

David Shallenberger proposes the following substitute bill:

Local Land and Water 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 local land use and water planning.

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;
- requires counties, municipalities, and special districts to adopt a written plan, beginning on January 1, 2028, for determining the reasonable future water requirement of the public before imposing a water exaction (written plan);
- requires the state engineer to make rules to establish standards for the written plan;
- 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;

- 29 ▶ prohibits a legislative body from acting as an appeal authority;
- 30 ▶ modifies the standard of review of a land use authority's decision to deny or approve a
- 31 land use application;
- 32 ▶ modifies appeal requirements;
- 33 ▶ requires a specified municipality to allow a detached accessory dwelling unit as a
- 34 permitted use in certain zones;
- 35 ▶ clarifies notice requirements for a proposed county land use ordinance that is ministerial
- 36 in nature;
- 37 ▶ modifies a county's authority to deny an applicant a building permit or certificate of
- 38 occupancy if the applicant has not completed an infrastructure improvement; and
- 39 ▶ makes technical and conforming changes.

40 **Money Appropriated in this Bill:**

41 None

42 **Other Special Clauses:**

43 This bill provides a special effective date.

44 **Utah Code Sections Affected:**

45 **AMENDS:**

46 **10-2a-106 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapter 224 and

47 further amended by Revisor Instructions, Laws of Utah 2023, Chapter 224

48 **10-2a-206 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 518

49 **10-2a-220 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 518

50 **10-3-702 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 354

51 **10-20-102 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,

52 First Special Session, Chapter 15

53 **10-20-301 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,

54 First Special Session, Chapter 15

55 **10-20-302 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,

56 First Special Session, Chapter 15

57 **10-20-501 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,

58 First Special Session, Chapter 15

59 **10-20-502 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,

60 First Special Session, Chapter 15

61 **10-20-507 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,

62 First Special Session, Chapter 15

63 **10-20-806 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
64 First Special Session, Chapter 15

65 **10-20-807 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
66 First Special Session, Chapter 15

67 **10-20-902 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
68 First Special Session, Chapter 15

69 **10-20-910 (Effective 05/06/26)**, as enacted by Laws of Utah 2025, First Special Session,
70 Chapter 15

71 **10-20-911 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
72 First Special Session, Chapter 15

73 **10-20-1001 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
74 First Special Session, Chapter 15

75 **10-20-1101 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
76 First Special Session, Chapter 15

77 **10-20-1106 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
78 First Special Session, Chapter 15

79 **10-20-1107 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
80 First Special Session, Chapter 15

81 **10-20-1109 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
82 First Special Session, Chapter 15

83 **10-21-101 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
84 First Special Session, Chapter 15

85 **13-43-205 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, First Special
86 Session, Chapter 15

87 **17-79-102 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
88 First Special Session, Chapter 14

89 **17-79-205 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
90 First Special Session, Chapter 14

91 **17-79-301 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
92 First Special Session, Chapter 14

93 **17-79-302 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
94 First Special Session, Chapter 14

95 **17-79-501 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
96 First Special Session, Chapter 14

- 97 **17-79-502 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
98 First Special Session, Chapter 14
- 99 **17-79-507 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
100 First Special Session, Chapter 14
- 101 **17-79-706 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
102 First Special Session, Chapter 14
- 103 **17-79-707 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
104 First Special Session, Chapter 14
- 105 **17-79-803 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
106 First Special Session, Chapter 14
- 107 **17-79-811 (Effective 05/06/26)**, as enacted by Laws of Utah 2025, First Special Session,
108 Chapter 14
- 109 **17-79-812 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
110 First Special Session, Chapter 14
- 111 **17-79-901 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
112 First Special Session, Chapter 14
- 113 **17-79-1001 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
114 First Special Session, Chapter 14
- 115 **17-79-1006 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
116 First Special Session, Chapter 14
- 117 **17-79-1007 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
118 First Special Session, Chapter 14
- 119 **17-79-1009 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
120 First Special Session, Chapter 14
- 121 **17B-1-120 (Effective 05/06/26)**, as last amended by Laws of Utah 2023, Chapters 15, 255
- 122 **63I-2-210 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, First Special
123 Session, Chapter 15
- 124 **63I-2-217 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, First Special
125 Session, Chapter 7
- 126 **73-1-4 (Effective 05/06/26) (Partially Repealed 12/31/30)**, as last amended by Laws of
127 Utah 2024, Chapter 233
- 128 ENACTS:
- 129 **10-20-625 (Effective 05/06/26)**, Utah Code Annotated 1953
- 130 **10-20-626 (Effective 05/06/26)**, Utah Code Annotated 1953

131 **10-20-912 (Effective 05/06/26)**, Utah Code Annotated 1953

132 **10-21-304 (Effective 10/01/26)**, Utah Code Annotated 1953

133 **17-79-621 (Effective 05/06/26)**, Utah Code Annotated 1953

134 **17-79-813 (Effective 05/06/26)**, Utah Code Annotated 1953

135 REPEALS AND REENACTS:

136 **10-20-1105 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
137 First Special Session, Chapter 15

138 **17-79-1005 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025,
139 First Special Session, Chapter 14

140

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

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

143 **10-2a-106 (Effective 05/06/26). Feasibility request filed before changes to law**
144 **take effect.**

145 (1) If an individual files a feasibility request for incorporation of a city or town before May
146 14, 2019, the process for incorporating the city or town is not subject to Laws of Utah
147 2019, Chapter 165 or Laws of Utah 2023, Chapter 224, and is instead subject to the
148 municipal incorporation law in effect on the day on which the individual files the
149 feasibility request.

150 (2) If an individual files a feasibility request for incorporation of a city or town before May
151 3, 2023[;] :

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

156 (b) the process and requirements for filing a modified feasibility request on or after May
157 6, 2026, shall be in accordance with the law in effect on the day on which the
158 individual or an incorporation sponsor files a modified feasibility request.

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

160 **10-2a-206 (Effective 05/06/26). Modified feasibility request -- Supplemental**
161 **feasibility study.**

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

164 [(+)] (2)(a) The sponsors of a feasibility request may modify the request to alter the

- 165 boundaries of the proposed municipality and refile the modified feasibility request
166 with the county clerk if:
- 167 (i) the results of the feasibility study do not comply with Subsection 10-2a-205(5)(a);
 - 168 or
 - 169 (ii)(A) the feasibility request complies with Subsection 10-2a-201.5(4)(b);
 - 170 (B) the annexation petition described in Subsection 10-2a-201.5(4)(b) that
 - 171 proposed the annexation of an area that is part of the area proposed for
 - 172 incorporation has been denied; and
 - 173 (C) an incorporation petition based on the feasibility request has not been filed.
- 174 (b)(i) The sponsors of a feasibility request may not file a modified request under
175 Subsection [~~(1)(a)(i)~~] (2)(a)(i) more than 90 days after the day on which the
176 feasibility consultant submits the final results of the feasibility study under
177 Subsection 10-2a-205(2)(c)(iii).
- 178 (ii) The sponsors of a feasibility request may not file a modified request under
 - 179 Subsection [~~(1)(a)(ii)~~] (2)(a)(ii) more than 18 months after filing the original
 - 180 feasibility request under Section 10-2a-202.
- 181 (c)(i) Subject to Subsection [~~(1)(e)(ii)~~] (2)(c)(ii), each modified feasibility request
182 under Subsection [~~(1)(a)~~] (2)(a) shall comply with Subsections 10-2a-202(1), (3),
183 (4), and (5) and Subsection 10-2a-201.5(4).
- 184 (ii) Notwithstanding Subsection [~~(1)(e)(i)~~] (2)(c)(i), a signature on a feasibility request
 - 185 filed under Section 10-2a-202 may be used toward fulfilling the signature
 - 186 requirement of Subsection 10-2a-202(1)(a) for the feasibility request as modified
 - 187 under Subsection [~~(1)(a)~~] (2)(a), unless the modified feasibility request proposes
 - 188 the incorporation of an area that is more than 20% larger or smaller than the area
 - 189 described by the original feasibility request in terms of:
 - 190 (A) private land area; or
 - 191 (B) assessed fair market value of private real property, as of January 1 of the
 - 192 current year.
- 193 (d) Within 20 days after the day on which the county clerk receives the modified
194 request, the county clerk and the lieutenant governor shall follow the same procedure
195 described in Subsections 10-2a-204(1) through (6) for the modified feasibility request
196 as for an original feasibility request.
- 197 (e)(i) If a sponsor files a modified feasibility request that includes an area of land that
198 was not included in the original feasibility request, the county clerk shall, within

199 seven days after the day on which the sponsor files the modified feasibility request
200 with the lieutenant governor, identify any new specified landowners located
201 within the added area of land and mail written notice to each of the new specified
202 landowners.

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

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

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

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

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

219 [(e)] (g) Within 10 days after [a] the day on which the time period for a specified
220 landowner to request exclusion under Subsection (2)(f) expires, or if a sponsor files a
221 modified feasibility request that does not include a new area of land, within 10 days
222 after the sponsor files the modified feasibility request[is filed], the lieutenant
223 governor shall:

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

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

226 [(f)] (h) Within 20 days after the lieutenant governor provides the estimated
227 supplemental feasibility study cost, the feasibility request sponsors shall pay the
228 estimated cost to the lieutenant governor for a supplemental feasibility study
229 conducted on or after May 1, 2024.

230 [(2)] (3) The timely filing of a modified feasibility request under Subsection [(1)] (2) gives
231 the modified feasibility request the same processing priority under Subsection
232 10-2a-204(7) as the original feasibility request if the feasibility request sponsors pay the

- 233 estimated cost of the supplemental feasibility study as required in Subsection [~~(1)~~(e)]
 234 ~~(2)~~(e).
- 235 [~~(3)~~] (4) [~~Within~~] Except as provided in Subsection (5), within 10 days after the day on
 236 which the lieutenant governor receives payment of the estimated supplemental
 237 feasibility study cost, the lieutenant governor shall commission the feasibility consultant
 238 who conducted the feasibility study to conduct a supplemental feasibility study that
 239 accounts for the modified feasibility request.
- 240 (5) If a modified feasibility request includes an area of land that was not included in the
 241 original feasibility request, the lieutenant governor may not commission a supplemental
 242 feasibility study under Subsection (4) unless:
- 243 (a) the deadline for filing a request for exclusion described in Subsection (2)(f) has
 244 passed; and
- 245 (b) the county clerk and lieutenant governor have issued a final determination on any
 246 request for exclusion filed in accordance with Subsection (2)(f).
- 247 [~~(4)~~] (6) The lieutenant governor shall require the feasibility consultant to:
- 248 (a) submit a draft of the supplemental feasibility study to each applicable person with
 249 whom the feasibility consultant is required to consult under Subsection
 250 10-2a-205(3)(c) within 30 days after the day on which the feasibility consultant is
 251 engaged to conduct the supplemental study;
- 252 (b) allow each person to whom the consultant provided a draft under Subsection [~~(4)~~(a)]
 253 ~~(6)~~(a) to review and provide comment on the draft; and
- 254 (c) submit a completed supplemental feasibility study, to the following within 45 days
 255 after the day on which the feasibility consultant is engaged to conduct the feasibility
 256 study:
- 257 (i) the lieutenant governor;
- 258 (ii) the county legislative body of the county in which the incorporation is proposed;
- 259 (iii) the contact sponsor; and
- 260 (iv) each person to whom the consultant provided a draft under Subsection [~~(4)~~(a)]
 261 ~~(6)~~(a).
- 262 [~~(5)~~] (7) If the results of the supplemental feasibility study do not comply with Subsection
 263 10-2a-205(5)(a):
- 264 (a) the process to incorporate the area that is the subject of the supplemental feasibility
 265 study may not proceed; and
- 266 (b) a feasibility request under Section 10-2a-202 may not be filed within 18 months after

267 the date of the supplemental feasibility study if the feasibility request proposes the
268 incorporation of an area included within the area described in the supplemental
269 feasibility study.

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

271 **10-2a-220 (Effective 05/06/26). Costs of incorporation -- Fees established by**
272 **lieutenant governor.**

273 (1)(a) There is created an expendable special revenue fund known as the "Municipal
274 Incorporation Expendable Special Revenue Fund."

275 (b) The fund shall consist of:

276 (i) appropriations from the Legislature;

277 (ii) payments that feasibility request sponsors make to the lieutenant governor under
278 Subsections 10-2a-205(1)(b) and 10-2a-206(1)(f); and

279 (iii) fees the lieutenant governor collects and remits to the fund under this section.

280 (c) The lieutenant governor shall deposit all money collected under this section into the
281 fund.

282 (2)(a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504
283 for a cost incurred by the lieutenant governor or the county for an incorporation
284 proceeding, including:

285 (i) a request certification;

286 (ii) a petition certification;

287 (iii) publication of notices;

288 (iv) public hearings;

289 (v) all other incorporation activities occurring after the elections; and

290 (vi) any other cost incurred by the lieutenant governor or county in relation to an
291 incorporation proceeding.

292 (b) A cost under Subsection (2)(a) does not include a cost incurred by a county for
293 holding an election under Section 10-2a-210.

294 (3) Subject to Subsections 10-2a-205(1)(b) and [~~10-2a-206(1)(f)~~] 10-2a-206(2)(h), the
295 lieutenant governor shall pay for a cost described in Subsection (2)(a) using funds from
296 the Municipal Incorporation Expendable Special Revenue Fund.

297 (4)(a) A newly incorporated municipality shall:

298 (i) pay to the lieutenant governor each fee established under Subsection (2) for each
299 cost described in Subsection (2)(a) incurred by the lieutenant governor or the
300 county;

- 301 (ii) pay the county for a cost described in Subsection (2)(b); and
 302 (iii) reimburse feasibility request sponsors the cost the feasibility request sponsors
 303 paid for:
 304 (A) a feasibility study under Section 10-2a-205; and
 305 (B) any supplemental feasibility study under Section 10-2a-206.
- 306 (b) The lieutenant governor shall execute a payback agreement with each new
 307 municipality for the new municipality to pay the fees described in Subsection (4)(a)
 308 over a period that, except as provided in Subsection (4)(c), may not exceed five years.
- 309 (c) If necessary, the lieutenant governor may extend a fee payment deadline beyond the
 310 deadline described in Subsection (4)(b) by amending the payback agreement
 311 described in Subsection (4)(b).
- 312 (d) The lieutenant governor shall deposit each fee the lieutenant governor collects under
 313 Subsection (4)(a)(i) into the Municipal Incorporation Expendable Special Revenue
 314 Fund.

- 315 (5) If the lieutenant governor expends funds from the Municipal Incorporation Expendable
 316 Special Revenue Fund that are not repaid to the lieutenant governor under Subsection
 317 (4)(a)(i) because an area did not incorporate as a municipality, the Legislature shall
 318 appropriate money to the fund in an amount equal to the funds that are not repaid.

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

320 **10-3-702 (Effective 05/06/26). Extent of power exercised by ordinance.**

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

324 [~~(2) (1)(a) Except as provided in Subsection (2)(b), the~~] The governing body of a
 325 municipality may pass any ordinance to regulate, require, prohibit, govern, control or
 326 supervise any activity, business, conduct or condition authorized by this title or any
 327 other provision of law.

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

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

332 [~~(3) (2)(a) An officer of the municipality may not be convicted of a criminal offense~~
 333 ~~where the officer relied on or enforced an ordinance the officer reasonably believed~~
 334 ~~to be a valid ordinance.~~

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

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

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

340 **10-20-102 (Effective 05/06/26). Definitions.**

341 As used in this chapter:

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

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

- 345 (a) owns real property adjoining the property that is the subject of a land use application
 346 or land use decision; or
 347 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
 348 general community as a result of the land use decision.

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

- 354 (a) the entity's services or facilities are likely to require expansion or significant
 355 modification because of an intended use of land;
 356 (b) the entity has filed with the municipality a copy of the entity's general or long-range
 357 plan; or
 358 (c) the entity has filed with the municipality a request for notice during the same
 359 calendar year and before the municipality provides notice to an affected entity in
 360 compliance with a requirement imposed under this chapter.

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

- 362 (a) a single project; and
 363 (b) the subject of a land use approval that:
 364 (i) sponsors of a referendum timely challenged in accordance with Section 20A-7-601;
 365 and
 366 [(e)] (ii) is determined to be legally referable under Section 20A-7-602.8.

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

- 369 variance.
- 370 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
371 residential property if the sign is designed or intended to direct attention to a business,
372 product, or service that is not sold, offered, or existing on the property where the sign is
373 located.
- 374 (7)(a) "Boundary adjustment" means an agreement between adjoining property owners
375 to relocate a common boundary that results in a conveyance of property between the
376 adjoining lots, adjoining parcels, or adjoining lots and parcels.
- 377 (b) "Boundary adjustment" does not mean a modification of a lot or parcel boundary that:
378 (i) creates an additional lot or parcel; or
379 (ii) is made by the Department of Transportation.
- 380 (8)(a) "Boundary establishment" means an agreement between adjoining property
381 owners to clarify the location of an ambiguous, uncertain, or disputed common
382 boundary.
- 383 (b) "Boundary establishment" does not mean a modification of a lot or parcel boundary
384 that:
385 (i) creates an additional lot or parcel; or
386 (ii) is made by the Department of Transportation.
- 387 (9) "Building code adoption cycle" means the period of time beginning the day on which a
388 specific edition of a construction code from a nationally recognized code authority is
389 adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day
390 before a new edition of a construction code is adopted and effective in Title 15A, State
391 Construction and Fire Codes Act.
- 392 [(9)] (10)(a) "Charter school" means:
393 (i) an operating charter school;
394 (ii) a charter school applicant that a charter school authorizer approves in accordance
395 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
396 (iii) an entity that is working on behalf of a charter school or approved charter
397 applicant to develop or construct a charter school building.
- 398 (b) "Charter school" does not include a therapeutic school.
- 399 [(10)] "Building code adoption cycle" means the period of time beginning the day on which
400 a specific edition of a construction code from a nationally recognized code authority is
401 adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day
402 before a new edition of a construction code is adopted and effective in Title 15A, State

- 403 ~~Construction and Fire Codes Act.]~~
- 404 (11) "Conditional use" means a land use that, because of the unique characteristics or
405 potential detrimental impact of the land use on the municipality, surrounding neighbors,
406 or adjacent land uses, may not be compatible in some areas or may be compatible only if
407 certain conditions are required that mitigate or eliminate the detrimental impacts.
- 408 (12) "Constitutional taking" means a governmental action that results in a taking of private
409 property [~~so that~~] where compensation to the property owner[~~of the property~~] is required
410 by the:
- 411 (a) Fifth or Fourteenth Amendment [øf] to the Constitution of the United States; or
412 (b) Utah Constitution, Article I, Section 22.
- 413 (13) "Conveyance document" means an instrument that:
- 414 (a) meets the definition of "document" in Section 57-1-1; and
415 (b) meets the requirements of Section 57-1-45.5.
- 416 (14) "Conveyance of property" means the transfer of ownership of any portion of real
417 property from one person to another person.
- 418 (15) "Culinary water authority" means the department, agency, or public entity with
419 responsibility to review and approve the feasibility of the culinary water system and
420 sources for the subject property.
- 421 (16) "Department of Transportation" means the entity created in Section 72-1-201.
- 422 (17) "Development activity" means:
- 423 (a) any construction or expansion of a building, structure, or use that creates additional
424 demand and need for public facilities;
- 425 (b) any change in use of a building or structure that creates additional demand and need
426 for public facilities; or
- 427 (c) any change in the use of land that creates additional demand and need for public
428 facilities.
- 429 (18)(a) "Development agreement" means a written agreement or amendment to a written
430 agreement between a municipality and one or more parties that regulates or controls
431 the use or development of a specific area of land.
- 432 (b) "Development agreement" does not include an improvement completion assurance.
- 433 (19)(a) "Disability" means a physical or mental impairment that substantially limits one
434 or more of a person's major life activities, including a person having a record of such
435 an impairment or being regarded as having such an impairment.
- 436 (b) "Disability" does not include current illegal use of, or addiction to, any federally

437 controlled substance, as defined in the Controlled Substances Act, 21 U.S.C. Sec. 802.

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

439 (21) "Educational facility":

440 (a) means:

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

444 (ii) a structure or facility:

445 (A) located on the same property as a building described in Subsection (21)(a)(i);
446 and

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

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

450 (b) does not include:

451 (i) land or a structure, including land or a structure for inventory storage, equipment
452 storage, food processing or preparing, vehicle storage or maintenance, or similar
453 use that is:

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

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

458 (ii) a therapeutic school.

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

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

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

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

464 [~~(24)~~ (23) "Fire authority" means the department, agency, or public entity with
465 responsibility to review and approve the feasibility of fire protection and suppression
466 services for the subject property.

