and repair a temporary fire apparatus
 3496 road during the construction of a structure accessed by the temporary fire apparatus

- 3497 road in accordance with the county's adopted standards.
- 3498 (f) A county may require temporary signs to be installed at each street intersection once
3499 construction of new roadway allows passage by a motor vehicle.
- 3500 (g) A county may adopt and enforce any appendix of the International Fire Code, 2021
3501 Edition.
- 3502 (3)(a) A county may not deny an applicant a building permit or certificate of occupancy
3503 because the applicant has not completed an infrastructure improvement:
- 3504 (i) unless the infrastructure improvement is essential to meet the requirements for the
3505 issuance of a building permit or certificate of occupancy under Title 15A, State
3506 Construction and Fire Codes Act; and
- 3507 (ii) for which the county has accepted an improvement completion assurance for a
3508 public landscaping improvement, as defined in Section 17-79-707, or an
3509 infrastructure improvement for the development.
- 3510 (b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6,
3511 infrastructure improvement that is essential means:
- 3512 (i) for a building permit:
- 3513 (A) operable fire hydrants installed in a manner that is consistent with the county's
3514 adopted engineering standards; and
- 3515 [(i)] (B) for temporary roads used during construction, a properly compacted road
3516 base installed in a manner consistent with the county's adopted engineering
3517 standards[-] ;
- 3518 (ii) for a certificate of occupancy, at the discretion of the county, at least one of the
3519 following:
- 3520 (A) a permanent road;
- 3521 (B) a temporary road covered with asphalt or concrete; or
- 3522 (C) another method for accessing a structure consistent with Appendix D of the
3523 International Fire Code; and
- 3524 (iii) public infrastructure necessary for the health, life, and safety of the occupant.
- 3525 (c) A county may not adopt an engineering standard that requires an applicant to install a
3526 permanent road or a temporary road with asphalt or concrete before receiving a
3527 building permit.
- 3528 (4) A county may not deny an applicant a building permit or certificate of occupancy for
3529 failure to:
- 3530 (a) submit a private landscaping plan, as defined in Section 17-79-707; or

- 3531 (b) complete a landscaping improvement that is not a public landscaping improvement,
 3532 as defined in Section 17-79-707.
- 3533 (5) A county may not withhold a building permit based on the lack of completion of a
 3534 portion of a public sidewalk to be constructed within a public right-of-way serving a lot
 3535 where a single-family or two-family residence or town home is proposed in a building
 3536 permit application if an improvement completion assurance has been posted for the
 3537 incomplete portion of the public sidewalk.
- 3538 (6) A county may not prohibit the construction of a single-family or two-family residence
 3539 or town home, withhold recording a plat, or withhold acceptance of a public landscaping
 3540 improvement, as defined in Section 17-79-707, or an infrastructure improvement based
 3541 on the lack of installation of a public sidewalk if an improvement completion assurance
 3542 has been posted for the public sidewalk.
- 3543 (7) A county may not redeem an improvement completion assurance securing the
 3544 installation of a public sidewalk sooner than 18 months after the date the improvement
 3545 completion assurance is posted.
- 3546 (8) A county shall allow an applicant to post an improvement completion assurance for a
 3547 public sidewalk separate from an improvement completion assurance for:
 3548 (a) another infrastructure improvement; or
 3549 (b) a public landscaping improvement, as defined in Section 17-79-707.
- 3550 (9) A county may withhold a certificate of occupancy for a single-family or two-family
 3551 residence or town home until the portion of the public sidewalk to be constructed within
 3552 a public right-of-way and located immediately adjacent to the single-family or
 3553 two-family residence or town home is completed and accepted by the county.

3554 Section 43. Section **17-79-1001** is amended to read:

3555 **17-79-1001 . Appeal authority required -- Condition precedent to judicial review**

3556 **-- Appeal authority duties.**

- 3557 (1)(a) [~~Each~~] Subject to Subsection (1)(d), each county adopting a land use ordinance
 3558 shall, by ordinance, establish one or more appeal authorities.
- 3559 (b) An appeal authority shall hear and decide:
- 3560 (i) requests for [~~variances~~] a variance from [~~the terms of~~] a land use [~~ordinances~~]
 3561 ordinance;
- 3562 (ii) appeals from a land use [~~decisions~~] decision applying a land use [~~ordinances~~]
 3563 ordinance; and
- 3564 (iii) appeals from a fee charged in accordance with Section 17-79-802.