467 [~~(25)~~ (24) "Flood plain" means land that:

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

470 (b) has not been studied or designated by the Federal Emergency Management Agency

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

474 (25) "Full boundary adjustment" means a boundary adjustment that is not a simple
475 boundary adjustment.

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

478 (27) "Geologic hazard" means:

- 479 (a) a surface fault rupture;
- 480 (b) shallow groundwater;
- 481 (c) liquefaction;
- 482 (d) a landslide;
- 483 (e) a debris flow;
- 484 (f) unstable soil;
- 485 (g) a rock fall; or
- 486 (h) any other geologic condition that presents a risk:
 - 487 (i) to life;
 - 488 (ii) of substantial loss of real property; or
 - 489 (iii) of substantial damage to real property.

490 (28) "Historic preservation authority" means a person, board, commission, or other body
491 designated by a legislative body to:

- 492 (a) recommend land use regulations to preserve local historic districts or areas; and
- 493 (b) administer local historic preservation land use regulations within a local historic
494 district or area.

495 (29) "Home-based microschool" means the same as that term is defined in Section
496 53G-6-201.

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

500 (31)(a) "Identical plans" means floor plans submitted to a municipality that:

- 501 (i) are submitted within the same building code adoption cycle as floor plans that
502 were previously approved by the municipality;
- 503 (ii) have no structural differences from floor plans that were previously approved by
504 the municipality; and

- 505 (iii) describe a building that:
- 506 (A) is located on land zoned the same as the land on which the building described
- 507 in the previously approved plans is located;
- 508 (B) has a substantially identical floor plan to a floor plan previously approved by
- 509 the municipality; and
- 510 (C) does not require any engineering or analysis beyond a review to confirm the
- 511 submitted floor plans are substantially identical to a floor plan previously
- 512 approved by the municipality or a review of the site plan and associated
- 513 geotechnical reports for the site.
- 514 (b) "Identical plans" include floor plans that are oriented differently as the floor plan that
- 515 was previously approved by the municipality.
- 516 (32) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact
- 517 Fees Act.
- 518 (33) "Improvement completion assurance" means a surety bond, letter of credit, financial
- 519 institution bond, cash, assignment of rights, lien, or other equivalent security required by
- 520 a municipality to guaranty the proper completion of landscaping or an infrastructure
- 521 improvement required as a condition precedent to:
- 522 (a) recording a subdivision plat; or
- 523 (b) development of a commercial, industrial, mixed use, or multifamily project.
- 524 (34) "Improvement warranty" means an applicant's unconditional warranty that the
- 525 applicant's installed and accepted landscaping or infrastructure improvement:
- 526 (a) complies with the municipality's written standards for design, materials, and
- 527 workmanship; and
- 528 (b) will not fail in any material respect, as a result of poor workmanship or materials,
- 529 within the improvement warranty period.
- 530 (35) "Improvement warranty period" means a period:
- 531 (a) no later than one year after a municipality's acceptance of required public
- 532 landscaping; or
- 533 (b) no later than one year after a municipality's acceptance of required infrastructure,
- 534 unless the municipality:
- 535 (i) determines, based on accepted industry standards and for good cause, that a
- 536 one-year period would be inadequate to protect the public health, safety, and
- 537 welfare; and
- 538 (ii) has substantial evidence, on record:

- 539 (A) of prior poor performance by the applicant; or
540 (B) that the area upon which the infrastructure will be constructed contains
541 suspect soil and the municipality has not otherwise required the land use
542 applicant to mitigate the suspect soil.
- 543 (36) "Infrastructure improvement" means permanent infrastructure that is essential for the
544 public health and safety or that:
545 (a) is required for human occupation; and
546 (b) an applicant shall install:
547 (i) in accordance with published installation and inspection specifications for public
548 improvements; and
549 (ii) whether the improvement is public or private, as a condition of:
550 (A) recording a subdivision plat;
551 (B) obtaining a building permit; or
552 (C) development of a commercial, industrial, mixed use, condominium, or
553 multifamily project.
- 554 (37) "Internal lot restriction" means a platted note, platted demarcation, or platted
555 designation that:
556 (a) runs with the land; and
557 (b)(i) creates a restriction that is enclosed within the perimeter of a lot described on
558 the plat; or
559 (ii) designates a development condition that is enclosed within the perimeter of a lot
560 described on the plat.
- 561 (38) "Land use applicant" means: a property owner, or the property owner's designee, who
562 submits a land use application regarding the property owner's land.
- 563 (39) "Land use application":
564 (a) means an application that is:
565 (i) required by a municipality; and
566 (ii) submitted by a land use applicant to obtain a land use decision; and
567 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 568 (40) "Land use authority" means:
569 (a) a person, board, commission, agency, or body, including the local legislative body,
570 designated by the local legislative body to act upon a land use application; or
571 (b) if the local legislative body has not designated a person, board, commission, agency,
572 or body, the local legislative body.

- 573 (41) "Land use decision" means an administrative decision of a land use authority or appeal
574 authority regarding:
- 575 (a) a land use permit; or
576 (b) a land use application.
- 577 (42) "Land use permit" means a permit issued by a land use authority.
- 578 (43) "Land use regulation":
- 579 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
580 engineering or development standard, specification for public improvement, fee, or
581 rule that governs the use or development of land;
- 582 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
583 and
- 584 (c) does not include:
- 585 (i) a land use decision of the legislative body acting as the land use authority, even if
586 the decision is expressed in a resolution or ordinance; or
- 587 (ii) a temporary revision to an engineering specification that does not materially:
588 (A) increase a land use applicant's cost of development compared to the existing
589 specification; or
590 (B) impact a land use applicant's use of land.
- 591 (44) "Legislative body" means the municipal council.
- 592 (45) "Local historic district or area" means a geographically definable area that:
- 593 (a) contains any combination of buildings, structures, sites, objects, landscape features,
594 archeological sites, or works of art that contribute to the historic preservation goals of
595 a legislative body; and
- 596 (b) is subject to land use regulations to preserve the historic significance of the local
597 historic district or area.
- 598 (46) "Lot" means a tract of land, regardless of any label, that is created by and shown on a
599 subdivision plat that has been recorded in the office of the county recorder.
- 600 (47) "Major transit investment corridor" means public transit service that uses or occupies:
- 601 (a) public transit rail right-of-way;
602 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
603 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
604 municipality or county and:
- 605 (i) a public transit district as defined in Section 17B-2a-802; or
606 (ii) an eligible political subdivision as defined in Section 59-12-2202.

- 607 (48) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.
- 608 (49) "Moderate income housing" means housing occupied or reserved for occupancy by
609 households with a gross household income equal to or less than 80% of the median gross
610 income for households of the same size in the county in which the city is located.
- 611 (50) "Municipal utility easement" means an easement that:
- 612 (a) is created or depicted on a plat recorded in a county recorder's office and is described
613 as a municipal utility easement granted for public use;
- 614 (b) is not a protected utility easement or a public utility easement as defined in Section
615 54-3-27;
- 616 (c) the municipality or the municipality's affiliated governmental entity uses and
617 occupies to provide a utility service, including sanitary sewer, culinary water,
618 electrical, storm water, or communications or data lines;
- 619 (d) is used or occupied with the consent of the municipality in accordance with an
620 authorized franchise or other agreement;
- 621 (e)(i) is used or occupied by a specified public utility in accordance with an
622 authorized franchise or other agreement; and
623 (ii) is located in a utility easement granted for public use; or
- 624 (f) is described in Section 10-20-615 and is used by a specified public utility.
- 625 (51) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
626 spent and expenses incurred in:
- 627 (a) verifying that building plans are identical plans; and
628 (b) reviewing and approving those minor aspects of identical plans that differ from the
629 previously reviewed and approved building plans.
- 630 (52) "Noncomplying structure" means a structure that:
- 631 (a) legally existed before the structure's current land use designation; and
632 (b) because of one or more subsequent land use ordinance changes, does not conform to
633 the setback, height restrictions, or other regulations, excluding those regulations,
634 which govern the use of land.
- 635 (53) "Nonconforming use" means a use of land that:
- 636 (a) legally existed before [its] the land's current land use designation;
637 (b) has been maintained continuously since the time the land use ordinance governing
638 the land changed; and
639 (c) because of one or more subsequent land use ordinance changes, does not conform to
640 the regulations that now govern the use of the land.

- 641 (54) "Official map" means a map drawn by municipal authorities and recorded in a county
642 recorder's office that:
- 643 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
644 highways and other transportation facilities;
 - 645 (b) provides a basis for restricting development in designated rights-of-way or between
646 designated setbacks to allow the government authorities time to purchase or
647 otherwise reserve the land; and
 - 648 (c) has been adopted as an element of the municipality's general plan.
- 649 (55) "Parcel" means any real property that is not a lot.
- 650 (56) "Person" means an individual, corporation, partnership, organization, association, trust,
651 governmental agency, or any other legal entity.
- 652 (57) "Plan for moderate income housing" means a written document adopted by a
653 municipality's legislative body that includes:
- 654 (a) an estimate of the existing supply of moderate income housing located within the
655 municipality;
 - 656 (b) an estimate of the need for moderate income housing in the municipality for the next
657 five years;
 - 658 (c) a survey of total residential land use;
 - 659 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
660 income housing; and
 - 661 (e) a description of the municipality's program to encourage an adequate supply of
662 moderate income housing.
- 663 (58) "Planning commission" means the commission established under Section 10-20-301.
- 664 (59) "Plat" means an instrument subdividing property into lots as depicted on a map or
665 other graphical representation of lands that a licensed professional land surveyor makes
666 and prepares in accordance with Section 10-20-803 or 57-8-13.
- 667 (60) "Potential geologic hazard area" means an area that:
- 668 (a) is designated by a Utah Geological Survey map, county geologist map, or other
669 relevant map or report as needing further study to determine the area's potential for
670 geologic hazard; or
 - 671 (b) has not been studied by the Utah Geological Survey or a county geologist but
672 presents the potential of geologic hazard because the area has characteristics similar
673 to those of a designated geologic hazard area.
- 674 (61) "Property owner" means a person that holds legal title in real property.

- 675 ~~[(61)]~~ (62) "Public agency" means:
- 676 (a) the federal government;
- 677 (b) the state;
- 678 (c) a county, municipality, school district, special district, special service district, or
- 679 other political subdivision of the state; or
- 680 (d) a charter school.
- 681 ~~[(62)]~~ (63) "Public hearing" means a hearing at which members of the public are provided a
- 682 reasonable opportunity to comment on the subject of the hearing.
- 683 ~~[(63)]~~ (64) "Public meeting" means a meeting that is required to be open to the public under
- 684 Title 52, Chapter 4, Open and Public Meetings Act.
- 685 ~~[(64)]~~ (65) "Public street" means a public right-of-way, including a public highway, public
- 686 avenue, public boulevard, public parkway, public road, public lane, public alley, public
- 687 viaduct, public subway, public tunnel, public bridge, public byway, other public
- 688 transportation easement, or other public way.
- 689 ~~[(65)]~~ (66) "Receiving zone" means an area that a municipality designates, by ordinance, as
- 690 an area in which an owner of land may receive a transferable development right.
- 691 ~~[(66)]~~ (67) "Record of survey map" means a map of a survey of land prepared in accordance
- 692 with Section 17-73-504.
- 693 ~~[(67)]~~ (68) "Residential facility for persons with a disability" means a residence:
- 694 (a) in which more than one person with a disability resides; and
- 695 (b) which is licensed or certified by the Department of Health and Human Services
- 696 under:
- 697 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or
- 698 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 699 ~~[(68)]~~ (69) "Residential roadway" means a public local residential road that:
- 700 (a) will serve primarily to provide access to adjacent primarily residential areas and
- 701 property;
- 702 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;
- 703 (c) is not identified as a supplementary to a collector or other higher system classified
- 704 street in an approved municipal street or transportation master plan;
- 705 (d) has a posted speed limit of 25 miles per hour or less;
- 706 (e) does not have higher traffic volumes resulting from connecting previously separated
- 707 areas of the municipal road network;
- 708 (f) cannot have a primary access, but can have a secondary access, and does not abut lots

709 intended for high volume traffic or community centers, including schools, recreation
710 centers, sports complexes, or libraries; and

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

713 [~~(69)~~] (70) "Rules of order and procedure" means a set of rules that govern and prescribe in
714 a public meeting:

715 (a) parliamentary order and procedure;

716 (b) ethical behavior; and

717 (c) civil discourse.

718 [~~(70)~~] (71) "Sanitary sewer authority" means the department, agency, or public entity with
719 responsibility to review and approve the feasibility of sanitary sewer services or onsite
720 wastewater systems.

721 [~~(71)~~] (72) "Sending zone" means an area that a municipality designates, by ordinance, as an
722 area from which an owner of land may transfer a transferable development right.

723 [~~(72)~~] (73) "Simple boundary adjustment" means a boundary adjustment that does not:

724 (a) affect a public right-of-way, municipal utility easement, or other public property;

725 (b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or

726 (c) result in a lot or parcel out of conformity with land use regulations.

727 [~~(73)~~] (74) "Special district" means an entity under Title 17B, Limited Purpose Local
728 Government Entities - Special Districts, and any other governmental or
729 quasi-governmental entity that is not a county, municipality, school district, or the state.

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

733 [~~(74)~~] (76) "Specified public agency" means:

734 (a) the state;

735 (b) a school district; or

736 (c) a charter school.

737 [~~(75)~~] (77) "Specified public utility" means an electrical corporation, gas corporation, or
738 telephone corporation, as those terms are defined in Section 54-2-1.

739 [~~(76)~~] (78) "State" includes any department, division, or agency of the state.

740 [~~(77)~~] (79)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to
741 be divided into two or more lots or other division of land for the purpose, whether
742 immediate or future, for offer, sale, lease, or development either on the installment

- 743 plan or upon any and all other plans, terms, and conditions.
- 744 (b) "Subdivision" includes:
- 745 (i) the division or development of land, whether by deed, metes and bounds
- 746 description, devise and testacy, map, plat, or other recorded instrument, regardless
- 747 of whether the division includes all or a portion of a parcel or lot; and
- 748 (ii) except as provided in Subsection [~~(77)~~(e)] (79)(c), divisions of land for residential
- 749 and nonresidential uses, including land used or to be used for commercial,
- 750 agricultural, and industrial purposes.
- 751 (c) "Subdivision" does not include:
- 752 (i) a bona fide division or partition of land used for agricultural purposes as provided
- 753 in Subsection 10-20-808(2);
- 754 (ii) a recorded conveyance document:
- 755 (A) consolidating multiple lots or parcels into one legal description encompassing
- 756 all lots by reference to a recorded plat and all parcels by metes and bounds
- 757 description; or
- 758 (B) joining a lot to a parcel;
- 759 (iii) a bona fide division of land by deed or other instrument if the deed or other
- 760 instrument states in writing that the division:
- 761 (A) is in anticipation of future land use approvals on the parcel or parcels;
- 762 (B) does not confer any land use approvals; and
- 763 (C) has not been approved by the land use authority;
- 764 (iv) a boundary adjustment;
- 765 (v) a boundary establishment;
- 766 (vi) a road, street, or highway dedication plat;
- 767 (vii) a deed or easement for a road, street, or highway purpose; or
- 768 (viii) any other division of land authorized by law.
- 769 [~~(78)~~] (80)(a) "Subdivision amendment" means an amendment to a recorded subdivision
- 770 in accordance with Section 10-20-811 that:
- 771 (i) vacates all or a portion of the subdivision;
- 772 (ii) increases the number of lots within the subdivision;
- 773 (iii) alters a public right-of-way, a public easement, or public infrastructure within the
- 774 subdivision; or
- 775 (iv) alters a common area or other common amenity within the subdivision.
- 776 (b) "Subdivision amendment" does not include a simple boundary adjustment.

- 777 ~~[(79)]~~ (81) "Substantial evidence" means evidence that:
- 778 (a) is beyond a scintilla; and
- 779 (b) a reasonable mind would accept as adequate to support a conclusion.
- 780 ~~[(80)]~~ (82) "Suspect soil" means soil that has:
- 781 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 782 3% swell potential;
- 783 (b) bedrock units with high shrink or swell susceptibility; or
- 784 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 785 commonly associated with dissolution and collapse features.
- 786 ~~[(81)]~~ (83) "Therapeutic school" means a residential group living facility:
- 787 (a) for four or more individuals who are not related to:
- 788 (i) the owner of the facility; or
- 789 (ii) the primary service provider of the facility;
- 790 (b) that serves students who have a history of failing to function:
- 791 (i) at home;
- 792 (ii) in a public school; or
- 793 (iii) in a nonresidential private school; and
- 794 (c) that offers:
- 795 (i) room and board; and
- 796 (ii) an academic education integrated with:
- 797 (A) specialized structure and supervision; or
- 798 (B) services or treatment related to a disability, an emotional development, a
- 799 behavioral development, a familial development, or a social development.
- 800 ~~[(82)]~~ (84) "Transferable development right" means a right to develop and use land that
- 801 originates by an ordinance that authorizes a ~~[land]~~ property owner in a designated
- 802 sending zone to transfer land use rights from a designated sending zone to a designated
- 803 receiving zone.
- 804 ~~[(83)]~~ (85) "Unincorporated" means the area outside of the incorporated area of a city or
- 805 town.
- 806 ~~[(84)]~~ (86) "Water interest" means any right to the beneficial use of water, including:
- 807 (a) each of the rights listed in Section 73-1-11; and
- 808 (b) an ownership interest in the right to the beneficial use of water represented by:
- 809 (i) a contract; or
- 810 (ii) a share in a water company, as defined in Section 73-3-3.5.

811 ~~[(85)]~~ (87) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
 812 land use zones, overlays, or districts.

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

814 **10-20-301 (Effective 05/06/26). Ordinance establishing planning commission**
 815 **required -- Ordinance requirements -- Compensation.**

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

817 (b) The ordinance shall~~[-define]:~~

818 (i) include the number and terms of the planning commission members and, if the
 819 municipality chooses, alternate members;

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

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

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

825 (A) in a form of government described in Section 10-3b-301 or 10-3b-401, and
 826 subject to any delegation of authority under Subsection 10-3b-303(1) or
 827 10-3b-403(1), the legislative body may remove a planning commission
 828 member; or

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

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

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

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

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

842 (vi) provide that a planning commission member deliberating about a specific
 843 pending land use application in a planning commission meeting with municipal
 844 staff, an elected official, or the land use applicant is not cause for removing a

845 planning commission member from the planning commission;
 846 (vii) provide requirements for when a planning commission member shall recuse
 847 oneself from deliberating or voting on certain land use applications;
 848 ~~[(iv)]~~ (viii) define the authority of the planning commission;
 849 ~~[(v)]~~ (ix) subject to Subsection (1)(c), [the] include rules of order and procedure for
 850 use by the planning commission in a public meeting; and
 851 ~~[(vi)]~~ (x) include other details relating to the organization and procedures of the
 852 planning commission.

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

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

857 Section 7. Section **10-20-302** is amended to read:

858 **10-20-302 (Effective 05/06/26). Planning commission powers and duties --**
 859 **Training requirements.**

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

- 862 (a) a general plan and amendments to the general plan;
- 863 (b) land use regulations, including:
 - 864 (i) ordinances regarding the subdivision of land within the municipality; and
 - 865 (ii) amendments to existing land use regulations;
- 866 (c) an appropriate delegation of power to at least one designated land use authority to
 867 hear and act on a land use application;
- 868 (d) an appropriate delegation of power to at least one appeal authority to hear and act on
 869 an appeal from a decision of the land use authority; and
- 870 (e) application processes that:
 - 871 (i) may include a designation of routine land use matters that, upon application and
 872 proper notice, will receive informal streamlined review and action if the
 873 application is uncontested; and
 - 874 (ii) shall protect the right of each:
 - 875 (A) land use applicant and adversely affected party to require formal consideration
 876 of any application by a land use authority; and
 - 877 (B) land use applicant or adversely affected party to appeal a land use authority's
 878 decision to a separate appeal authority~~;~~ and .

- 879 ~~[(C) participant to be heard in each public hearing on a contested application.]~~
- 880 (2) Before making a recommendation to a legislative body on an item described in
- 881 Subsection (1)(a) or (b), the planning commission shall hold a public hearing in
- 882 accordance with Section 10-20-405.
- 883 (3) A legislative body may adopt, modify, or reject a planning commission's
- 884 recommendation to the legislative body under this section.
- 885 ~~[(4) A legislative body may consider a planning commission's failure to make a timely~~
- 886 ~~recommendation as a negative recommendation.]~~
- 887 ~~[(5)]~~ (4) Nothing in this section limits the right of a municipality to initiate or propose the
- 888 actions described in this section.
- 889 ~~[(6)]~~ (5)(a)(i) This Subsection ~~[(6)]~~ (5) applies to:
- 890 (A) a city of the first, second, third, or fourth class; and
- 891 (B) a city of the fifth class with a population of 5,000 or more, if the city is located
- 892 within a county of the first, second, or third class.
- 893 (ii) The population for each city described in Subsection ~~[(6)(a)(i)]~~ (5)(a)(i) shall be
- 894 derived from:
- 895 (A) an estimate of the Utah Population Committee created in Section 63C-20-103;
- 896 or
- 897 (B) if the Utah Population Committee estimate is not available, the most recent
- 898 official census or census estimate of the United States ~~[Bureau of the]~~Census
- 899 Bureau.
- 900 (b) A municipality described in Subsection ~~[(6)(a)(i)]~~ (5)(a)(i) shall ensure that each
- 901 member of the municipality's planning commission completes four hours of annual
- 902 land use training as follows:
- 903 (i) one hour of annual training on general powers and duties, including the role of the
- 904 planning commission in administrative, legislative, and quasi-judicial functions
- 905 under this chapter; and
- 906 (ii) three hours of annual training on a combination of land use and ethics topics,
- 907 which may include:
- 908 (A) appeals and variances;
- 909 (B) conditional use permits;
- 910 (C) exactions;
- 911 (D) impact fees;
- 912 (E) vested rights;

- 913 (F) subdivision regulations and improvement guarantees;
- 914 (G) land use referenda;
- 915 (H) property rights;
- 916 (I) real estate procedures and financing;
- 917 (J) zoning, including use-based and form-based;[-and]
- 918 (K) drafting ordinances and code that complies with statute[-] ;
- 919 (L) ex parte communication; and
- 920 (M) conflict of interest.

921 (c) A newly appointed planning commission member may not participate in a public
 922 meeting as an appointed member until the member completes the training described
 923 in Subsection [~~(6)(b)(i)~~] (5)(b)(i).

924 (d) A planning commission member may qualify for one completed hour of training
 925 required under Subsection [~~(6)(b)(ii)~~] (5)(b)(ii) if the member attends, as an appointed
 926 member, 12 public meetings of the planning commission within a calendar year.

927 (e) A municipality shall provide the training described in Subsection [~~(6)(b)~~] (5)(b)
 928 through:

- 929 (i) municipal staff;
- 930 (ii) the Utah League of Cities and Towns; or
- 931 (iii) a list of training courses selected by:
 - 932 (A) the Utah League of Cities and Towns; or
 - 933 (B) the Division of Real Estate created in Section 61-2-201.

934 (f) A municipality shall, for each planning commission member:

- 935 (i) monitor compliance with the training requirements in Subsection [~~(6)(b)~~] (5)(b);
- 936 and
- 937 (ii) maintain a record of training completion at the end of each calendar year.

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

939 **10-20-501 (Effective 05/06/26). Enactment of land use regulation, land use**
 940 **decision, or development agreement.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

973 [~~(5)~~] (6) A municipality may not adopt a land use regulation[;] or development agreement, or
974 make a land use decision, that restricts the type of crop that may be grown in an area that
975 is:

976 (a) zoned agricultural; or

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

978 [~~(6)~~] (7) A municipal land use regulation pertaining to an airport or an airport influence area,
979 as that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4,
980 Airport Zoning Act.

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

982 **10-20-502 (Effective 05/06/26). Preparation and adoption of land use regulation.**

983 (1) A planning commission shall:

984 (a) provide notice as required by Subsection 10-20-205(1)(a) and, if applicable,

985 Subsection 10-20-205(4);

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

987 (c) if applicable, consider each written objection filed in accordance with Subsection

988 10-20-205(5) before the public hearing; and

989 (d)(i) review and recommend to the legislative body a proposed land use regulation

990 that represents the planning commission's recommendation for regulating the use

991 and development of land within all or any part of the area of the municipality; and

992 (ii) forward to the legislative body all objections filed in accordance with Subsection

993 10-20-205(5).

994 (2)(a) A legislative body shall consider each proposed land use regulation that the

995 planning commission recommends to the legislative body.

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

997 public meeting, the legislative body may adopt or reject the land use regulation

998 described in Subsection (2)(a):

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

1000 (ii) after making any revision the legislative body considers appropriate.

1001 ~~[(e) A legislative body may consider a planning commission's failure to make a timely~~

1002 ~~recommendation as a negative recommendation if the legislative body has provided~~

1003 ~~for that consideration by ordinance.]~~

1004 (c) Beginning on September 15, 2026, a legislative body may adopt or reject a proposed

1005 land use regulation without waiting for a recommendation from the planning

1006 commission if:

1007 (i) a land use applicant makes a request described in Subsection 10-20-905(2)(b); or

1008 (ii) a legislative body determines that a planning commission has had adequate time

1009 to consider the land use regulation.

1010 Section 10. Section **10-20-507** is amended to read:

1011 **10-20-507 (Effective 05/06/26). Classification of new and unlisted business uses.**

1012 (1) As used in this section:

1013 (a) "Classification request" means a request to determine whether a proposed business

1014 use aligns with an existing land use specified in a municipality's land use ordinances.

- 1015 (b) "New or unlisted business use" means a business activity that does not align with an
 1016 existing land use specified in a municipality's land use ordinances.
- 1017 (2)(a) Each municipality shall incorporate into the municipality's land use ordinances a
 1018 process for reviewing and approving a new or unlisted business use and designating
 1019 an appropriate zone or zones for an approved use.
- 1020 (b) The process described in Subsection (2)(a) shall:
- 1021 (i) detail how an applicant may submit a classification request;
- 1022 (ii) establish a procedure for the municipality to review a classification request,
 1023 including:
- 1024 (A) providing a land use authority with criteria to determine whether a proposed
 1025 use aligns with an existing use; ~~and~~
- 1026 (B) allowing an applicant to proceed under the regulations of an existing use if a
 1027 land use authority determines a proposed use aligns with that existing use; and
- 1028 (C) providing the applicant an opportunity to appeal a land use authority's decision
 1029 to a land use appeal authority;
- 1030 (iii) provide that if a use is determined to be a new or unlisted business use:
- 1031 (A) the applicant shall submit to the legislative body for review an application [for
 1032 approval of the new or unlisted business use to the legislative body for review]
 1033 requesting that the legislative body adopt a land use ordinance that permits the
 1034 new or unlisted business as a permitted or conditional use;
- 1035 (B) notwithstanding Subsection 10-20-503(2) or (3), the legislative body shall
 1036 consider and [determine whether to] approve or deny [the new or unlisted
 1037 business use] the application described in Subsection (2)(b)(iii)(A); and
- 1038 (C) the legislative body shall approve or deny ~~[the new or unlisted business use]~~
 1039 the application described in Subsection (2)(b)(iii)(A), within a time frame the
 1040 legislative body establishes by ordinance, if the applicant responds to requests
 1041 for additional information within a time frame established by the municipality
 1042 and appears at required hearings;
- 1043 (iv) provide that if the legislative body approves ~~[a proposed new or unlisted business~~
 1044 use] the application described in Subsection (2)(b)(iii)(A), the legislative body
 1045 shall designate an appropriate zone or zones for the approved use; and
- 1046 (v) provide that if the legislative body denies ~~[a proposed new or unlisted business use]~~
 1047 the application described in Subsection (2)(b)(iii)(A), or if an applicant disagrees
 1048 with the land use authority's classification of the proposed use, the legislative

- 1049 body shall:
- 1050 (A) notify the applicant in writing of each reason for the classification or denial;
- 1051 and
- 1052 (B) ~~[offer the applicant an opportunity to challenge the classification or denial~~
- 1053 ~~through an administrative appeal process established by the municipality]~~ notify
- 1054 the applicant of the process for appealing the legislative body's decision in
- 1055 accordance with Section 10-20-1109.
- 1056 (c) A municipality may not require an applicant who submits an application described in
- 1057 Subsection (2)(b)(iii)(A) to submit the application to the planning commission for
- 1058 consideration, review, or approval.
- 1059 (3) Each municipality shall amend each land use ordinance that contains a list of approved
- 1060 or prohibited business uses to include a reference to the process for petitioning to
- 1061 approve a new or unlisted business use, as described in Subsection (2).

1062 Section 11. Section **10-20-625** is enacted to read:

1063 **10-20-625 (Effective 05/06/26). Model homes and open houses.**

1064 (1) As used in this section:

1065 (a) "Model home" means:

1066 (i) a single-family home that the homebuilder uses to promote the sale or lease of

1067 another single-family home; or

1068 (ii) a unit within a multi-family residential structure that the owner uses to promote

1069 the sale or lease of another unit within the multi-family residential structure.

1070 (b) "Open house" means an event held by a homeowner, including an event in

1071 association with a real estate agent, architect, builder, or developer, to showcase a

1072 home, including the outdoor landscaping around the home.

1073 (2) The legislative body of a municipality may not regulate a model home or open house

1074 differently than a residential use.

1075 (3) Any ordinance regulating a model home or an open house differently than a residential

1076 use is void.

1077 Section 12. Section **10-20-626** is enacted to read:

1078 **10-20-626 (Effective 05/06/26). Structure height.**

1079 (1) A municipality may regulate:

1080 (a) the number of habitable stories that a structure may contain; and

1081 (b) the overall height of a structure.

1082 (2) If a land use authority approved a land use application for a commercial lodging

1083 structure on or before September 1, 2025, and the land use application is subject to land
1084 use regulations described in Subsection (1) that conflict, the land use authority may not
1085 limit the number of above-ground habitable stories the land use applicant builds within
1086 the maximum overall height that the land use authority approved for the structure.

1087 Section 13. Section **10-20-806** is amended to read:

1088 **10-20-806 (Effective 05/06/26). Review of subdivision applications and**
1089 **subdivision improvement plans.**

1090 (1) As used in this section:

1091 (a) "Review cycle" means the occurrence of:

1092 (i) the applicant's submittal of a complete subdivision application;

1093 (ii) the municipality's review of that subdivision application;

1094 (iii) the municipality's response to that subdivision application, in accordance with
1095 this section; and

1096 (iv) the applicant's reply to the municipality's response that addresses each of the
1097 municipality's required modifications or requests for additional information.

1098 (b) "Subdivision application" means a land use application for the subdivision of land.

1099 (c) "Subdivision improvement plans" means the civil engineering plans associated with
1100 required infrastructure improvements and municipally controlled utilities required for
1101 a subdivision.

1102 (d) "Subdivision ordinance review" means review by a municipality to verify that a
1103 subdivision application meets the criteria of the municipality's ordinances.

1104 (e) "Subdivision plan review" means a review of the applicant's subdivision
1105 improvement plans and other aspects of the subdivision application to verify that the
1106 application complies with municipal ordinances and applicable installation standards
1107 and inspection specifications for infrastructure improvements.

1108 (2) The review cycle restrictions and requirements of this section do not apply to the review
1109 of subdivision applications affecting property within identified geological hazard areas.

1110 (3)(a) A municipality may require a subdivision improvement plan to be submitted with
1111 a subdivision application.

1112 (b) A municipality may not require a subdivision improvement plan to be submitted with
1113 both a preliminary subdivision application and a final subdivision application.

1114 (4)(a) The review cycle requirements of this section apply:

1115 (i) to the review of a preliminary subdivision application, if the municipality requires
1116 a subdivision improvement plan to be submitted with a preliminary subdivision

- 1117 application; or
- 1118 (ii) to the review of a final subdivision application, if the municipality requires a
- 1119 subdivision improvement plan to be submitted with a final subdivision application.
- 1120 (b) A municipality may not, outside the review cycle, engage in a substantive review of
- 1121 required infrastructure improvements or a municipally controlled utility.
- 1122 (5)(a) A municipality shall complete the initial review of a complete subdivision
- 1123 application submitted for ordinance review for a residential subdivision for
- 1124 single-family dwellings, two-family dwellings, or town homes:
- 1125 (i) no later than 15 business days after the complete subdivision application is
- 1126 submitted, if the municipality has a population over 5,000; or
- 1127 (ii) no later than 30 business days after the complete subdivision application is
- 1128 submitted, if the municipality has a population of 5,000 or less.
- 1129 (b) A municipality shall maintain and publish a list of the items comprising the complete
- 1130 subdivision application, including:
- 1131 (i) the application;
- 1132 (ii) the owner's affidavit;
- 1133 (iii) an electronic copy of all plans in PDF format;
- 1134 (iv) the preliminary subdivision plat drawings; and
- 1135 (v) a breakdown of fees due upon approval of the application.
- 1136 (6) A municipality shall publish a list of the items that comprise a complete subdivision
- 1137 land use application.
- 1138 (7) A municipality shall complete a subdivision plan review of a subdivision improvement
- 1139 plan that is submitted with a complete subdivision application for a residential
- 1140 subdivision for single-family dwellings, two-family dwellings, or town homes:
- 1141 (a) within 20 business days after the complete subdivision application is submitted, if the
- 1142 municipality has a population over 5,000; or
- 1143 (b) within 40 business days after the complete subdivision application is submitted, if
- 1144 the municipality has a population of 5,000 or less.
- 1145 (8)(a) In reviewing a subdivision application, a municipality may require:
- 1146 (i) additional information relating to an applicant's plans to ensure compliance with
- 1147 municipal ordinances and approved standards and specifications for construction
- 1148 of public improvements; and
- 1149 (ii) modifications to plans that do not meet current ordinances, applicable standards
- 1150 or specifications, or do not contain complete information.

- 1151 (b) A municipality's request for additional information or modifications to plans under
1152 Subsection (8)(a)(i) or (ii) shall be specific and include citations to ordinances,
1153 standards, or specifications that require the modifications to subdivision
1154 improvement plans, and shall be logged in an index of requested modifications or
1155 additions.
- 1156 (c) A municipality may not require more than four review cycles for a subdivision
1157 improvement plan review.
- 1158 (d)(i) Subject to Subsection (8)(d)(ii), unless the change or correction is necessitated
1159 by the applicant's adjustment to a subdivision improvement plan or an update to a
1160 phasing plan that adjusts the infrastructure needed for the specific development, a
1161 change or correction not addressed or referenced in a municipality's subdivision
1162 improvement plan review is waived.
- 1163 (ii) A modification or correction necessary to protect public health and safety or to
1164 enforce state or federal law may not be waived.
- 1165 (iii) If an applicant makes a material change to a subdivision improvement plan, the
1166 municipality has the discretion to restart the review process at the first review of
1167 the subdivision improvement plan review, but only with respect to the portion of
1168 the subdivision improvement plan that the material change substantively affects.
- 1169 (e)(i) This Subsection (8)(e) applies if an applicant does not submit a revised
1170 subdivision improvement plan within :
- 1171 (A) 20 business days after the municipality requires a modification or correction,
1172 if the municipality has a population over 5,000; or
- 1173 (B) 40 business days after the municipality requires a modification or correction,
1174 if the municipality has a population of 5,000 or less.
- 1175 (ii) If an applicant does not submit a revised subdivision improvement plan within the
1176 time specified in Subsection (8)(e)(i), a municipality has an additional 20 business
1177 days after the time specified in Subsection (7) to respond to a revised subdivision
1178 improvement plan.
- 1179 (9) After the applicant has responded to the final review cycle, and the applicant has
1180 complied with each modification requested in the municipality's previous review cycle,
1181 the municipality may not require additional revisions if the applicant has not materially
1182 changed the plan, other than changes that were in response to requested modifications or
1183 corrections.
- 1184 (10)(a) In addition to revised plans, an applicant shall provide a written explanation in

1185 response to the municipality's review comments, identifying and explaining the
1186 applicant's revisions and reasons for declining to make revisions, if any.

1187 (b) The applicant's written explanation shall be comprehensive and specific, including
1188 citations to applicable standards and ordinances for the design and an index of
1189 requested revisions or additions for each required correction.

1190 (c) If an applicant fails to address a review comment in the response, the review cycle is
1191 not complete and the subsequent review cycle may not begin until all comments are
1192 addressed.

1193 (11)~~(a)~~ If, on the fourth or final review, a municipality fails to respond within 20
1194 business days, the municipality shall, upon request of the property owner, and within
1195 10 business days after the day on which the request is received:

1196 ~~(i)~~ (a) for a dispute arising from the subdivision improvement plans, assemble an
1197 appeal panel in accordance with Subsection ~~[10-20-911(5)(d)]~~ 10-20-911(4)(d) to
1198 review and approve or deny the final revised set of plans; or

1199 ~~(ii)~~ (b) for a dispute arising from the subdivision ordinance review, advise the
1200 applicant, in writing, of the deficiency in the application and of the right to appeal the
1201 determination to a designated appeal authority.

1202 Section 14. Section **10-20-807** is amended to read:

1203 **10-20-807 (Effective 05/06/26). Subdivision plat recording or development**
1204 **activity before required landscaping or infrastructure is completed -- Improvement**
1205 **completion assurance -- Improvement warranty.**

1206 (1) As used in this section:

1207 (a) "Private landscaping plan" means a proposal:

1208 (i) to install landscaping on a lot owned by a private individual or entity; and

1209 (ii) submitted to a municipality by the private individual or entity, or on behalf of a
1210 private individual or entity, that owns the lot.

1211 (b) "Public landscaping improvement" means landscaping that an applicant is required to
1212 install to comply with published installation and inspection specifications for public
1213 improvements that:

1214 (i) will be dedicated to and maintained by the municipality; or

1215 (ii) are associated with and proximate to trail improvements that connect to planned
1216 or existing public infrastructure.

1217 (2) A land use authority shall establish objective inspection standards for acceptance of a
1218 public landscaping improvement or infrastructure improvement that the land use

- 1219 authority requires.
- 1220 (3)(a) Except as provided in Subsection (3)(d) or (e), before an applicant conducts any
1221 development activity or records a plat, the applicant shall:
- 1222 (i) complete any required public landscaping improvements or infrastructure
1223 improvements; or
- 1224 (ii) post an improvement completion assurance for any required public landscaping
1225 improvements or infrastructure improvements.
- 1226 (b) If an applicant elects to post an improvement completion assurance, the applicant
1227 shall, in accordance with Subsection (5), provide completion assurance for:
- 1228 (i) completion of 100% of the required public landscaping improvements or
1229 infrastructure improvements; or
- 1230 (ii) if the municipality has inspected and accepted a portion of the public landscaping
1231 improvements or infrastructure improvements, 100% of the incomplete or
1232 unaccepted public landscaping improvements or infrastructure improvements.
- 1233 (c) A municipality shall:
- 1234 (i) establish a minimum of two acceptable forms of completion assurance;
- 1235 (ii)(A) if an applicant elects to post an improvement completion assurance, allow
1236 the applicant to post an assurance that meets the conditions of this chapter and
1237 any local ordinances; and
- 1238 (B) beginning on May 7, 2025, if a municipality accepts cash deposits as a form of
1239 completion assurance and the applicant elects to post a new cash deposit as a
1240 form of completion assurance, place the cash deposit in an interest-bearing
1241 account upon receipt and return any earned interest to the applicant with the
1242 return of the completion assurance according to the conditions of this chapter
1243 and any local ordinances;
- 1244 (iii) establish a system for the partial release of an improvement completion
1245 assurance as portions of required public landscaping improvements or
1246 infrastructure improvements are completed and accepted in accordance with local
1247 ordinance; and
- 1248 (iv) issue or deny a building permit in accordance with Section 10-20-1001 based on
1249 the installation of public landscaping improvements or infrastructure
1250 improvements.
- 1251 (d) A municipality may not require an applicant to post an improvement completion
1252 assurance for:

- 1253 (i) public landscaping improvements or an infrastructure improvement that the
1254 municipality has previously inspected and accepted;
- 1255 (ii) infrastructure improvements that are private and not essential or required to meet
1256 the building code, fire code, flood or storm water management provisions, street
1257 and access requirements, or other essential necessary public safety improvements
1258 adopted in a land use regulation;
- 1259 (iii) in a municipality where ordinances require all infrastructure improvements
1260 within the area to be private, infrastructure improvements within a development
1261 that the municipality requires to be private;
- 1262 (iv) landscaping improvements that are not public landscaping improvements, unless
1263 the landscaping improvements and completion assurance are required under the
1264 terms of a development agreement;
- 1265 (v) a private landscaping plan;
- 1266 (vi) landscaping improvements or infrastructure improvements that an applicant
1267 elects to install at the applicant's own risk:
 - 1268 (A) before the plat is recorded;
 - 1269 (B) in accordance with inspections required by the municipality for the
1270 infrastructure improvement; and
 - 1271 (C) in accordance with final civil engineering plan approval by the municipality; or
- 1272 (vii) any individual public landscaping improvement or individual infrastructure
1273 improvement when the individual public landscaping improvement or individual
1274 infrastructure improvement is also included as part of a separate improvement
1275 completion assurance.
- 1276 (e)(i) A municipality may not:
 - 1277 (A) prohibit an applicant from installing a public landscaping improvement or an
1278 infrastructure improvement when the municipality has approved final civil
1279 engineering plans for the development activity or plat for which the public
1280 landscaping improvement or infrastructure improvement is required; or
 - 1281 (B) require an applicant to sign an agreement, release, or other document
1282 inconsistent with this chapter as a condition of posting an improvement
1283 completion assurance, security for an improvement warranty, or receiving a
1284 building permit.
- 1285 (ii) Notwithstanding Subsection (3)(e)(i)(A), public infrastructure improvements and
1286 infrastructure improvements that are installed by an applicant are subject to

1287 inspection by the municipality in accordance with the municipality's adopted
1288 inspection standards.