- 3565 (c) An appeal authority may not hear an appeal from the enactment of a land use
 3566 regulation.
- 3567 (d) Beginning on July 1, 2026, a county described in Subsection 17-79-302(6)(a)(i) may
 3568 not designate the county's legislative body as an appeal authority.
- 3569 (e) Notwithstanding Subsection (1)(d), a legislative body shall continue to be the appeal
 3570 authority for an appeal if:
- 3571 (i) a land use ordinance designated the legislative body as the appeal authority when
 3572 the appellant filed the appeal: and
- 3573 (ii) the appellant filed the appeal on or before June 30, 2026.
- 3574 (2) As a condition precedent to judicial review, each adversely affected party or land use
 3575 applicant shall timely and specifically challenge a land use authority's land use decision,
 3576 in accordance with local ordinance.
- 3577 (3) An appeal authority described in Subsection (1)(a):
- 3578 (a) shall:
- 3579 (i) act in a quasi-judicial manner; and
- 3580 (ii) serve as the final arbiter of issues involving the interpretation or application of a
 3581 land use [ordinances] ordinance; and
- 3582 (b) may not entertain an appeal of a matter in which the appeal authority, or any
 3583 participating member, had first acted as the land use authority.
- 3584 (4) By ordinance, a county may:
- 3585 (a) designate a separate appeal authority to hear requests for variances than the appeal
 3586 authority the county designates to hear appeals;
- 3587 (b) designate one or more separate appeal authorities to hear distinct types of appeals of
 3588 land use authority decisions;
- 3589 (c) require an adversely affected party to present to an appeal authority every theory of
 3590 relief that the adversely affected party can raise in district court; and
- 3591 [~~(d) not require a land use applicant or adversely affected party to pursue duplicate or~~
 3592 ~~successive appeals before the same or separate appeal authorities as a condition of an~~
 3593 ~~appealing party's duty to exhaust administrative remedies; and]~~
- 3594 [(e)] (d) provide that specified types of land use decisions may be appealed directly to the
 3595 district court.
- 3596 (5) A county may not:
- 3597 (a) require a public hearing for a request for a variance or land use appeal[-] ; or
- 3598 (b) require a land use applicant or adversely affected party to pursue successive appeals

3599 before the same or separate appeal authorities as a condition of an appealing party's
 3600 duty to exhaust administrative remedies.

3601 (6) If the county establishes or, before May 2, 2005, has established a multiperson board,
 3602 body, or panel to act as an appeal authority, at a minimum the board, body, or panel
 3603 shall:

- 3604 (a) notify each of the members of the board, body, or panel of any meeting or hearing of
 3605 the board, body, or panel;
 3606 (b) provide each of the members of the board, body, or panel with the same information
 3607 and access to municipal resources as any other member;
 3608 (c) convene only if a quorum of the members of the board, body, or panel is present; and
 3609 (d) act only upon the vote of a majority of the convened members of the board, body, or
 3610 panel.

3611 Section 44. Section **17-79-1005** is repealed and reenacted to read:

3612 **17-79-1005 . Burden of proof.**

3613 In an appeal described in this part:

- 3614 (1) if the appellant is a land use applicant, the appellant has the burden of proving that the
 3615 land use authority's land use decision is illegal or is not supported by substantial
 3616 evidence; or
 3617 (2) if the appellant is an adversely affected party, the appellant has the burden of proving
 3618 that the land use authority's land use decision is illegal, or that the factual findings are
 3619 clearly erroneous.

3620 Section 45. Section **17-79-1006** is amended to read:

3621 **17-79-1006 . Due process.**

- 3622 (1) [~~Each~~] An appeal authority shall conduct each appeal and variance request as described
 3623 by local ordinance.
 3624 (2) [~~Each~~] An appeal authority shall respect the due process rights of [~~each of the~~
 3625 ~~participants~~] an appeal participant.
 3626 (3) An appeal authority may only allow the following people to participate or speak during
 3627 an appeal hearing:
 3628 (a) the appellant or the appellant's representatives;
 3629 (b) the land use applicant or the land use applicant's representatives; and
 3630 (c) the county's representatives.