1289 (f)(i) Each improvement completion assurance and improvement warranty posted by
1290 an applicant with a municipality shall be independent of any other improvement
1291 completion assurance or improvement warranty posted by the same applicant with
1292 the municipality.

1293 (ii) Subject to Section 10-20-905, if an applicant has posted a form of security with a
1294 municipality for more than one infrastructure improvement or public landscaping
1295 improvement, the municipality may not withhold acceptance of an applicant's
1296 required subdivision improvements, public landscaping improvement,
1297 infrastructure improvements, or the performance of warranty work for the same
1298 applicant's failure to complete a separate subdivision improvement, public
1299 landscaping improvement, infrastructure improvement, or warranty work under a
1300 separate improvement completion assurance or improvement warranty.

1301 (4)(a) Except as provided in Subsection (4)(c), as a condition for increased density or
1302 other entitlement benefit not currently available under the existing zone, a
1303 municipality may require a completion assurance bond for landscaped amenities and
1304 common area that are dedicated to and maintained by a homeowners association.

1305 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)
1306 between the applicant and the municipality shall be memorialized in a development
1307 agreement.

1308 (c) A municipality may not require a completion assurance bond for or dictate who
1309 installs or is responsible for the cost of the landscaping of residential lots or the
1310 equivalent open space surrounding single-family attached homes, whether platted as
1311 lots or common area.

1312 (5) The sum of the improvement completion assurance required under Subsections (3) and
1313 (4) may not exceed the sum of:

1314 (a) 100% of the estimated cost of the public landscaping improvements or infrastructure
1315 improvements, as evidenced by an engineer's estimate or licensed contractor's bid;
1316 and

1317 (b) 10% of the amount of the bond to cover administrative costs incurred by the
1318 municipality to complete the improvements, if necessary.

1319 (6)(a) Upon an applicant's written request that the land use authority accept or reject the
1320 applicant's installation of required subdivision improvements or performance of

- 1321 warranty work as set forth in Section 10-20-905, and for the duration of each
 1322 improvement warranty period, the municipality may require the applicant to:
- 1323 (i) execute an improvement warranty for the improvement warranty period; and
 - 1324 (ii) post a cash deposit, surety bond, letter of credit, or other similar security, as
 1325 required by the municipality, in the amount of up to 10% of the lesser of the:
 1326 (A) municipal engineer's original estimated cost of completion; or
 1327 (B) applicant's reasonable proven cost of completion.
- 1328 (b) A municipality may not require the payment of the deposit of the improvement
 1329 warranty assurance described in Subsection (6)(a)(i) for an infrastructure
 1330 improvement or public landscaping improvement before the applicant indicates
 1331 through written request that the applicant has completed the infrastructure
 1332 improvement or public landscaping improvement.
- 1333 (7) When a municipality accepts an improvement completion assurance for public
 1334 landscaping improvements or infrastructure improvements for a development in
 1335 accordance with Subsection (3)(c)(ii), the municipality may not deny an applicant a
 1336 building permit if the development meets the requirements for the issuance of a building
 1337 permit under the building code and fire code.
- 1338 (8) A municipality may not require the submission of a private landscaping plan as part of
 1339 an application for a building permit.
- 1340 (9) The provisions of this section do not supersede the terms of a valid development
 1341 agreement, an adopted phasing plan, or the [~~state construction code~~] State Construction
 1342 Code.
- 1343 Section 15. Section **10-20-902** is amended to read:
- 1344 **10-20-902 (Effective 05/06/26). Applicant's entitlement to land use application**
 1345 **approval -- Municipality's requirements and limitations -- Vesting upon submission of**
 1346 **development plan and schedule.**
- 1347 (1)(a)(i) An applicant who has submitted a complete land use application as
 1348 described in Subsection (1)(c), including the payment of all application fees, is
 1349 entitled to substantive review of the application under the land use regulations:
- 1350 (A) in effect on the date that the application is complete; and
 - 1351 (B) applicable to the application or to the information shown on the application.
- 1352 (ii) An applicant is entitled to approval of a land use application if the application
 1353 conforms to the requirements of the applicable land use regulations, land use
 1354 decisions, and development standards in effect when the applicant submits a

- 1355 complete application and pays application fees, unless:
- 1356 (A) the land use authority, on the record, formally finds that a compelling,
- 1357 countervailing public interest would be jeopardized by approving the
- 1358 application and specifies the compelling, countervailing public interest in
- 1359 writing; or
- 1360 (B) in the manner provided by local ordinance and before the applicant submits
- 1361 the application, the municipality formally initiates proceedings to amend the
- 1362 municipality's land use regulations in a manner that would prohibit approval of
- 1363 the application as submitted.
- 1364 (b) The municipality shall process an application without regard to proceedings the
- 1365 municipality initiated to amend the municipality's ordinances as described in
- 1366 Subsection (1)(a)(ii)(B) if:
- 1367 (i) 180 days have passed since the municipality initiated the proceedings; and
- 1368 (ii)(A) the proceedings have not resulted in an enactment that prohibits approval
- 1369 of the application as submitted; or
- 1370 (B) during the 12 months before the municipality processing the application, or
- 1371 multiple applications of the same type, are impaired or prohibited under the
- 1372 terms of a temporary land use regulation adopted under Section 10-20-504.
- 1373 (c) A land use application is considered submitted and complete when the applicant
- 1374 provides the application in a form that complies with the requirements of applicable
- 1375 ordinances and pays all applicable fees.
- 1376 (d) A subsequent incorporation of a municipality or a petition that proposes the
- 1377 incorporation of a municipality does not affect a land use application approved by a
- 1378 county in accordance with Section 17-79-803.
- 1379 (e) Unless a phasing sequence is required in an executed development agreement, a
- 1380 municipality shall, without regard to any other separate and distinct land use
- 1381 application, accept and process a complete land use application.
- 1382 (f) The continuing validity of an approval of a land use application is conditioned upon
- 1383 the applicant proceeding after approval to implement the approval with reasonable
- 1384 diligence.
- 1385 (g) A municipality may not impose on an applicant who has submitted a complete
- 1386 application a requirement that is not expressed in:
- 1387 (i) this chapter;
- 1388 (ii) a municipal ordinance in effect on the date that the applicant submits a complete

- 1389 application, subject to Subsection 10-20-902(1)(a)(ii); or
1390 (iii) a municipal specification for public improvements applicable to a subdivision or
1391 development that is in effect on the date that the applicant submits an application.
- 1392 (h) A municipality may not impose on a holder of an issued land use permit or a final,
1393 unexpired subdivision plat a requirement that is not expressed:
- 1394 (i) in a land use permit;
1395 (ii) on the subdivision plat;
1396 (iii) in a document on which the land use permit or subdivision plat is based;
1397 (iv) in the written record evidencing approval of the land use permit or subdivision
1398 plat;
1399 (v) in this chapter;
1400 (vi) in a municipal ordinance; or
1401 (vii) in a municipal specification for residential roadways in effect at the time a
1402 residential subdivision was approved.
- 1403 (i) Except as provided in Subsection (1)(j) or (k), a municipality may not withhold
1404 issuance of a certificate of occupancy or acceptance of subdivision improvements
1405 because of an applicant's failure to comply with a requirement that is not expressed:
- 1406 (i) in the building permit or subdivision plat, documents on which the building permit
1407 or subdivision plat is based, or the written record evidencing approval of the land
1408 use permit or subdivision plat; or
1409 (ii) in this chapter or the municipality's ordinances.
- 1410 (j) A municipality may not unreasonably withhold issuance of a certificate of occupancy
1411 where an applicant has met all requirements essential for the public health, public
1412 safety, and general welfare of the occupants, in accordance with this chapter, unless:
- 1413 (i) the applicant and the municipality have agreed in a written document to the
1414 withholding of a certificate of occupancy; or
1415 (ii) the applicant has not provided a financial assurance for required and uncompleted
1416 public landscaping improvements or infrastructure improvements in accordance
1417 with an applicable local ordinance.
- 1418 (k) A municipality may not conduct a final inspection required before issuing a
1419 certificate of occupancy for a residential unit that is within the boundary of an
1420 infrastructure financing district, as defined in Section 17B-1-102, until the applicant
1421 for the certificate of occupancy provides adequate proof to the municipality that any
1422 lien on the unit arising from the infrastructure financing district's assessment against

1423 the unit under Title 11, Chapter 42, Assessment Area Act, has been released after
1424 payment in full of the infrastructure financing district's assessment against that unit.

1425 (l) A municipality:

1426 (i) may require the submission of a private landscaping plan, as defined in Section
1427 10-20-807, before landscaping is installed; and

1428 (ii) may not withhold an applicant's building permit or certificate of occupancy
1429 because the applicant has not submitted a private landscaping plan.

1430 (2) A municipality is bound by the terms and standards of applicable land use regulations
1431 and shall comply with mandatory provisions of those regulations.

1432 (3)(a) Beginning on October 1, 2026, and except as provided in Subsection (3)(b), a
1433 municipality shall publish on the municipality's website an application checklist for
1434 each land use application type that includes a checklist of all required plans and
1435 documents that make a complete application.

1436 (b) A municipality that does have a maintained and active website shall provide for
1437 inspection of the information described in Subsection (3)(a) at the municipality's
1438 place of business during normal business hours.

1439 [~~3~~] (4) A municipality may not, as a condition of land use application approval, require a
1440 person filing a land use application to obtain documentation regarding a school district's
1441 willingness, capacity, or ability to serve the development proposed in the land use
1442 application.

1443 [~~4~~] (5) Upon a specified public agency's submission of a development plan and schedule as
1444 required in Subsection 10-20-304(8) that complies with the requirements of that
1445 subsection, the specified public agency vests in the municipality's applicable land use
1446 maps, zoning map, hookup fees, impact fees, other applicable development fees, and
1447 land use regulations in effect on the date of submission.

1448 [~~5~~] (6)(a) If sponsors of a referendum timely challenge a project in accordance with
1449 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land
1450 use approval by delivering a written notice:

1451 (i) to the local clerk as defined in Section 20A-7-101; and

1452 (ii) no later than seven days after the day on which a petition for a referendum is
1453 determined sufficient under Subsection 20A-7-607(5).

1454 (b) Upon delivery of a written notice described in Subsection [~~5~~](a) (6)(a) the following
1455 are rescinded and are of no further force or effect:

1456 (i) the relevant land use approval; and

1457 (ii) any land use regulation enacted specifically in relation to the land use approval.

1458 [(6)] (7)(a) After issuance of a building permit, a municipality may not:

1459 (i) change or add to the requirements expressed in the building permit, unless the
1460 change or addition is:

1461 (A) requested by the building permit holder; or

1462 (B) necessary to comply with an applicable state building code; or

1463 (ii) revoke the building permit or take action that has the effect of revoking the
1464 building permit.

1465 (b) Subsection [(6)(a)] (7)(a) does not prevent a municipality from issuing a building
1466 permit that contains an expiration date defined in the building permit.

1467 Section 16. Section 10-20-910 is amended to read:

1468 **10-20-910 (Effective 05/06/26). Provisions applicable to a provider of culinary or**
1469 **secondary water.**

1470 A provider of culinary or secondary water that commits to provide a water service
1470a required

1471 by a land use application process is subject to the following as if it were a municipality:

1472 (1) Subsections 10-20-904(5) and (6);

1473 (2) Section 10-20-905; [~~and~~]

1474 (3) Section 10-20-911; and

1475 (4) Section 10-20-912.

1476 Section 17. Section 10-20-911 is amended to read:

1477 **10-20-911 (Effective 05/06/26). Exactions -- Requirement to offer to original**
1478 **owner property acquired by exaction -- Exaction for right-of-way improvements --**
1479 **Improvement completion assurance requirements.**

1480 (1) A municipality may impose an exaction or exactions on development proposed in a land
1481 use application, including, subject to [~~Subsection (3)]~~ Section 10-20-912, an exaction for
1482 a water interest, if:

1483 (a) an essential link exists between a legitimate governmental interest and each exaction;
1484 and

1485 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the
1486 proposed development.

1487 (2) If a land use authority imposes an exaction for another governmental entity:

1488 (a) the governmental entity shall request the exaction; and

1489 (b) the land use authority shall transfer the exaction to the governmental entity for which

1490 it was exacted.

1491 ~~[(3)(a)(i) Subject to the requirements of this Subsection (3), a municipality shall base~~
1492 ~~an exaction for a water interest on the culinary water authority's established~~
1493 ~~calculations of projected water interest requirements.]~~

1494 ~~[(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall~~
1495 ~~base an exaction for a culinary water interest on:]~~

1496 ~~[(A) consideration of the system-wide minimum sizing standards established for~~
1497 ~~the culinary water authority by the Division of Drinking Water in accordance~~
1498 ~~with Section 19-4-114; and]~~

1499 ~~[(B) the number of equivalent residential connections associated with the culinary~~
1500 ~~water demand for each specific development proposed in the development's~~
1501 ~~land use application, applying lower exactions for developments with lower~~
1502 ~~equivalent residential connections as demonstrated by at least five years of~~
1503 ~~usage data for like land uses within the municipality.]~~

1504 ~~[(iii) A municipality may impose an exaction for a culinary water interest that results~~
1505 ~~in less water being exacted than would otherwise be exacted under Subsection~~
1506 ~~(3)(a)(ii) if the municipality, at the municipality's sole discretion, determines there~~
1507 ~~is good cause to do so.]~~

1508 ~~[(iv)(A) A municipality shall make public the methodology used to comply with~~
1509 ~~Subsection (3)(a)(ii)(B).]~~

1510 ~~[(B) A land use applicant may appeal to the municipality's governing body an~~
1511 ~~exaction calculation used by the municipality under Subsection (3)(a)(ii).]~~

1512 ~~[(C) A land use applicant may present data and other information that illustrates a~~
1513 ~~need for an exaction recalculation and the municipality's governing body shall~~
1514 ~~respond with due process.]~~

1515 ~~[(v) Upon an applicant's request, the culinary water authority shall provide the~~
1516 ~~applicant with the basis for the culinary water authority's calculations under~~
1517 ~~Subsection (3)(a)(i) on which an exaction for a water interest is based.]~~

1518 ~~[(b) A municipality may not impose an exaction for a water interest if the culinary water~~
1519 ~~authority's existing available water interests exceed the water interests needed to meet~~
1520 ~~the reasonable future water requirement of the public, as determined under~~
1521 ~~Subsection 73-1-4(2)(f).]~~

1522 ~~[(4)] (3)(a) If a municipality plans to dispose of surplus real property that was acquired~~
1523 ~~under this section and has been owned by the municipality for less than 15 years, the~~

- 1524 municipality shall first offer to reconvey the property, without receiving additional
1525 consideration, to the person who granted the property to the municipality.
- 1526 (b) A person to whom a municipality offers to reconvey property under Subsection [
1527 ~~(4)~~(a)] (3)(a) has 90 days to accept or reject the municipality's offer.
- 1528 (c) If a person to whom a municipality offers to reconvey property declines the offer, the
1529 municipality may offer the property for sale.
- 1530 (d) Subsection [~~(4)~~(a)] (3)(a) does not apply to the disposal of property acquired by
1531 exaction by a community reinvestment agency.
- 1532 [~~(5)~~] (4)(a) A municipality may not, as part of an infrastructure improvement, require the
1533 installation of pavement on a residential roadway at a width in excess of 32 feet.
- 1534 (b) Subsection [~~(5)~~(a)] (4)(a) does not apply if a municipality requires the installation of
1535 pavement in excess of 32 feet:
- 1536 (i) in a vehicle turnaround area;
- 1537 (ii) in a cul-de-sac;
- 1538 (iii) to address specific traffic flow constraints at an intersection, mid-block
1539 crossings, or other areas;
- 1540 (iv) to address an applicable general or master plan improvement, including
1541 transportation, bicycle lanes, trails, or other similar improvements that are not
1542 included within an impact fee area;
- 1543 (v) to address traffic flow constraints for service to or abutting higher density
1544 developments or uses that generate higher traffic volumes, including community
1545 centers, schools, and other similar uses;
- 1546 (vi) as needed for the installation or location of a utility which is maintained by the
1547 municipality and is considered a transmission line or requires additional roadway
1548 width;
- 1549 (vii) for third-party utility lines that have an easement preventing the installation of
1550 utilities maintained by the municipality within the roadway;
- 1551 (viii) for utilities over 12 feet in depth;
- 1552 (ix) for roadways with a design speed that exceeds 25 miles per hour;
- 1553 (x) as needed for flood and stormwater routing;
- 1554 (xi) as needed to meet fire code requirements for parking and hydrants; or
1555 (xii) as needed to accommodate street parking.
- 1556 (c) Nothing in this section shall be construed to prevent a municipality from approving a
1557 road cross section with a pavement width less than 32 feet.

- 1558 (d)(i) A land use applicant may appeal a municipal requirement for pavement in
 1559 excess of 32 feet on a residential roadway.
- 1560 (ii) A land use applicant that has appealed a municipal specification for a residential
 1561 roadway pavement width in excess of 32 feet may request that the municipality
 1562 assemble a panel of qualified experts to serve as the appeal authority for purposes
 1563 of determining the technical aspects of the appeal.
- 1564 (iii) Unless otherwise agreed by the applicant and the municipality, the panel
 1565 described in Subsection [~~(5)(d)(ii)~~] (4)(d)(ii) shall consist of the following three
 1566 experts:
- 1567 (A) one licensed engineer, designated by the municipality;
 1568 (B) one licensed engineer, designated by the land use applicant; and
 1569 (C) one licensed engineer, agreed upon and designated by the two designated
 1570 engineers under Subsections [~~(5)(d)(iii)(A)~~] (4)(d)(iii)(A) and (B).
- 1571 (iv) A member of the panel assembled by the municipality under Subsection [
 1572 ~~(5)(d)(ii)~~] (4)(d)(ii) may not have an interest in the application that is the subject of
 1573 the appeal.
- 1574 (v) The land use applicant shall pay:
- 1575 (A) 50% of the cost of the panel; and
 1576 (B) the municipality's published appeal fee.
- 1577 (vi) The decision of the panel is a final decision, subject to a petition for review under
 1578 Subsection [~~(5)(d)(vii)~~] (4)(d)(vii).
- 1579 (vii) In accordance with Section 10-20-1109, a land use applicant or the municipality
 1580 may file a petition for review of the decision with the district court within 30 days
 1581 after the date that the decision is final.

1582 [~~(6) A provider of culinary or secondary water that commits to provide a water service
 1583 required by a land use application process is subject to the provisions of this section the
 1584 same as if the provider were a municipality.]~~

1585 Section 18. Section **10-20-912** is enacted to read:

1586 **10-20-912 (Effective 05/06/26). Exactions for water rights.**

- 1587 (1) Subject to the requirements of this section, a municipality shall base an exaction for a
 1588 water interest on the culinary water authority's established calculations of projected
 1589 water interest requirements.
- 1590 (2) Except as provided in Subsection (3), a culinary water authority shall base an exaction
 1591 for a culinary water interest on:

- 1592 (a) consideration of the system-wide minimum sizing standards established for the
1593 culinary water authority by the Division of Drinking Water under Section 19-4-114;
1594 and
1595 (b) the number of equivalent residential connections associated with the culinary water
1596 demand for each specific development proposed in the development's land use
1597 application, applying lower exactions for developments with lower equivalent
1598 residential connections as demonstrated by at least five years of usage data for like
1599 land uses within the municipality.
- 1600 (3) If a municipality determines, in the sole discretion of the municipality, that good cause
1601 exists, the municipality may impose an exaction for a culinary water interest that results
1602 in less water being exacted than would otherwise be exacted under Subsection (2).
- 1603 (4)(a) A municipality shall make public the methodology used to comply with
1604 Subsection (2)(b).
- 1605 (b) A land use applicant may submit a request to the municipality's legislative body to
1606 review an exaction calculation used by the municipality under Subsection (2).
- 1607 (c) A land use applicant may present data and other information that illustrates a need
1608 for an exaction recalculation and the municipality's legislative body shall respond
1609 with due process.
- 1610 (5) Upon an applicant's request, the culinary water authority shall provide the applicant
1611 with the basis for the culinary water authority's calculations under Subsection (2) on
1612 which an exaction for a water interest is based.
- 1613 (6)(a) A municipality may not impose an exaction for a water interest if:
1614 (i) the culinary water authority's existing available water interests exceed the water
1615 interests needed to meet the reasonable future water requirement of the public; or
1616 (ii) the municipality or the municipality's culinary water authority does not have a
1617 written plan in accordance with Subsection (6)(b).
- 1618 (b) Beginning on January 1, 2028, a municipality shall determine the municipality's
1619 water interests needed to meet the reasonable future water requirement of the public
1620 by completing a written plan described in Subsection 73-1-4(2)(f).
- 1621 (7) A provider of culinary or secondary water that commits to provide a water service
1622 required by a land use application process is subject to the provisions of this section and
1623 Section 10-20-911 the same as if the provider were a municipality.
- 1624 Section 19. Section **10-20-1001** is amended to read:
1625 **10-20-1001 (Effective 05/06/26). Enforcement -- Limitations on a municipality's**

- 1626 **ability to enforce an ordinance by withholding a permit or certificate.**
- 1627 (1)(a) A municipality or [~~an adversely affected party~~] a land use applicant may, in
- 1628 addition to other remedies provided by law, institute:
- 1629 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
- 1630 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 1631 (b) A municipality need only establish the violation to obtain the injunction.
- 1632 (2)(a) Except as provided in Subsections (3) [~~though~~] through (6), a municipality may
- 1633 enforce the municipality's ordinance by withholding a building permit or certificate
- 1634 of occupancy.
- 1635 (b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any
- 1636 building or other structure within a municipality without approval of a building
- 1637 permit.
- 1638 (c) A municipality may not issue a building permit unless the plans of and for the
- 1639 proposed erection, construction, reconstruction, alteration, or use fully conform to all
- 1640 regulations then in effect.
- 1641 (d) A municipality may require an applicant to maintain and repair a temporary fire
- 1642 apparatus road during the construction of a structure accessed by the temporary fire
- 1643 apparatus road in accordance with the municipality's adopted standards.
- 1644 (e) A municipality may require temporary signs to be installed at each street intersection
- 1645 once construction of a new roadway allows passage by a motor vehicle.
- 1646 (f) A municipality may adopt and enforce any appendix of the International Fire Code,
- 1647 2021 Edition.
- 1648 (3)(a) A municipality may not deny an applicant a building permit or certificate of
- 1649 occupancy because the applicant has not completed an infrastructure improvement:
- 1650 (i) unless the infrastructure improvement is essential to meet the requirements for the
- 1651 issuance of a building permit or certificate of occupancy under Title 15A, State
- 1652 Construction and Fire Codes Act; and
- 1653 (ii) for which the municipality has accepted an improvement completion assurance
- 1654 for a public landscaping improvement, as defined in Section 10-20-807, or an
- 1655 infrastructure improvement for the development.
- 1656 (b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6,
- 1657 infrastructure improvement that is essential means:
- 1658 (i) for a building permit:
- 1659 (A) operable fire hydrants installed in a manner that is consistent with the

- 1660 municipality's adopted engineering standards; and
- 1661 (B) for temporary roads used during construction, a properly compacted road base
- 1662 installed in a manner consistent with the municipality's adopted engineering
- 1663 standards;
- 1664 (ii) for a certificate of occupancy, at the discretion of the municipality, at least one of
- 1665 the following:
- 1666 (A) a permanent road;
- 1667 (B) a temporary road covered with asphalt or concrete; or
- 1668 (C) another method for accessing a structure consistent with Appendix D of the
- 1669 International Fire Code; and
- 1670 (iii) public infrastructure necessary for the health, life, and safety of the occupant.
- 1671 (c) A municipality may not adopt an engineering standard that requires an applicant to
- 1672 install a permanent road or a temporary road with asphalt or concrete before
- 1673 receiving a building permit.
- 1674 (4) A municipality may not deny an applicant a building permit or certificate of occupancy
- 1675 for failure to:
- 1676 (a) submit a private landscaping plan, as defined in Section 10-20-807; or
- 1677 (b) complete a landscaping improvement that is not a public landscaping improvement,
- 1678 as defined in Section 10-20-807.
- 1679 (5) A municipality may not withhold a building permit based on the lack of completion of a
- 1680 portion of a public sidewalk to be constructed within a public right-of-way serving a lot
- 1681 where a single-family or two-family residence or town home is proposed in a building
- 1682 permit application if an improvement completion assurance has been posted for the
- 1683 incomplete portion of the public sidewalk.
- 1684 (6) A municipality may not prohibit the construction of a single-family or two-family
- 1685 residence or town home, withhold recording a plat, or withhold acceptance of a public
- 1686 landscaping improvement, as defined in Section 10-20-807, or an infrastructure
- 1687 improvement based on the lack of installation of a public sidewalk if an improvement
- 1688 completion assurance has been posted for the public sidewalk.
- 1689 (7) A municipality may not redeem an improvement completion assurance securing the
- 1690 installation of a public sidewalk sooner than 18 months after the date the improvement
- 1691 completion assurance is posted.
- 1692 (8) A municipality shall allow an applicant to post an improvement completion assurance
- 1693 for a public sidewalk separate from an improvement completion assurance for:

- 1694 (a) another infrastructure improvement; or
 1695 (b) a public landscaping improvement, as defined in Section 10-20-807.
 1696 (9) A municipality may withhold a certificate of occupancy for a single-family or
 1697 two-family residence or town home until the portion of the public sidewalk to be
 1698 constructed within a public right-of-way and located immediately adjacent to the
 1699 single-family or two-family residence or town home is completed and accepted by the
 1700 municipality.

1701 Section 20. Section **10-20-1101** is amended to read:

1702 **10-20-1101 (Effective 05/06/26). Appeal authority required -- Condition**
 1703 **precedent to judicial review -- Appeal authority duties.**

- 1704 (1)(a) ~~[Each]~~ Subject to Subsection (1)(d), each municipality adopting a land use
 1705 ordinance shall, by ordinance, establish one or more appeal authorities.
 1706 (b) An appeal authority described in Subsection (1)(a) shall hear and decide:
 1707 (i) requests for ~~[variances]~~ a variance from ~~[the terms of]~~ a land use ~~[ordinances]~~
 1708 ordinance;
 1709 (ii) appeals from a land use ~~[decisions]~~ decision applying a land use ~~[ordinances]~~
 1710 ordinance; and
 1711 (iii) appeals from a fee charged in accordance with Section 10-20-904.
 1712 (c) An appeal authority described in Subsection (1)(a) may not hear an appeal from the
 1713 enactment of a land use regulation.
 1714 (d) Beginning on July 1, 2026, a city described in Subsection 10-20-302(6)(a)(i) may not
 1715 designate the city's legislative body as an appeal authority.
 1716 (e) Notwithstanding Subsection (1)(d), a legislative body shall continue to be the appeal
 1717 authority for an appeal if:
 1718 (i) a land use ordinance designated the legislative body as the appeal authority when
 1719 the appellant filed the appeal; and
 1720 (ii) the appellant filed the appeal on or before June 30, 2026.
 1721 (2) As a condition precedent to judicial review, each adversely affected party or land use
 1722 applicant shall timely and specifically challenge a land use authority's land use decision,
 1723 in accordance with local ordinance.
 1724 (3) An appeal authority described in Subsection (1)(a):
 1725 (a) shall:
 1726 (i) act in a quasi-judicial manner; and
 1727 (ii) serve as the final arbiter of issues involving the interpretation or application of a

- 1728 land use [~~ordinances~~] ordinance; and
- 1729 (b) may not entertain an appeal of a matter in which the appeal authority, or any
- 1730 participating member, had first acted as the land use authority.
- 1731 (4) By ordinance, a municipality may:
- 1732 (a) designate a separate appeal authority to hear requests for variances than the appeal
- 1733 authority the municipality designates to hear appeals;
- 1734 (b) designate one or more separate appeal authorities to hear distinct types of appeals of
- 1735 land use authority decisions;
- 1736 (c) require an adversely affected party to present to an appeal authority every theory of
- 1737 relief that the adversely affected party can raise in district court; and
- 1738 [~~(d) not require a land use applicant or adversely affected party to pursue duplicate or~~
- 1739 ~~successive appeals before the same or separate appeal authorities as a condition of an~~
- 1740 ~~appealing party's duty to exhaust administrative remedies; and]~~
- 1741 [(~~e~~)] (d) provide that specified types of land use decisions may be appealed directly to the
- 1742 district court.
- 1743 (5) A municipality may not:
- 1744 (a) require a public hearing for a request for a variance or land use appeal[-] ; or
- 1745 (b) require a land use applicant or adversely affected party to pursue successive appeals
- 1746 before the same or separate appeal authorities as a condition of an appealing party's
- 1747 duty to exhaust administrative remedies.
- 1748 (6) If the municipality establishes or, before the effective date of this chapter, has
- 1749 established a multiperson board, body, or panel to act as an appeal authority, at a
- 1750 minimum the board, body, or panel shall:
- 1751 (a) notify each of the members of the board, body, or panel of any meeting or hearing of
- 1752 the board, body, or panel;
- 1753 (b) provide each of the members of the board, body, or panel with the same information
- 1754 and access to municipal resources as any other member;
- 1755 (c) convene only if a quorum of the members of the board, body, or panel is present; and
- 1756 (d) act only upon the vote of a majority of the convened members of the board, body, or
- 1757 panel.
- 1758 Section 21. Section **10-20-1105** is repealed and reenacted to read:
- 1759 **10-20-1105 (Effective 05/06/26). Burden of proof.**
- 1760 In an appeal described in this part:
- 1761 (1) if the appellant is a land use applicant, the appellant has the burden of proving that the

1762 land use authority's land use decision is illegal or is not supported by substantial
 1763 evidence; or
 1764 (2) if the appellant is an adversely affected party, the appellant has the burden of proving
 1765 that the land use authority's land use decision is illegal, or that the factual findings are
 1766 clearly erroneous.

1767 Section 22. Section **10-20-1106** is amended to read:

1768 **10-20-1106 (Effective 05/06/26). Due process.**

1769 (1) ~~[Each]~~ An appeal authority shall conduct each appeal and variance request as provided
 1770 in local ordinance.

1771 (2) ~~[Each]~~ An appeal authority shall respect the due process rights of ~~[each of the~~
 1772 ~~participants]~~ an appeal participant.

1773 (3) An appeal authority may only allow the following people to present or speak during an
 1774 appeal hearing:

1775 (a) the appellant or the appellant's representatives;

1776 (b) the land use applicant or the land use applicant's representatives; and

1777 (c) the municipality's representatives.

1778 Section 23. Section **10-20-1107** is amended to read:

1779 **10-20-1107 (Effective 05/06/26). Scope of review of factual matters on appeal --**
 1780 **Appeal authority requirements.**

1781 (1) A municipality may, by ordinance, designate the scope of review of factual matters for
 1782 appeals of land use authority decisions.

1783 (2) If the municipality fails to designate a scope of review of factual matters, the appeal
 1784 authority shall review the ~~[matter]~~ factual matters de novo, without deference to the land
 1785 use authority's determination of the factual matters.

1786 (3) If the scope of review of factual matters is on the record, the appeal authority shall
 1787 determine whether the record on appeal includes substantial evidence for each essential
 1788 finding of fact.

1789 (4) The appeal authority shall:

1790 (a) determine the correctness of the land use authority's interpretation and application of
 1791 the plain meaning of the land use regulations; and

1792 (b) interpret and apply a land use regulation to favor a land use application unless the
 1793 land use regulation plainly restricts the land use application.

1794 (5)(a) An appeal authority's land use decision is a quasi-judicial act.

1795 (b) ~~[A]~~ Except as provided in Subsection (5)(c), a legislative body may act as an appeal

1796 authority unless both the legislative body and the appealing party agree to allow a
 1797 third party to act as the appeal authority.

1798 (c) Beginning on July 1, 2026, the legislative body of a city described in Subsection
 1799 10-20-302(6)(a)(i) may not act as an appeal authority unless:

1800 (i) a land use ordinance designated the legislative body as the appeal authority when
 1801 the appellant filed the appeal; and

1802 (ii) the appellant filed the appeal on or before June 30, 2026.

1803 (6) Only a decision in which a land use authority has applied a land use regulation to a
 1804 particular land use application, person, or parcel may be appealed to an appeal authority.

1805 Section 24. Section **10-20-1109** is amended to read:

1806 **10-20-1109 (Effective 05/06/26). No district court review until administrative**
 1807 **remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court**
 1808 **review -- Record on review -- Staying of decision.**

1809 (1) [Nø] A person may challenge in district court a land use decision [~~until that~~] if the person
 1810 has exhausted the person's administrative remedies as provided in this part, if applicable.

1811 (2)(a) Subject to Subsection (1), a land use applicant or adversely affected party may file
 1812 a petition for review of a land use decision with the district court within 30 days after
 1813 the decision is final.

1814 (b)(i) The time under Subsection (2)(a) to file a petition is tolled from the date a
 1815 property owner files a request for arbitration of a constitutional taking issue with
 1816 the property rights ombudsman under Section 13-43-204 until 30 days after:

1817 (A) the arbitrator issues a final award; or

1818 (B) the property rights ombudsman issues a written statement under Subsection
 1819 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

1820 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
 1821 taking issue that is the subject of the request for arbitration filed with the property
 1822 rights ombudsman by a property owner.

1823 (iii) A request for arbitration filed with the property rights ombudsman after the time
 1824 under Subsection (2)(a) to file a petition has expired does not affect the time to
 1825 file a petition.

1826 (3)(a) A court shall:

1827 (i) presume that a land use regulation properly enacted under the authority of this
 1828 chapter is valid; and

1829 (ii) determine only whether:

- 1830 (A) the land use regulation is expressly preempted by, or was enacted contrary to,
1831 state or federal law; and
- 1832 (B) it is reasonably debatable that the land use regulation is consistent with this
1833 chapter.
- 1834 (b) A court shall presume that a final land use decision of a land use authority or an
1835 appeal authority is valid unless the land use decision is:
- 1836 (i) arbitrary and capricious; or
1837 (ii) illegal.
- 1838 (c)(i) A land use decision is arbitrary and capricious if the land use decision is not
1839 supported by substantial evidence in the record.
- 1840 (ii) A land use decision is illegal if the land use decision:
- 1841 (A) is based on an incorrect interpretation of a land use regulation;
1842 (B) conflicts with the authority granted by this title; or
1843 (C) is contrary to law.
- 1844 (d)(i) A court may affirm or reverse a land use decision.
- 1845 (ii) If the court reverses a land use decision, the court shall remand the matter to the
1846 land use authority with instructions to issue a land use decision consistent with the
1847 court's ruling.
- 1848 (4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes
1849 final action on a land use application, if the municipality conformed with the notice
1850 provisions of Part 2, Notice, or for any person who had actual notice of the pending land
1851 use decision.
- 1852 (5) If the municipality has complied with Section 10-20-205, a challenge to the enactment
1853 of a land use regulation~~[-or]~~, general plan, or specified land use law may not be filed
1854 with the district court more than 30 days after the enactment.
- 1855 (6) A challenge to a land use decision is barred unless the challenge is filed within 30 days
1856 after the land use decision is final.
- 1857 (7)(a) The land use authority or appeal authority, as the case may be, shall transmit to
1858 the reviewing court the record of the proceedings of the land use authority or appeal
1859 authority, including the minutes, findings, orders, and, if available, a true and correct
1860 transcript of the proceedings.
- 1861 (b) If the proceeding was recorded, a transcript of that recording is a true and correct
1862 transcript for purposes of this Subsection (7).
- 1863 (8)(a)(i) If there is a record, the district court's review is limited to the record

- 1864 provided by the land use authority or appeal authority, as the case may be.
- 1865 (ii) The court may not accept or consider any evidence outside the record of the land
1866 use authority or appeal authority, as the case may be, unless that evidence was
1867 offered to the land use authority or appeal authority, respectively, and the court
1868 determines that the evidence was improperly excluded.
- 1869 (b) If there is no record, the court may call witnesses and take evidence.
- 1870 (9)(a) The filing of a petition does not stay the land use decision of the land use
1871 authority or appeal authority, as the case may be.
- 1872 (b)(i) Before filing a petition under this section or a request for mediation or
1873 arbitration of a constitutional taking issue under Section 13-43-204, a land use
1874 applicant may petition the appeal authority to stay the appeal authority's land use
1875 decision.
- 1876 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal
1877 authority's land use decision stayed pending district court review if the appeal
1878 authority finds the order to be in the best interest of the municipality.
- 1879 (iii) After a petition is filed under this section or a request for mediation or arbitration
1880 of a constitutional taking issue is filed under Section 13-43-204, the petitioner
1881 may seek an injunction staying the appeal authority's land use decision.
- 1882 (10) If the court determines that a party initiated or pursued a challenge to a land use
1883 decision on a land use application in bad faith, the court may award attorney fees.
- 1884 Section 25. Section **10-21-101** is amended to read:
- 1885 **10-21-101 (Effective 05/06/26). Definitions.**
- 1886 As used in this part:
- 1887 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
1888 detached from a single-family dwelling and contained on one lot or parcel.
- 1889 (2) "Accessory structure" means a detached structure located on the same lot or parcel as a
1890 principal structure and is incidental and subordinate to the size and use of the principal
1891 structure.
- 1892 (3) "Affordable housing" means housing offered for sale at 80% or less of the median
1893 county home price for housing of that type.
- 1894 [(2)] (4) "Agency" means the same as that term is defined in Section 17C-1-102.
- 1895 [(3)] (5) "Applicable metropolitan planning organization" means the metropolitan planning
1896 organization that has jurisdiction over the area in which a fixed guideway public transit
1897 station is located.

- 1898 ~~[(4)]~~ (6) "Applicable public transit district" means the public transit district, as defined in
 1899 Section 17B-2a-802, of which a fixed guideway public transit station is included.
- 1900 ~~[(5)]~~ (7) "Base taxable value" means a property's taxable value as shown upon the
 1901 assessment roll last equalized during the base year.
- 1902 ~~[(6)]~~ (8) "Base year" means, for a proposed home ownership promotion zone area, a year
 1903 beginning the first day of the calendar quarter determined by the last equalized tax roll
 1904 before the adoption of the home ownership promotion zone.
- 1905 (9) "Detached accessory dwelling unit" means an accessory dwelling unit that is not
 1906 attached to or within a primary detached single-family dwelling and located on the same
 1907 lot or parcel as the primary detached single-family dwelling.
- 1908 ~~[(7)]~~ (10) "Division" means the Housing and Community Development Division within the
 1909 Department of Workforce Services.
- 1910 ~~[(8)]~~ (11) "Existing fixed guideway public transit station" means a fixed guideway public
 1911 transit station for which construction begins before June 1, 2022.
- 1912 ~~[(9)]~~ (12) "Fixed guideway" means the same as that term is defined in Section 59-12-102.
- 1913 ~~[(10)]~~ (13) "Home ownership promotion zone" means a home ownership promotion zone
 1914 created in accordance with this part.
- 1915 ~~[(11)]~~ (14) "Implementation plan" means the implementation plan adopted as part of the
 1916 moderate income housing element of a specified municipality's general plan as provided
 1917 in Subsection 10-21-201(4).
- 1918 ~~[(12)]~~ (15) "Initial report" or "initial moderate income housing report" means the one-time
 1919 report described in Subsection 10-21-202(1).
- 1920 ~~[(13)]~~ (16) "Internal accessory dwelling unit" means an accessory dwelling unit created:
 1921 (a) within a primary dwelling;
 1922 (b) within the footprint of the primary dwelling described in ~~[Subsection (13)(a)]~~
 1923 Subsection (16)(a) at the time the internal accessory dwelling unit is created; and
 1924 (c) for the purpose of offering a long-term rental of 30 consecutive days or longer.
- 1925 ~~[(14)]~~ (17) "Moderate income housing strategy" means a strategy described in Subsection
 1926 10-21-201(3)(a)(iii).
- 1927 ~~[(15)]~~ (18) "New fixed guideway public transit station" means a fixed guideway public
 1928 transit station for which construction begins on or after June 1, 2022.
- 1929 ~~[(16)]~~ (19) "Participant" means the same as that term is defined in Section 17C-1-102.
- 1930 ~~[(17)]~~ (20) "Participation agreement" means the same as that term is defined in Section
 1931 17C-1-102.