3631 Section 46. Section **17-79-1007** is amended to read:

3632 **17-79-1007 . Scope of review of factual matters on appeal -- Appeal authority**

3633 **requirements.**

- 3634 (1) A county may, by ordinance, designate the scope of review of factual matters for
3635 appeals of land use authority decisions.
- 3636 (2) If the county fails to designate a scope of review of factual matters, the appeal authority
3637 shall review the ~~[matter]~~ factual matters de novo, without deference to the land use
3638 authority's determination of the factual matters.
- 3639 (3) If the scope of review of factual matters is on the record, the appeal authority shall
3640 determine whether the record on appeal includes substantial evidence for each essential
3641 finding of fact.
- 3642 (4) The appeal authority shall:
- 3643 (a) determine the correctness of the land use authority's interpretation and application of
3644 the plain meaning of the land use regulations; and
- 3645 (b) interpret and apply a land use regulation to favor a land use application unless the
3646 land use regulation plainly restricts the land use application.
- 3647 (5)(a) An appeal authority's land use decision is a quasi-judicial act.
- 3648 (b) ~~[A]~~ Except as provided in Subsection (5)(c), a legislative body may not act as an
3649 appeal authority unless both the legislative body and the appealing party agree to
3650 allow a third party to act as the appeal authority.
- 3651 (c) Beginning on July 1, 2026, the legislative body of a county described in Subsection
3652 17-79-302(6)(a)(i) may not act as an appeal authority unless:
- 3653 (i) a land use ordinance designated the legislative body as the appeal authority when
3654 the appellant filed the appeal; and
- 3655 (ii) the appellant filed the appeal on or before June 30, 2026.
- 3656 (6) Only a decision in which a land use authority has applied a land use regulation to a
3657 particular land use application, person, or parcel may be appealed to an appeal authority.

3658 Section 47. Section **17-79-1009** is amended to read:

3659 **17-79-1009 . No district court review until administrative remedies exhausted --**

3660 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**
3661 **-- Staying of decision.**

- 3662 (1) ~~[No]~~ A person may challenge in district court a land use decision [until that] if the person
3663 has exhausted the person's administrative remedies as provided in [Part 7, Appeal
3664 Authority and Variances] this part, if applicable.
- 3665 (2)(a) Subject to Subsection (1), a land use applicant or adversely affected party may file
3666 a petition for review of a land use decision with the district court within 30 days after

- 3667 the decision is final.
- 3668 (b)(i) The time under Subsection (2)(a) to file a petition is tolled from the date a
3669 property owner files a request for arbitration of a constitutional taking issue with
3670 the property rights ombudsman under Section 13-43-204 until 30 days after:
- 3671 (A) the arbitrator issues a final award; or
 - 3672 (B) the property rights ombudsman issues a written statement under Subsection
3673 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.
- 3674 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
3675 taking issue that is the subject of the request for arbitration filed with the property
3676 rights ombudsman by a property owner.
- 3677 (iii) A request for arbitration filed with the property rights ombudsman after the time
3678 under Subsection (2)(a) to file a petition has expired does not affect the time to
3679 file a petition.
- 3680 (3)(a) A court shall:
- 3681 (i) presume that a land use regulation properly enacted under the authority of this
3682 chapter is valid; and
 - 3683 (ii) determine only whether:
 - 3684 (A) the land use regulation is expressly preempted by, or was enacted contrary to,
3685 state or federal law; and
 - 3686 (B) it is reasonably debatable that the land use regulation is consistent with this
3687 chapter.
- 3688 (b) A court shall presume that a final land use decision of a land use authority or an
3689 appeal authority is valid unless the land use decision is:
- 3690 (i) arbitrary and capricious; or
 - 3691 (ii) illegal.
- 3692 (c)(i) A land use decision is arbitrary and capricious if the land use decision is not
3693 supported by substantial evidence in the record.
- 3694 (ii) A land use decision is illegal if the land use decision:
- 3695 (A) is based on an incorrect interpretation of a land use regulation;
 - 3696 (B) conflicts with the authority granted by this title; or
 - 3697 (C) is contrary to law.
- 3698 (d)(i) A court may affirm or reverse a land use decision.
- 3699 (ii) If the court reverses a land use decision, the court shall remand the matter to the
3700 land use authority with instructions to issue a land use decision consistent with the