- 1932 ~~[(18)]~~ (21)(a) "Primary dwelling" means a single-family dwelling that:
- 1933 (i) is detached; and
- 1934 (ii) is occupied as the primary residence of the owner of record.
- 1935 (b) "Primary dwelling" includes a garage if the garage:
- 1936 (i) is a habitable space; and
- 1937 (ii) is connected to the primary dwelling by a common wall.
- 1938 ~~[(19)]~~ (22) "Project improvements" means the same as that term is defined in Section
- 1939 11-36a-102.
- 1940 ~~[(20)]~~ (23) "Qualifying land use petition" means a petition:
- 1941 (a) that involves land located within a station area for an existing public transit station
- 1942 that provides rail services;
- 1943 (b) that involves land located within a station area for which the municipality has not yet
- 1944 satisfied the requirements of Subsection 10-21-203(1)(a);
- 1945 (c) that proposes the development of an area greater than five contiguous acres, with no
- 1946 less than 51% of the acreage within the station area;
- 1947 (d) that would require the municipality to amend the municipality's general plan or
- 1948 change a zoning designation for the land use application to be approved;
- 1949 (e) that would require a higher density than the density currently allowed by the
- 1950 municipality;
- 1951 (f) that proposes the construction of new residential units, at least 10% of which are
- 1952 dedicated to moderate income housing; and
- 1953 (g) for which the land use applicant requests the municipality to initiate the process of
- 1954 satisfying the requirements of Subsection 10-21-203(1)(a) for the station area in
- 1955 which the development is proposed, subject to Subsection 10-21-203(2)(d).
- 1956 ~~[(21)]~~ (24) "Report" means an initial report or a subsequent progress report.
- 1957 ~~[(22)]~~ (25) "Specified municipality" means:
- 1958 (a) a city of the first, second, third, or fourth class; or
- 1959 (b) a city of the fifth class with a population of 5,000 or more, if the city is located
- 1960 within a county of the first, second, or third class.
- 1961 ~~[(23)]~~ (26)(a) "Station area" means:
- 1962 (i) for a fixed guideway public transit station that provides rail services, the area
- 1963 within a one-half mile radius of the center of the fixed guideway public transit
- 1964 station platform; or
- 1965 (ii) for a fixed guideway public transit station that provides bus services only, the

1966 area within a one-fourth mile radius of the center of the fixed guideway public
1967 transit station platform.

1968 (b) "Station area" includes any parcel bisected by the radius limitation described in [
1969 ~~Subsection (a)(i)] Subsection (26)(a)(i) or (ii).~~

1970 [~~(24)] (27) "Station area plan" means a plan that:~~

1971 (a) establishes a vision, and the actions needed to implement that vision, for the
1972 development of land within a station area; and

1973 (b) is developed and adopted in accordance with this section.

1974 [~~(25)] (28) "Subsequent progress report" means the annual report described in Subsection
1975 10-21-202(2).~~

1976 [~~(26)] (29) "System improvements" means the same as that term is defined in Section
1977 11-36a-102.~~

1978 [~~(27)] (30) "Tax commission" means the State Tax Commission created in Section 59-1-201.~~

1979 [~~(28)] (31)(a) "Tax increment" means the difference between:~~

1980 (i) the amount of property tax revenue generated each tax year by a taxing entity from
1981 the area within a home ownership promotion zone, using the current assessed
1982 value and each taxing entity's current certified tax rate as defined in Section
1983 59-2-924; and

1984 (ii) the amount of property tax revenue that would be generated from that same area
1985 using the base taxable value and each taxing entity's current certified tax rate as
1986 defined in Section 59-2-924.

1987 (b) "Tax increment" does not include property revenue from:

1988 (i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2);
1989 or

1990 (ii) a county additional property tax described in Subsection 59-2-1602(4).

1991 [~~(29)] (32) "Taxing entity" means the same as that term is defined in Section 17C-1-102.~~

1992 Section 26. Section **10-21-304** is enacted to read:

1993 **10-21-304 (Effective 10/01/26). Detached accessory dwelling units.**

1994 (1)(a) A specified municipality shall adopt a land use regulation that permits a detached
1995 accessory dwelling unit on any lot or parcel that is 11,000 square feet or larger and
1996 contains a single-family dwelling, if the single-family dwelling is a permitted use on
1997 the lot or parcel.

1998 (b) This section does not prohibit a municipality from adopting a land use regulation that
1999 permits a detached accessory dwelling unit on a lot or parcel that is smaller than

- 2000 11,000 square feet.
- 2001 (2) A land use regulation described in Subsection (1) shall:
- 2002 (a) require that a detached accessory dwelling unit comply with all applicable building,
- 2003 health, and fire codes; and
- 2004 (b) include a process for the owner of a legally constructed accessory structure to
- 2005 convert the accessory structure to a detached accessory dwelling unit subject to
- 2006 applicable:
- 2007 (i) dwelling and accessory structure setback requirements; and
- 2008 (ii) building, health, and fire codes.
- 2009 (3) A land use regulation described in Subsection (1) may not:
- 2010 (a) require a conditional use permit for a detached accessory dwelling unit if the
- 2011 proposed detached accessory dwelling unit is located in a primarily residential zone;
- 2012 (b) require more than two on-site parking spaces assigned to a detached accessory
- 2013 dwelling unit that is 650 square feet or larger;
- 2014 (c) require more than one on-site parking space assigned to a detached accessory
- 2015 dwelling unit that is smaller than 650 square feet; or
- 2016 (d) include design standards for a detached accessory dwelling unit that conflict with
- 2017 Section 10-20-618.
- 2018 (4) A land use regulation described in Subsection (1) may:
- 2019 (a) require a detached accessory dwelling unit to:
- 2020 (i) conform to applicable land use regulations that regulate structure size, dimension,
- 2021 height, and maximum lot coverage;
- 2022 (ii) conform to setback requirements, that may take into account proximity to
- 2023 property lines and other structures, easements, window orientation, massing, or
- 2024 other elements; and
- 2025 (iii) be designed consistent with the design of the single-family dwelling;
- 2026 (b) prohibit a detached accessory dwelling unit from being:
- 2027 (i) larger in size than the single-family dwelling located on the same lot or parcel;
- 2028 (ii) located within a public utility easement or other recorded easement;
- 2029 (iii) located in a front-yard area of a lot or parcel; or
- 2030 (iv) rented for less than 90 consecutive days;
- 2031 (c) require that the owner of a lot or parcel where a detached accessory dwelling unit is
- 2032 located reside in the detached single-family dwelling or detached accessory dwelling
- 2033 unit located on the lot or parcel;

- 2034 (d) require that when a detached garage is converted to a detached accessory dwelling
 2035 unit, any parking spaces required for the single-family dwelling that were located
 2036 with the detached garage are replaced on-site;
- 2037 (e) prohibit more than one accessory dwelling unit on a lot or parcel; and
- 2038 (f) prohibit a detached accessory dwelling unit if:
- 2039 (i) the detached accessory dwelling unit will not have adequate access to a required
 2040 utility service that is a project improvement, including sanitary sewer, culinary
 2041 water, electrical, or storm water; or
- 2042 (ii) a utility service that is a system improvement, including sanitary sewer, culinary
 2043 water, electrical, or storm water, to which the detached accessory dwelling unit is
 2044 required to connect does not have sufficient capacity to support the addition of the
 2045 detached accessory dwelling unit to the utility service system improvements.

2046 (5) This section does not supersede:

- 2047 (a) a land use regulation that regulates a detached accessory building that is not a
 2048 detached accessory dwelling unit;
- 2049 (b) prohibitions or restrictions on detached accessory dwelling units in a development
 2050 agreement signed by a municipality on or before May 6, 2026; or
- 2051 (c) a land use regulation or administrative action that:
- 2052 (i) is not prohibited by law; and
- 2053 (ii) relates to a detached accessory dwelling unit.

2054 Section 27. Section **13-43-205** is amended to read:

2055 **13-43-205 (Effective 05/06/26). Advisory opinion.**

- 2056 (1) A local government, private entity, or a potentially aggrieved person may, in accordance
 2057 with Section 13-43-206, request a written advisory opinion:
- 2058 (a) from a neutral third party to determine compliance with:
- 2059 (i) Sections 10-20-506, 10-20-507, 10-20-602, 10-20-604, 10-20-605, 10-20-902,
 2060 10-20-904, 10-20-905, 10-20-910, 10-20-911, 10-20-912, and 10-20-1003;
- 2061 (ii) Sections 17-79-506, 17-79-507, 17-79-601, 17-79-602, 17-79-603, 17-79-803,
 2062 17-79-804, 17-79-805, 17-79-811, 17-79-812, 17-79-813, and 17-79-903; and
- 2063 (iii) Title 11, Chapter 36a, Impact Fees Act; and
- 2064 (b) at any time before:
- 2065 (i) a final decision on a land use application by a local appeal authority under Title
 2066 11, Chapter 36a, Impact Fees Act, or Section 10-20-1108 or 17-79-1008;
- 2067 (ii) the deadline for filing an appeal with the district court under Title 11, Chapter

2068 36a, Impact Fees Act, or Section 10-20-1109 or 17-79-1009, if no local appeal
 2069 authority is designated to hear the issue that is the subject of the request for an
 2070 advisory opinion; or
 2071 (iii) the enactment of an impact fee, if the request for an advisory opinion is a request
 2072 to review and comment on a proposed impact fee facilities plan or a proposed
 2073 impact fee analysis as defined in Section 11-36a-102.

2074 (2) A private property owner may, in accordance with Section 13-43-206, request a written
 2075 advisory opinion from a neutral third party to determine if a condemning entity:

2076 (a) is in occupancy of the owner's property;

2077 (b) is occupying the property:

2078 (i) for a public use authorized by law; and

2079 (ii) without colorable legal or equitable authority; and

2080 (c) continues to occupy the property without the owner's consent, the occupancy would
 2081 constitute a taking of private property for a public use without just compensation.

2082 (3) An advisory opinion issued under Subsection (2) may justify an award of attorney fees
 2083 against a condemning entity in accordance with Section 13-43-206 only if the court
 2084 finds that the condemning entity:

2085 (a) does not have a colorable claim or defense for the entity's actions; and

2086 (b) continued occupancy without payment of just compensation and in disregard of the
 2087 advisory opinion.

2088 Section 28. Section **17-79-102** is amended to read:

2089 **17-79-102 (Effective 05/06/26). Definitions.**

2090 As used in this chapter:

2091 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
 2092 detached from a primary single-family dwelling and contained on one lot.

2093 (2) "Adversely affected party" means a person other than a land use applicant who:

2094 (a) owns real property adjoining the property that is the subject of a land use application
 2095 or land use decision; or

2096 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
 2097 general community as a result of the land use decision.

2098 (3) "Affected entity" means a county, municipality, special district, special service district
 2099 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
 2100 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
 2101 specified property owner, property owner's association, public utility, or the Department

- 2102 of Transportation, if:
- 2103 (a) the entity's services or facilities are likely to require expansion or significant
- 2104 modification because of an intended use of land;
- 2105 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
- 2106 or
- 2107 (c) the entity has filed with the county a request for notice during the same calendar year
- 2108 and before the county provides notice to an affected entity in compliance with a
- 2109 requirement imposed under this chapter.
- 2110 (4) "Affected owner" means the owner of real property that is:
- 2111 (a) a single project; and
- 2112 (b) the subject of a land use approval that:
- 2113 (i) sponsors of a referendum timely challenged in accordance with Subsection
- 2114 20A-7-601(6); and
- 2115 ~~[(e)]~~ (ii) is determined to be legally referable under Section 20A-7-602.8.
- 2116 (5) "Appeal authority" means the person, board, commission, agency, or other body
- 2117 designated by ordinance to decide an appeal of a decision of a land use application or a
- 2118 variance.
- 2119 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
- 2120 residential property if the sign is designed or intended to direct attention to a business,
- 2121 product, or service that is not sold, offered, or existing on the property where the sign is
- 2122 located.
- 2123 ~~[(7) "Building code adoption cycle" means the period of time beginning the day on which a~~
- 2124 ~~specific edition of a construction code from a nationally recognized code authority is~~
- 2125 ~~adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day~~
- 2126 ~~before a new edition of a construction code is adopted and effective in Title 15A, State~~
- 2127 ~~Construction and Fire Codes Act.]~~
- 2128 ~~[(8)]~~ (7)(a) "Boundary adjustment" means an agreement between adjoining property
- 2129 owners to relocate a common boundary that results in a conveyance of property
- 2130 between the adjoining lots, adjoining parcels, or adjoining lots and parcels.
- 2131 (b) "Boundary adjustment" does not mean a modification of a lot or parcel boundary that:
- 2132 (i) creates an additional lot or parcel; or
- 2133 (ii) is made by the Department of Transportation.
- 2134 ~~[(9)]~~ (8)(a) "Boundary establishment" means an agreement between adjoining property
- 2135 owners to clarify the location of an ambiguous, uncertain, or disputed common

- 2136 boundary.
- 2137 (b) "Boundary establishment" does not mean a modification of a lot or parcel boundary
- 2138 that:
- 2139 (i) creates an additional lot or parcel; or
- 2140 (ii) is made by the Department of Transportation.
- 2141 (9) "Building code adoption cycle" means the period of time beginning the day on which a
- 2142 specific edition of a construction code from a nationally recognized code authority is
- 2143 adopted and effective in Title 15A, State Construction and Fire Codes Act, until the day
- 2144 before a new edition of a construction code is adopted and effective in Title 15A, State
- 2145 Construction and Fire Codes Act.
- 2146 (10)(a) "Charter school" means:
- 2147 (i) an operating charter school;
- 2148 (ii) a charter school applicant that a charter school authorizer approves in accordance
- 2149 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
- 2150 (iii) an entity that is working on behalf of a charter school or approved charter
- 2151 applicant to develop or construct a charter school building.
- 2152 (b) "Charter school" does not include a therapeutic school.
- 2153 (11) "Chief executive officer" means the person or body that exercises the executive powers
- 2154 of the county.
- 2155 (12) "Conditional use" means a land use that, because of the unique characteristics or
- 2156 potential detrimental impact of the land use on the county, surrounding neighbors, or
- 2157 adjacent land uses, may not be compatible in some areas or may be compatible only if
- 2158 certain conditions are required that mitigate or eliminate the detrimental impacts.
- 2159 (13) "Constitutional taking" means a governmental action that results in a taking of private
- 2160 property [~~so that~~] where compensation to the property owner[~~of the property~~] is required
- 2161 by the:
- 2162 (a) Fifth or Fourteenth Amendment [øf] to the Constitution of the United States; or
- 2163 (b) Utah Constitution, Article I, Section 22.
- 2164 (14) "Conveyance document" means an instrument that:
- 2165 (a) meets the definition of "document" in Section 57-1-1; and
- 2166 (b) meets the requirements of Section 57-1-45.5.
- 2167 (15) "Conveyance of property" means the transfer of ownership of any portion of real
- 2168 property from one person to another person.
- 2169 (16) "County utility easement" means an easement that:

- 2170 (a) a plat recorded in a county recorder's office described as a county utility easement or
2171 otherwise as a utility easement;
- 2172 (b) is not a protected utility easement or a public utility easement as defined in Section
2173 54-3-27;
- 2174 (c) the county or the county's affiliated governmental entity owns or creates; and
- 2175 (d)(i) either:
- 2176 (A) no person uses or occupies; or
- 2177 (B) the county or the county's affiliated governmental entity uses and occupies to
2178 provide a utility service, including sanitary sewer, culinary water, electrical,
2179 storm water, or communications or data lines; or
- 2180 (ii) a person uses or occupies with or without an authorized franchise or other
2181 agreement with the county.
- 2182 (17) "Culinary water authority" means the department, agency, or public entity with
2183 responsibility to review and approve the feasibility of the culinary water system and
2184 sources for the subject property.
- 2185 (18) "Department of Transportation" means the entity created in Section 72-1-201.
- 2186 (19) "Development activity" means:
- 2187 (a) any construction or expansion of a building, structure, or use that creates additional
2188 demand and need for public facilities;
- 2189 (b) any change in use of a building or structure that creates additional demand and need
2190 for public facilities; or
- 2191 (c) any change in the use of land that creates additional demand and need for public
2192 facilities.
- 2193 (20)(a) "Development agreement" means a written agreement or amendment to a written
2194 agreement between a county and one or more parties that regulates or controls the use
2195 or development of a specific area of land.
- 2196 (b) "Development agreement" does not include an improvement completion assurance.
- 2197 (21)(a) "Disability" means a physical or mental impairment that substantially limits one
2198 or more of a person's major life activities, including a person having a record of such
2199 an impairment or being regarded as having such an impairment.
- 2200 (b) "Disability" does not include current illegal use of, or addiction to, any federally
2201 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21
2202 U.S.C. Sec. 802.
- 2203 (22) "Document" means the same as that term is defined in Section 57-1-1.

- 2204 (23) "Educational facility":
- 2205 (a) means:
- 2206 (i) a school district's building at which pupils assemble to receive instruction in a
- 2207 program for any combination of grades from preschool through grade 12,
- 2208 including kindergarten and a program for children with disabilities;
- 2209 (ii) a structure or facility:
- 2210 (A) located on the same property as a building described in Subsection (23)(a)(i);
- 2211 and
- 2212 (B) used in support of the use of that building; and
- 2213 (iii) a building to provide office and related space to a school district's administrative
- 2214 personnel; and
- 2215 (b) does not include:
- 2216 (i) land or a structure, including land or a structure for inventory storage, equipment
- 2217 storage, food processing or preparing, vehicle storage or maintenance, or similar
- 2218 use that is:
- 2219 (A) not located on the same property as a building described in Subsection
- 2220 (23)(a)(i); and
- 2221 (B) used in support of the purposes of a building described in Subsection (23)(a)(i);
- 2222 or
- 2223 (ii) a therapeutic school.
- 2224 (24) "Establishment document" means an instrument that:
- 2225 (a) meets the definition of "document" in Section 57-1-1; and
- 2226 (b) meets the requirements of Section 57-1-45.
- 2227 [~~(25) "Full boundary adjustment" means a boundary adjustment that is not a simple~~
- 2228 ~~boundary adjustment.~~]
- 2229 [~~(26)~~ (25) "Fire authority" means the department, agency, or public entity with
- 2230 responsibility to review and approve the feasibility of fire protection and suppression
- 2231 services for the subject property.
- 2232 [~~(27)~~ (26) "Flood plain" means land that:
- 2233 (a) is within the 100-year flood plain designated by the Federal Emergency Management
- 2234 Agency; or
- 2235 (b) has not been studied or designated by the Federal Emergency Management Agency
- 2236 but presents a likelihood of experiencing chronic flooding or a catastrophic flood
- 2237 event because the land has characteristics that are similar to those of a 100-year flood

- 2238 plain designated by the Federal Emergency Management Agency.
- 2239 (27) "Full boundary adjustment" means a boundary adjustment that is not a simple
- 2240 boundary adjustment.
- 2241 (28) "Gas corporation" has the same meaning as defined in Section 54-2-1.
- 2242 (29) "General plan" means a document that a county adopts that sets forth general
- 2243 guidelines for proposed future development of:
- 2244 (a) the unincorporated land within the county; or
- 2245 (b) for a mountainous planning district, the land within the mountainous planning
- 2246 district.
- 2247 (30) "Geologic hazard" means:
- 2248 (a) a surface fault rupture;
- 2249 (b) shallow groundwater;
- 2250 (c) liquefaction;
- 2251 (d) a landslide;
- 2252 (e) a debris flow;
- 2253 (f) unstable soil;
- 2254 (g) a rock fall; or
- 2255 (h) any other geologic condition that presents a risk:
- 2256 (i) to life;
- 2257 (ii) of substantial loss of real property; or
- 2258 (iii) of substantial damage to real property.
- 2259 (31) "Home-based microschool" means the same as that term is defined in Section
- 2260 53G-6-201.
- 2261 (32) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter,
- 2262 or appurtenance to connect to a county water, sewer, storm water, power, or other utility
- 2263 system.
- 2264 (33)(a) "Identical plans" means floor plans submitted to a county that:
- 2265 (i) are submitted within the same building code adoption cycle as floor plans that
- 2266 were previously approved by the county;
- 2267 (ii) have no structural differences from floor plans that were previously approved by
- 2268 the county; and
- 2269 (iii) describe a building that:
- 2270 (A) is located on land zoned the same as the land on which the building described
- 2271 in the previously approved plans is located;

- 2272 (B) has a substantially identical floor plan to a floor plan previously approved by
2273 the county; and
- 2274 (C) does not require any engineering or analysis beyond a review to confirm the
2275 submitted floor plans are substantially identical to a floor plan previously
2276 approved by the county or a review of the site plan and associated geotechnical
2277 reports for the site.
- 2278 (b) "Identical plans" include floor plans that are oriented differently as the floor plan that
2279 was previously approved by the county.
- 2280 (34) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact
2281 Fees Act.
- 2282 (35) "Improvement completion assurance" means a surety bond, letter of credit, financial
2283 institution bond, cash, assignment of rights, lien, or other equivalent security required by
2284 a county to guaranty the proper completion of landscaping or an infrastructure
2285 improvement required as a condition precedent to:
- 2286 (a) recording a subdivision plat; or
2287 (b) development of a commercial, industrial, mixed use, or multifamily project.
- 2288 (36) "Improvement warranty" means an applicant's unconditional warranty that the
2289 applicant's installed and accepted landscaping or infrastructure improvement:
- 2290 (a) complies with the county's written standards for design, materials, and workmanship;
2291 and
2292 (b) will not fail in any material respect, as a result of poor workmanship or materials,
2293 within the improvement warranty period.
- 2294 (37) "Improvement warranty period" means a period:
- 2295 (a) no later than one year after a county's acceptance of required public landscaping; or
2296 (b) no later than one year after a county's acceptance of required infrastructure, unless
2297 the county:
- 2298 (i) determines, based on accepted industry standards and for good cause, that a
2299 one-year period would be inadequate to protect the public health, safety, and
2300 welfare; and
2301 (ii) has substantial evidence, on record:
- 2302 (A) of prior poor performance by the applicant; or
2303 (B) that the area upon which the infrastructure will be constructed contains
2304 suspect soil and the county has not otherwise required the applicant to mitigate
2305 the suspect soil.

- 2306 (38) "Infrastructure improvement" means permanent infrastructure that is essential for the
2307 public health and safety or that:
2308 (a) is required for human consumption; and
2309 (b) an applicant shall install:
2310 (i) in accordance with published installation and inspection specifications for public
2311 improvements; and
2312 (ii) as a condition of:
2313 (A) recording a subdivision plat;
2314 (B) obtaining a building permit; or
2315 (C) developing a commercial, industrial, mixed use, condominium, or multifamily
2316 project.
- 2317 (39) "Internal lot restriction" means a platted note, platted demarcation, or platted
2318 designation that:
2319 (a) runs with the land; and
2320 (b)(i) creates a restriction that is enclosed within the perimeter of a lot described on
2321 the plat; or
2322 (ii) designates a development condition that is enclosed within the perimeter of a lot
2323 described on the plat.
- 2324 (40) "Interstate pipeline company" means a person or entity engaged in natural gas
2325 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
2326 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 2327 (41) "Intrastate pipeline company" means a person or entity engaged in natural gas
2328 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
2329 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 2330 (42) "Land use applicant" means a property owner, or the property owner's designee, who
2331 submits a land use application regarding the property owner's land.
- 2332 (43) "Land use application":
2333 (a) means an application that is:
2334 (i) required by a county; and
2335 (ii) submitted by a land use applicant to obtain a land use decision; and
2336 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 2337 (44) "Land use authority" means:
2338 (a) a person, board, commission, agency, or body, including the local legislative body,
2339 designated by the local legislative body to act upon a land use application; or

- 2340 (b) if the local legislative body has not designated a person, board, commission, agency,
2341 or body, the local legislative body.
- 2342 (45) "Land use decision" means an administrative decision of a land use authority or appeal
2343 authority regarding:
- 2344 (a) a land use permit;
- 2345 (b) a land use application; or
- 2346 (c) the enforcement of a land use regulation, land use permit, or development agreement.
- 2347 (46) "Land use permit" means a permit issued by a land use authority.
- 2348 (47) "Land use regulation":
- 2349 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
2350 engineering or development standard, specification for public improvement, fee, or
2351 rule that governs the use or development of land;
- 2352 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
2353 and
- 2354 (c) does not include:
- 2355 (i) a land use decision of the legislative body acting as the land use authority, even if
2356 the decision is expressed in a resolution or ordinance; or
- 2357 (ii) a temporary revision to an engineering specification that does not materially:
- 2358 (A) increase a land use applicant's cost of development compared to the existing
2359 specification; or
- 2360 (B) impact a land use applicant's use of land.
- 2361 (48) "Legislative body" means the county legislative body, or for a county that has adopted
2362 an alternative form of government, the body exercising legislative powers.
- 2363 (49) "Lot" means a tract of land, regardless of any label, that is created by and shown on a
2364 subdivision plat that has been recorded in the office of the county recorder.
- 2365 (50) "Major transit investment corridor" means public transit service that uses or occupies:
- 2366 (a) public transit rail right-of-way;
- 2367 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
- 2368 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
2369 municipality or county and:
- 2370 (i) a public transit district as defined in Section 17B-2a-802; or
- 2371 (ii) an eligible political subdivision as defined in Section 59-12-2202.
- 2372 (51) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.
- 2373 (52) "Moderate income housing" means housing occupied or reserved for occupancy by

- 2374 households with a gross household income equal to or less than 80% of the median gross
2375 income for households of the same size in the county in which the housing is located.
- 2376 (53) "Mountainous planning district" means an area designated by a county legislative body
2377 in accordance with Section 17-79-408.
- 2378 (54) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and
2379 expenses incurred in:
- 2380 (a) verifying that building plans are identical plans; and
2381 (b) reviewing and approving those minor aspects of identical plans that differ from the
2382 previously reviewed and approved building plans.
- 2383 (55) "Noncomplying structure" means a structure that:
- 2384 (a) legally existed before the structure's current land use designation; and
2385 (b) because of one or more subsequent land use ordinance changes, does not conform to
2386 the setback, height restrictions, or other regulations, excluding those regulations that
2387 govern the use of land.
- 2388 (56) "Nonconforming use" means a use of land that:
- 2389 (a) legally existed before the land's current land use designation;
2390 (b) has been maintained continuously since the time the land use ordinance regulation
2391 governing the land changed; and
2392 (c) because of one or more subsequent land use ordinance changes, does not conform to
2393 the regulations that now govern the use of the land.
- 2394 (57) "Official map" means a map drawn by county authorities and recorded in the county
2395 recorder's office that:
- 2396 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
2397 highways and other transportation facilities;
2398 (b) provides a basis for restricting development in designated rights-of-way or between
2399 designated setbacks to allow the government authorities time to purchase or
2400 otherwise reserve the land; and
2401 (c) has been adopted as an element of the county's general plan.
- 2402 (58) "Parcel" means any real property that is not a lot.
- 2403 (59) "Person" means an individual, corporation, partnership, organization, association, trust,
2404 governmental agency, or any other legal entity.
- 2405 (60) "Plan for moderate income housing" means a written document adopted by a county
2406 legislative body that includes:
- 2407 (a) an estimate of the existing supply of moderate income housing located within the

- 2408 county;
- 2409 (b) an estimate of the need for moderate income housing in the county for the next five
- 2410 years;
- 2411 (c) a survey of total residential land use;
- 2412 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
- 2413 income housing; and
- 2414 (e) a description of the county's program to encourage an adequate supply of moderate
- 2415 income housing.
- 2416 (61) "Planning advisory area" means a contiguous, geographically defined portion of the
- 2417 unincorporated area of a county established under this part with planning and zoning
- 2418 functions as exercised through the planning advisory area planning commission, as
- 2419 provided in this chapter, but with no legal or political identity separate from the county
- 2420 and no taxing authority.
- 2421 (62) "Plat" means an instrument subdividing property into lots as depicted on a map or
- 2422 other graphical representation of lands that a licensed professional land surveyor makes
- 2423 and prepares in accordance with Section 17-79-703 or 57-8-13.
- 2424 (63) "Potential geologic hazard area" means an area that:
- 2425 (a) is designated by a Utah Geological Survey map, county geologist map, or other
- 2426 relevant map or report as needing further study to determine the area's potential for
- 2427 geologic hazard; or
- 2428 (b) has not been studied by the Utah Geological Survey or a county geologist but
- 2429 presents the potential of geologic hazard because the area has characteristics similar
- 2430 to those of a designated geologic hazard area.
- 2431 (64) "Property owner" means a person that holds legal title in real property.
- 2432 [~~(64)~~] (65) "Public agency" means:
- 2433 (a) the federal government;
- 2434 (b) the state;
- 2435 (c) a county, municipality, school district, special district, special service district, or
- 2436 other political subdivision of the state; or
- 2437 (d) a charter school.
- 2438 [~~(65)~~] (66) "Public hearing" means a hearing at which members of the public are provided a
- 2439 reasonable opportunity to comment on the subject of the hearing.
- 2440 [~~(66)~~] (67) "Public meeting" means a meeting that is required to be open to the public under
- 2441 Title 52, Chapter 4, Open and Public Meetings Act.

- 2442 [(67)] (68) "Public street" means a public right-of-way, including a public highway, public
2443 avenue, public boulevard, public parkway, public road, public lane, public alley, public
2444 viaduct, public subway, public tunnel, public bridge, public byway, other public
2445 transportation easement, or other public way.
- 2446 [(68)] (69) "Receiving zone" means an unincorporated area that a county designates, by
2447 ordinance, as an area in which an owner of land may receive a transferable development
2448 right.
- 2449 [(69)] (70) "Record of survey map" means a map of a survey of land prepared in accordance
2450 with Section 17-73-504.
- 2451 [(70)] (71) "Residential facility for persons with a disability" means a residence:
2452 (a) in which more than one person with a disability resides; and
2453 (b) which is licensed or certified by the Department of Health and Human Services
2454 under:
2455 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or
2456 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 2457 [(71)] (72) "Residential roadway" means a public local residential road that:
2458 (a) will serve primarily to provide access to adjacent primarily residential areas and
2459 property;
2460 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;
2461 (c) is not identified as a supplementary to a collector or other higher system classified
2462 street in an approved municipal street or transportation master plan;
2463 (d) has a posted speed limit of 25 miles per hour or less;
2464 (e) does not have higher traffic volumes resulting from connecting previously separated
2465 areas of the municipal road network;
2466 (f) cannot have a primary access, but can have a secondary access, and does not abut lots
2467 intended for high volume traffic or community centers, including schools, recreation
2468 centers, sports complexes, or libraries; and
2469 (g) primarily serves traffic within a neighborhood or limited residential area and is not
2470 necessarily continuous through several residential areas.
- 2471 [(72)] (73) "Rules of order and procedure" means a set of rules that govern and prescribe in
2472 a public meeting:
2473 (a) parliamentary order and procedure;
2474 (b) ethical behavior; and
2475 (c) civil discourse.

- 2476 [(73)] (74) "Sanitary sewer authority" means the department, agency, or public entity with
2477 responsibility to review and approve the feasibility of sanitary sewer services or onsite
2478 wastewater systems.
- 2479 [(74)] (75) "Sending zone" means an unincorporated area that a county designates, by
2480 ordinance, as an area from which an owner of land may transfer a transferable
2481 development right.
- 2482 [(75)] (76) "Simple boundary adjustment" means a boundary adjustment that does not:
2483 (a) affect a public right-of-way, county utility easement, or other public property;
2484 (b) affect an existing easement, onsite wastewater system, or an internal lot restriction; or
2485 (c) result in a lot or parcel out of conformity with land use regulations.
- 2486 [(76)] (77) "Site plan" means a document or map that may be required by a county during a
2487 preliminary review before the issuance of a building permit to demonstrate that an
2488 owner's or developer's proposed development activity meets a land use requirement.
- 2489 [(77)] (78)(a) "Special district" means an entity under Title 17B, Limited Purpose Local
2490 Government Entities - Special Districts.
2491 (b) "Special district" includes a governmental or quasi-governmental entity that is not a
2492 county, municipality, school district, or the state.
- 2493 (79) "Specific land use law" means a requirement or restriction on the use of a specific
2494 parcel in a development agreement that a legislative body approves with the consent of
2495 an affected property owner.
- 2496 [(78)] (80) "Specified public agency" means:
2497 (a) the state;
2498 (b) a school district; or
2499 (c) a charter school.
- 2500 [(79)] (81) "Specified public utility" means an electrical corporation, gas corporation, or
2501 telephone corporation, as those terms are defined in Section 54-2-1.
- 2502 [(80)] (82) "State" includes any department, division, or agency of the state.
- 2503 [(81)] (83)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to
2504 be divided into two or more lots or other division of land for the purpose, whether
2505 immediate or future, for offer, sale, lease, or development either on the installment
2506 plan or upon any and all other plans, terms, and conditions.
2507 (b) "Subdivision" includes:
2508 (i) the division or development of land, whether by deed, metes and bounds
2509 description, devise and testacy, map, plat, or other recorded instrument, regardless

- 2510 of whether the division includes all or a portion of a parcel or lot; and
- 2511 (ii) except as provided in Subsection [~~(81)~~(e)] (83)(c), divisions of land for residential
- 2512 and nonresidential uses, including land used or to be used for commercial,
- 2513 agricultural, and industrial purposes.
- 2514 (c) "Subdivision" does not include:
- 2515 (i) a bona fide division or partition of agricultural land for agricultural purposes;
- 2516 (ii) a recorded conveyance document:
- 2517 (A) consolidating multiple lots or parcels into one legal description encompassing
- 2518 all lots by reference to a recorded plat and all parcels by metes and bounds
- 2519 description; or
- 2520 (B) joining a lot to a parcel;
- 2521 (iii) a bona fide division or partition of land in a county other than a first class county
- 2522 for the purpose of siting, on one or more of the resulting separate parcels:
- 2523 (A) an electrical transmission line or a substation;
- 2524 (B) a natural gas pipeline or a regulation station; or
- 2525 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
- 2526 utility service regeneration, transformation, retransmission, or amplification
- 2527 facility;
- 2528 (iv) a bona fide division of land by deed or other instrument if the deed or other
- 2529 instrument states in writing that the division:
- 2530 (A) is in anticipation of future land use approvals on the parcel or parcels;
- 2531 (B) does not confer any land use approvals; and
- 2532 (C) has not been approved by the land use authority;
- 2533 (v) a boundary adjustment;
- 2534 (vi) a boundary establishment;
- 2535 (vii) a road, street, or highway dedication plat;
- 2536 (viii) a deed or easement for a road, street, or highway purpose; or
- 2537 (ix) any other division of land authorized by law.
- 2538 [~~(82)~~] (84)(a) "Subdivision amendment" means an amendment to a recorded subdivision
- 2539 in accordance with Section 17-79-711 that:
- 2540 (i) vacates all or a portion of the subdivision;
- 2541 (ii) increases the number of lots within the subdivision;
- 2542 (iii) alters a public right-of-way, a public easement, or public infrastructure within the
- 2543 subdivision; or

- 2544 (iv) alters a common area or other common amenity within the subdivision.
- 2545 (b) "Subdivision amendment" does not include a simple boundary adjustment.
- 2546 [(83)] (85) "Substantial evidence" means evidence that:
- 2547 (a) is beyond a scintilla; and
- 2548 (b) a reasonable mind would accept as adequate to support a conclusion.
- 2549 [(84)] (86) "Suspect soil" means soil that has:
- 2550 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 2551 3% swell potential;
- 2552 (b) bedrock units with high shrink or swell susceptibility; or
- 2553 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 2554 commonly associated with dissolution and collapse features.
- 2555 [(85)] (87) "Therapeutic school" means a residential group living facility:
- 2556 (a) for four or more individuals who are not related to:
- 2557 (i) the owner of the facility; or
- 2558 (ii) the primary service provider of the facility;
- 2559 (b) that serves students who have a history of failing to function:
- 2560 (i) at home;
- 2561 (ii) in a public school; or
- 2562 (iii) in a nonresidential private school; and
- 2563 (c) that offers:
- 2564 (i) room and board; and
- 2565 (ii) an academic education integrated with:
- 2566 (A) specialized structure and supervision; or
- 2567 (B) services or treatment related to a disability, an emotional development, a
- 2568 behavioral development, a familial development, or a social development.
- 2569 [(86)] (88) "Transferable development right" means a right to develop and use land that
- 2570 originates by an ordinance that authorizes a [~~land~~] property owner in a designated
- 2571 sending zone to transfer land use rights from a designated sending zone to a designated
- 2572 receiving zone.
- 2573 [(87)] (89) "Unincorporated" means the area outside of the incorporated area of a
- 2574 municipality.
- 2575 [(88)] (90) "Water interest" means any right to the beneficial use of water, including:
- 2576 (a) each of the rights listed in Section 73-1-11; and
- 2577 (b) an ownership interest in the right to the beneficial use of water represented by:

- 2578 (i) a contract; or
- 2579 (ii) a share in a water company, as defined in Section 73-3-3.5.
- 2580 [(89)] (91) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
- 2581 land use zones, overlays, or districts.
- 2582 Section 29. Section **17-79-205** is amended to read:
- 2583 **17-79-205 (Effective 05/06/26). Notice of public hearings and public meetings on**
- 2584 **adoption or modification of land use regulation.**
- 2585 (1) Each county shall give:
- 2586 (a) notice of the date, time, and place of the first public hearing to consider the adoption
- 2587 or modification of a land use regulation; and
- 2588 (b) notice of each public meeting on the subject.
- 2589 (2) Each notice of a public hearing under Subsection (1)(a) shall be:
- 2590 (a) mailed to each affected entity at least 10 calendar days before the public hearing; and
- 2591 (b)(i) provided for the area affected by the land use ordinance changes, as a class B
- 2592 notice under Section 63G-30-102, for at least 10 calendar days before the day of
- 2593 the public hearing; or
- 2594 (ii) if the proposed land use ordinance adoption or modification is ministerial in
- 2595 nature, as described in Subsections (6)(a) and (b), provided as a class A notice
- 2596 under Section 63G-30-102 for at least 10 calendar days before the day of the
- 2597 public hearing.
- 2598 (3) In addition to the notice requirements described in Subsections (1) and (2), for any
- 2599 proposed modification to the text of a zoning code, the notice posted in accordance with
- 2600 Subsection (2) shall:
- 2601 (a) include:
- 2602 (i) a summary of the effect of the proposed modifications to the text of the zoning
- 2603 code designed to be understood by a lay person; or
- 2604 (ii) a direct link to the county's webpage where a person can find a summary of the
- 2605 effect of the proposed modifications to the text of the zoning code designed to be
- 2606 understood by a lay person; and
- 2607 (b) be provided to any person upon written request.
- 2608 (4) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before
- 2609 the hearing and shall be published for the county, as a class A notice under Section
- 2610 63G-30-102, for at least 24 hours.
- 2611 (5)(a) A county shall send a courtesy notice to each owner of private real property

2612 whose property is located entirely or partially within the proposed zoning map
 2613 enactment or amendment at least 10 days before the scheduled day of the public
 2614 hearing.

2615 (b) The notice shall:

2616 (i) identify with specificity each owner of record of real property that will be affected
 2617 by the proposed zoning map or map amendments;

2618 (ii) state the current zone in which the real property is located;

2619 (iii) state the proposed new zone for the real property;

2620 (iv) provide information regarding or a reference to the proposed regulations,
 2621 prohibitions, and permitted uses that the property will be subject to if the zoning
 2622 map or map amendment is adopted;

2623 (v) state that the owner of real property may no later than 10 days after the day of the
 2624 first public hearing file a written objection to the inclusion of the owner's property
 2625 in the proposed zoning map or map amendment;

2626 (vi) state the address where the property owner should file the protest;

2627 (vii) notify the property owner that each written objection filed with the county will
 2628 be provided to the county legislative body; and

2629 (viii) state the location, date, and time of the public hearing described in Section
 2630 17-79-502.

2631 (c) If a county mails notice to a property owner under Subsection (2)(b)(i) for a public
 2632 hearing on a zoning map or map amendment, the notice required in this Subsection
 2633 (5) may be included in or part of the notice described in Subsection (2)(b)(i) rather
 2634 than sent separately.

2635 (6)(a) [A] For purposes of the notice requirements in Subsection (2)(b) only, a proposed
 2636 land use ordinance is ministerial in nature if the proposed land use ordinance change
 2637 is to:

2638 (i) bring the county's land use ordinances into compliance with a state or federal law;

2639 (ii) adopt a county land use update that affects:

2640 (A) an entire zoning district; or

2641 (B) multiple zoning districts;

2642 (iii) adopt a non-substantive, clerical text amendment to an existing land use
 2643 ordinance;

2644 (iv) recodify the county's existing land use ordinances; or

2645 (v) designate or define an affected area for purposes of a boundary adjustment or

2646 annexation.

2647 (b) A proposed land use ordinance may include more than one of the purposes described
2648 in Subsection (6)(a) and remain ministerial in nature.

2649 (c) If a proposed land use ordinance includes an adoption or modification not described
2650 in Subsection (6)(a):

2651 (i) the proposed land use ordinance is not ministerial in nature, even if the proposed
2652 land use ordinance also includes a change or modification described in Subsection
2653 (6)(a); and

2654 (ii) the notice requirements of Subsection (2)(b)(i) apply.

2655 Section 30. Section **17-79-301** is amended to read:

2656 **17-79-301 (Effective 05/06/26). Ordinance establishing planning commission**
2657 **required -- Exception -- Ordinance requirements -- Planning advisory area planning**
2658 **commission -- Compensation.**

2659 (1)(a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
2660 establishing a countywide planning commission for the unincorporated areas of the
2661 county not within a planning advisory area.