- 3701 court's decision.
- 3702 (4) The provisions of Subsection (2)(a) apply from the date on which the county takes final
3703 action on a land use application, if the county conformed with the notice provisions of
3704 Part 2, Notice, or for any person who had actual notice of the pending land use decision.
- 3705 (5) If the county has complied with Section 17-79-205, a challenge to the enactment of a
3706 land use regulation~~[-or]~~ , general plan, or specified land use law may not be filed with the
3707 district court more than 30 days after the enactment.
- 3708 (6) A challenge to a land use decision is barred unless the challenge is filed within 30 days
3709 after the land use decision is final.
- 3710 (7)(a) The land use authority or appeal authority, as the case may be, shall transmit to
3711 the reviewing court the record of the proceedings of the land use authority or appeal
3712 authority, including the minutes, findings, orders and, if available, a true and correct
3713 transcript of the proceedings.
- 3714 (b) If the proceeding was recorded, a transcript of that recording is a true and correct
3715 transcript for purposes of this Subsection (7).
- 3716 (8)(a)(i) If there is a record, the district court's review is limited to the record
3717 provided by the land use authority or appeal authority, as the case may be.
- 3718 (ii) The court may not accept or consider any evidence outside the record of the land
3719 use authority or appeal authority, as the case may be, unless that evidence was
3720 offered to the land use authority or appeal authority, respectively, and the court
3721 determines that the evidence was improperly excluded.
- 3722 (b) If there is no record, the court may call witnesses and take evidence.
- 3723 (9)(a) The filing of a petition does not stay the land use decision of the land use
3724 authority or appeal authority, as the case may be.
- 3725 (b)(i) Before filing a petition under this section or a request for mediation or
3726 arbitration of a constitutional taking issue under Section 13-43-204, a land use
3727 applicant may petition the appeal authority to stay the appeal authority's decision.
- 3728 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal
3729 authority's decision stayed pending district court review if the appeal authority
3730 finds the order to be in the best interest of the county.
- 3731 (iii) After a petition is filed under this section or a request for mediation or arbitration
3732 of a constitutional taking issue is filed under Section 13-43-204, the petitioner
3733 may seek an injunction staying the appeal authority's land use decision.
- 3734 (10) If the court determines that a party initiated or pursued a challenge to a land use

3735 decision on a land use application in bad faith, the court may award attorney fees.

3736 Section 48. Section **63I-2-210** is amended to read:

3737 **63I-2-210 . Repeal dates: Title 10.**

3738 (1) Subsection 10-2a-205(2)(b)(iii), regarding a feasibility study for the proposed
3739 incorporation of a community council area, is repealed July 1, 2028.

3740 (2) Section 10-2a-205.5, Additional feasibility consultant considerations for proposed
3741 incorporation of community council area -- Additional feasibility study requirements, is
3742 repealed July 1, 2028.

3743 (3) Subsection 10-20-904(4)(c), regarding an inspection fee on a qualified water
3744 conservancy district, is repealed July 1, 2026.

3745 (4) Section 10-20-626, regarding regulation of structure height, is repealed July 1, 2027.

3746 Section 49. Section **63I-2-217** is amended to read:

3747 **63I-2-217 . Repeal dates: Titles 17 through 17D.**

3748 (1) Subsection 17-79-804(4)(c), regarding an inspection fee on a qualified water
3749 conservancy district, is repealed July 1, 2026.

3750 (2) Subsection 17-62-102(3), regarding the process for changing a form of county
3751 government, is repealed January 1, 2028.

3752 (3) Subsections 17-62-203(10) through (12), regarding the process to create a districting
3753 commission and implementing a district map, are repealed July 1, 2029.

3754 (4) Section 17-79-621, regarding regulation of structure height, is repealed July 1, 2027.

3755 Section 50. **Effective Date.**

3756 This bill takes effect on May 6, 2026.