2662 (b) Subsection (1)(a) does not apply if all of the county is included within any
2663 combination of:

2664 (i) municipalities;

2665 (ii) planning advisory areas each with a separate planning commission; and

2666 (iii) mountainous planning districts.

2667 (c)(i) Notwithstanding Subsection (1)(a), a county that designates a mountainous
2668 planning district shall enact an ordinance, subject to Subsection (1)(c)(ii),
2669 establishing a planning commission that has jurisdiction over the entire
2670 mountainous planning district.

2671 (ii) A planning commission described in Subsection (1)(c)(i) has jurisdiction subject
2672 to a local health department exercising the local health department's authority in
2673 accordance with Title 26A, Chapter 1, Local Health Departments, and a
2674 municipality exercising the municipality's authority in accordance with Section
2675 10-8-15.

2676 (iii) The ordinance shall require that members of the planning commission be
2677 appointed by the county executive with the advice and consent of the county
2678 legislative body.

2679 (2)(a) Notwithstanding Subsection (1)(b), the county legislative body of a county of the

- 2680 first or second class that includes more than one planning advisory area each with a
2681 separate planning commission may enact an ordinance that:
- 2682 (i) dissolves each planning commission within the county; and
 - 2683 (ii) establishes a countywide planning commission that has jurisdiction over:
 - 2684 (A) each planning advisory area within the county; and
 - 2685 (B) the unincorporated areas of the county not within a planning advisory area.
 - 2686 (b) A countywide planning commission established under Subsection (2)(a) shall assume
2687 the duties of each dissolved planning commission.
- 2688 (3)(a) The ordinance described in Subsection (1)(a), (1)(c), or (2)(a) shall ~~define~~:
- 2689 (i) include the number and terms of the planning commission members and, if the
2690 county chooses, alternate members;
 - 2691 (ii) ~~[the mode of appointment]~~ provide procedures for appointing a planning
2692 commission member;
 - 2693 (iii) ~~[the]~~ provide procedures for filling vacancies on the planning commission;
 - 2694 (iv) ~~[-and removal from office]~~ provide procedures for removing a planning
2695 commission member from the planning commission;
 - 2696 (v) except as provided in Subsection (3)(a)(vi), describe the causes for which a
2697 planning commission member may be removed from the planning commission,
2698 which shall include:
 - 2699 (A) using public funds for a political purpose under Title 20A, Chapter 11, Part 12,
2700 Political Activities of Public Entities Act;
 - 2701 (B) violating a provision of Title 10, Chapter 3, Part 13, Municipal Officers' and
2702 Employees' Ethics Act; and
 - 2703 (C) acting with the intent to influence a land use decision or an appeal of a
2704 pending land use application in a manner that creates actual impermissible bias
2705 or an unacceptable risk of impermissible bias in the planning commission
2706 member's administrative or quasi-judicial duties;
 - 2707 (vi) provide that a planning commission member deliberating about a specific
2708 pending land use application in a planning commission meeting with municipal
2709 staff, an elected official, or the land use applicant is not cause for removing a
2710 planning commission member from the planning commission;
 - 2711 (vii) provide requirements for when a planning commission member shall recuse
2712 oneself from deliberating or voting on certain land use applications;
 - 2713 ~~[(iv)]~~ (viii) define the authority of the planning commission;

2714 [~~(v)~~] (ix) subject to Subsection (3)(b), [~~the~~] include rules of order and procedure for
 2715 use by the planning commission in a public meeting; and

2716 [~~(vi)~~] (x) include other details relating to the organization and procedures of the
 2717 planning commission.

2718 (b) Subsection [~~(3)(a)(v)~~] (3)(a)(ix) does not affect the planning commission's duty to
 2719 comply with Title 52, Chapter 4, Open and Public Meetings Act.

2720 (4)(a)(i) If the county establishes a planning advisory area planning commission, the
 2721 county legislative body shall enact an ordinance that defines:

2722 (A) appointment procedures;

2723 (B) procedures for filling vacancies and removing members from office;

2724 (C) subject to Subsection (4)(a)(ii), the rules of order and procedure for use by the
 2725 planning advisory area planning commission in a public meeting; and

2726 (D) details relating to the organization and procedures of each planning advisory
 2727 area planning commission.

2728 (ii) Subsection (4)(a)(i)(C) does not affect the planning advisory area planning
 2729 commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings
 2730 Act.

2731 (b) The planning commission for each planning advisory area shall consist of seven
 2732 members who shall be appointed by:

2733 (i) in a county operating under a form of government in which the executive and
 2734 legislative functions of the governing body are separated, the county executive
 2735 with the advice and consent of the county legislative body; or

2736 (ii) in a county operating under a form of government in which the executive and
 2737 legislative functions of the governing body are not separated, the county
 2738 legislative body.

2739 (c)(i) Members shall serve four-year terms and until their successors are appointed
 2740 and qualified.

2741 (ii) Notwithstanding the provisions of Subsection (4)(c)(i), members of the first
 2742 planning commissions shall be appointed so that, for each commission, the terms
 2743 of at least one member and no more than two members expire each year.

2744 (d)(i) Each member of a planning advisory area planning commission shall be a
 2745 registered voter residing within the planning advisory area.

2746 (ii) Subsection (4)(d)(i) does not apply to a member described in Subsection (5)(a) if
 2747 that member was, before May 12, 2015, authorized to reside outside of the

2748 planning advisory area.

2749 (5)(a) A member of a planning commission who was elected to and served on a planning
2750 commission on May 12, 2015, shall serve out the term to which the member was
2751 elected.

2752 (b) Upon the expiration of an elected term described in Subsection (5)(a), the vacant seat
2753 shall be filled by appointment in accordance with this section.

2754 (6) Upon the appointment of all members of a planning advisory area planning commission,
2755 each planning advisory area planning commission under this section shall begin to
2756 exercise the powers and perform the duties provided in Section 17-79-302 with respect
2757 to all matters then pending that previously had been under the jurisdiction of the
2758 countywide planning commission or planning advisory area planning and zoning board.

2759 (7) The legislative body may authorize a member of a planning commission to receive per
2760 diem and travel expenses for meetings actually attended, in accordance with Section
2761 11-55-103.

2762 Section 31. Section **17-79-302** is amended to read:

2763 **17-79-302 (Effective 05/06/26). Planning commission powers and duties --**

2764 **Training requirements.**

2765 (1) Each countywide, planning advisory area, or mountainous planning district planning
2766 commission shall, with respect to the unincorporated area of the county, the planning
2767 advisory area, or the mountainous planning district, review and make a recommendation
2768 to the county legislative body for:

2769 (a) a general plan and amendments to the general plan;

2770 (b) land use regulations, including:

2771 (i) ordinances regarding the subdivision of land within the county; and

2772 (ii) amendments to existing land use regulations;

2773 (c) an appropriate delegation of power to at least one designated land use authority to
2774 hear and act on a land use application;

2775 (d) an appropriate delegation of power to at least one appeal authority to hear and act on
2776 an appeal from a decision of the land use authority; and

2777 (e) application processes that:

2778 (i) may include a designation of routine land use matters that, upon application and
2779 proper notice, will receive informal streamlined review and action if the
2780 application is uncontested; and

2781 (ii) shall protect the right of each:

- 2782 (A) land use applicant and adversely affected party to require formal consideration
 2783 of any application by a land use authority; and
 2784 (B) land use applicant or adversely affected party to appeal a land use authority's
 2785 decision to a separate appeal authority[; and] .
 2786 [~~(C) participant to be heard in each public hearing on a contested application.~~]
- 2787 (2) Before making a recommendation to a legislative body on an item described in
 2788 Subsection (1)(a) or (b), the planning commission shall hold a public hearing in
 2789 accordance with Section 17-79-404.
- 2790 (3) A legislative body may adopt, modify, or reject a planning commission's
 2791 recommendation to the legislative body under this section.
- 2792 [~~(4) A legislative body may consider a planning commission's failure to make a timely~~
 2793 ~~recommendation as a negative recommendation.~~]
- 2794 [~~(5)~~] (4) Nothing in this section limits the right of a county to initiate or propose the actions
 2795 described in this section.
- 2796 [~~(6)~~] (5)(a)(i) This Subsection [~~(6)~~] (5) applies to a county that:
 2797 (A) is a county of the first, second, or third class; and
 2798 (B) has a population in the county's unincorporated areas of 5,000 or more.
- 2799 (ii) The population for each county described in Subsection [~~(6)(a)(i)~~] (5)(a)(i) shall
 2800 be derived from:
 2801 (A) an estimate of the Utah Population Committee created in Section 63C-20-103;
 2802 or
 2803 (B) if the Utah Population Committee estimate is not available, the most recent
 2804 official census or census estimate of the United States [~~Bureau of the~~] Census
 2805 Bureau.
- 2806 (b) A county described in Subsection [~~(6)(a)(i)~~] (5)(a)(i) shall ensure that each member
 2807 of the county's planning commission completes four hours of annual land use training
 2808 as follows:
 2809 (i) one hour of annual training on general powers and duties, including the role of the
 2810 planning commission in administrative, legislative, and quasi-judicial functions
 2811 under [Title 17, Chapter 27a, County Land Use, Development, and Management
 2812 Act] this chapter; and
 2813 (ii) three hours of annual training on a combination of land use and ethics, which may
 2814 include:
 2815 (A) appeals and variances;

- 2816 (B) conditional use permits;
- 2817 (C) exactions;
- 2818 (D) impact fees;
- 2819 (E) vested rights;
- 2820 (F) subdivision regulations and improvement guarantees;
- 2821 (G) land use referenda;
- 2822 (H) property rights;
- 2823 (I) real estate procedures and financing;
- 2824 (J) zoning, including use-based and form-based;[-and]
- 2825 (K) drafting ordinances and code that complies with statute[-] ;
- 2826 (L) ex parte communication; and
- 2827 (M) conflict of interest.

2828 (c) A newly appointed planning commission member may not participate in a public
 2829 meeting as an appointed member until the member completes the training described
 2830 in Subsection [~~(6)(b)(i)~~] (5)(b)(i).

2831 (d) A planning commission member may qualify for one completed hour of training
 2832 required under Subsection [~~(6)(b)(ii)~~] (5)(b)(ii) if the member attends, as an appointed
 2833 member, 12 public meetings of the planning commission within a calendar year.

2834 (e) A county shall provide the training described in Subsection [~~(6)(b)~~] (5)(b) through:

2835 (i) county staff;

2836 (ii) the Utah Association of Counties; or

2837 (iii) a list of training courses selected by:

2838 (A) the Utah Association of Counties; or

2839 (B) the Division of Real Estate created in Section 61-2-201.

2840 (f) A county shall, for each planning commission member:

2841 (i) monitor compliance with the training requirements in Subsection [~~(6)(b)~~] (5)(b);

2842 and

2843 (ii) maintain a record of training completion at the end of each calendar year.

2844 Section 32. Section **17-79-501** is amended to read:

2845 **17-79-501 (Effective 05/06/26). Enactment of land use regulation.**

2846 (1) Only a legislative body, as the body authorized to weigh policy considerations, may
 2847 enact a land use regulation.

2848 (2)(a) Except as provided in Subsection (2)(b), a legislative body may enact a land use
 2849 regulation only by ordinance.

- 2850 (b) A legislative body may, by ordinance or resolution, enact a land use regulation that
 2851 imposes a fee.
- 2852 (3) A land use regulation shall be consistent with the purposes ~~[set forth in]~~ of this chapter.
- 2853 (4)(a) A legislative body shall adopt a land use regulation to:
- 2854 (i) create or amend a zoning district under Subsection 17-79-503(1)(a); and
- 2855 (ii) designate general uses allowed in each zoning district.
- 2856 (b) A land use authority may establish or modify other restrictions or requirements other
 2857 than those described in Subsection (4)(a), including the configuration or modification
 2858 of uses or density, through a land use decision that applies criteria or policy elements
 2859 that a land use regulation establishes or describes.
- 2860 (5)(a) A county shall publish on the county's website:
- 2861 (i) all of the county's land use regulations; and
- 2862 (ii) a fee schedule that lists all of the county's fees related to a land use application,
 2863 land use permit, or land use regulation, including development review fees and
 2864 impact fees.
- 2865 (b) A county may comply with Subsection (5)(a) by:
- 2866 (i) posting a link on the county's website to a separate webpage or third-party website
 2867 where the land use regulations or fee schedule described in Subsection (5)(a) are
 2868 posted; and
- 2869 (ii) submitting a new or modified land use regulation or fee schedule described in
 2870 Subsection (5)(a) to the third-party website within six months after the day on
 2871 which the legislative body adopts the new or modified land use regulation or fee
 2872 schedule.
- 2873 ~~[(5)]~~ (6) A county may not adopt a land use regulation~~[-]~~ or development agreement, or
 2874 make a land use decision that restricts the type of crop that may be grown in an area that
 2875 is:
- 2876 (a) zoned agricultural; or
- 2877 (b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.
- 2878 ~~[(6)]~~ (7) A county land use regulation pertaining to an airport or an airport influence area, as
 2879 that term is defined in Section 72-10-401, is subject to Title 72, Chapter 10, Part 4,
 2880 Airport Zoning Act.
- 2881 Section 33. Section **17-79-502** is amended to read:
- 2882 **17-79-502 (Effective 05/06/26). Preparation and adoption of land use regulation.**
- 2883 (1) A planning commission shall:

- 2884 (a) provide notice as required by Subsection 17-79-205(1)(a) and, if applicable,
- 2885 Subsection 17-79-205(4);
- 2886 (b) hold a public hearing on a proposed land use regulation;
- 2887 (c) if applicable, consider each written objection filed in accordance with Subsection
- 2888 17-79-205(4) before the public hearing; and
- 2889 (d)(i) review and recommend to the legislative body a proposed land use regulation
- 2890 that represents the planning commission's recommendation for regulating the use
- 2891 and development of land within:
 - 2892 (A) all or any part of the unincorporated area of the county; or
 - 2893 (B) for a mountainous planning district, all or any part of the area in the
 - 2894 mountainous planning district; and
- 2895 (ii) forward to the legislative body all objections filed in accordance with Subsection
- 2896 17-79-205(4).
- 2897 (2)(a) The legislative body shall consider each proposed land use regulation that the
- 2898 planning commission recommends to the legislative body.
- 2899 (b) After providing notice as required by Subsection 17-79-205(1)(b) and holding a
- 2900 public meeting, the legislative body may adopt or reject the proposed land use
- 2901 regulation described in Subsection (2)(a):
 - 2902 (i) as proposed by the planning commission; or
 - 2903 (ii) after making any revision the legislative body considers appropriate.
- 2904 ~~[(e) A legislative body may consider a planning commission's failure to make a timely~~
- 2905 ~~recommendation as a negative recommendation if the legislative body has provided~~
- 2906 ~~for that consideration by ordinance.]~~
- 2907 (c) Beginning on September 15, 2026, a legislative body may adopt or reject a proposed
- 2908 land use regulation without waiting for a recommendation from the planning
- 2909 commission if:
 - 2910 (i) a land use applicant makes a request described in Subsection 17-79-805(2)(b); or
 - 2911 (ii) a legislative body determines that a planning commission has had adequate time
 - 2912 to consider the land use regulation.

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

17-79-507 (Effective 05/06/26). Classification of new and unlisted business uses.

(1) As used in this section:

- 2916 (a) "Classification request" means a request to determine whether a proposed business
- 2917 use aligns with an existing land use specified in a county's land use ordinances.

- 2918 (b) "New or unlisted business use" means a business activity that does not align with an
2919 existing land use specified in a county's land use ordinances.
- 2920 (2)(a) Each county shall incorporate into the county's land use ordinances a process for
2921 reviewing and approving a new or unlisted business use and designating an
2922 appropriate zone or zones for an approved use.
- 2923 (b) The process described in Subsection (2)(a) shall:
- 2924 (i) detail how an applicant may submit a classification request;
- 2925 (ii) establish a procedure for the county to review a classification request, including:
- 2926 (A) providing a land use authority with criteria to determine whether a proposed
2927 use aligns with an existing use; ~~and~~
- 2928 (B) allowing an applicant to proceed under the regulations of an existing use if a
2929 land use authority determines a proposed use aligns with that existing use; and
- 2930 (C) providing the applicant an opportunity to appeal a land use authority's decision
2931 to the land use appeal authority;
- 2932 (iii) provide that if a use is determined to be a new or unlisted business use:
- 2933 (A) the applicant shall submit to the legislative body for review an application ~~[for~~
2934 ~~approval of the new or unlisted business use to the legislative body for review]~~
2935 requesting that the legislative body adopt a land use ordinance that permits the
2936 new or unlisted business as a permitted or conditional use;
- 2937 (B) notwithstanding Subsection 17-79-503(2) or (3), the legislative body shall
2938 consider and ~~[determine whether to]~~ approve or deny ~~[the new or unlisted~~
2939 ~~business use]~~ the application described in Subsection (2)(b)(iii)(A); and
- 2940 (C) the legislative body shall approve or deny ~~[the new or unlisted business use]~~
2941 the application described in Subsection (2)(b)(iii)(A), within a time frame the
2942 legislative body establishes by ordinance, if the applicant responds to requests
2943 for additional information within a time frame established by the county and
2944 appears at required hearings;
- 2945 (iv) provide that if the legislative body approves ~~[a proposed new or unlisted business~~
2946 ~~use]~~ the application described in Subsection (2)(b)(iii)(A), the legislative body
2947 shall designate an appropriate zone or zones for the approved use; and
- 2948 (v) provide that if the legislative body denies ~~[a proposed new or unlisted business use]~~
2949 the application described in Subsection (2)(b)(iii)(A), or if an applicant disagrees
2950 with a land use authority's classification of the proposed use, the legislative body
2951 shall:

2952 (A) notify the applicant in writing of each reason for the classification or denial;
2953 and

2954 (B) [~~offer the applicant an opportunity to challenge the classification or denial~~
2955 ~~through an administrative appeal process established by the county~~] notify the
2956 applicant of the process for appealing the legislative body's decision in
2957 accordance with Section 17-79-1009.

2958 (c) A county may not require an applicant who submits an application described in
2959 Subsection (2)(b)(iii)(A) to submit the application to the planning commission for
2960 consideration, review, or approval.

2961 (3) Each county shall amend each land use ordinance that contains a list of approved or
2962 prohibited business uses to include a reference to the process for petitioning to approve a
2963 new or unlisted business use, as described in Subsection (2).

2964 Section 35. Section **17-79-621** is enacted to read:

2965 **17-79-621 (Effective 05/06/26). Structure height.**

2966 (1) A county may regulate:

2967 (a) the number of habitable stories that a structure may contain; and

2968 (b) the overall height of a structure.

2969 (2) If a land use authority approved a land use application for a commercial lodging
2970 structure on or before September 1, 2025, and the land use application is subject to land
2971 use regulations described in Subsection (1) that conflict, the land use authority may not
2972 limit the number of above-ground habitable stories the land use applicant builds within
2973 the maximum overall height that the land use authority approved for the structure.

2974 Section 36. Section **17-79-706** is amended to read:

2975 **17-79-706 (Effective 05/06/26). Review of subdivision applications and**
2976 **subdivision improvement plans.**

2977 (1) As used in this section:

2978 (a) "Review cycle" means the occurrence of:

2979 (i) the applicant's submittal of a complete subdivision application;

2980 (ii) the county's review of that subdivision application;

2981 (iii) the county's response to that subdivision application, in accordance with this
2982 section; and

2983 (iv) the applicant's reply to the county's response that addresses each of the county's
2984 required modifications or requests for additional information.

2985 (b) "Subdivision application" means a land use application for the subdivision of land

- 2986 located within the unincorporated area of a county.
- 2987 (c) "Subdivision improvement plans" means the civil engineering plans associated with
2988 required infrastructure improvements and county-controlled utilities required for a
2989 subdivision.
- 2990 (d) "Subdivision ordinance review" means review by a county to verify that a
2991 subdivision application meets the criteria of the county's ordinances.
- 2992 (e) "Subdivision plan review" means a review of the applicant's subdivision
2993 improvement plans and other aspects of the subdivision application to verify that the
2994 application complies with county ordinances and applicable installation standards and
2995 inspection specifications for infrastructure improvements.
- 2996 (2) The review cycle restrictions and requirements of this section do not apply to the review
2997 of subdivision applications affecting property within identified geological hazard areas.
- 2998 (3)(a) A county may require a subdivision improvement plan to be submitted with a
2999 subdivision application.
- 3000 (b) A county may not require a subdivision improvement plan to be submitted with both
3001 a preliminary subdivision application and a final subdivision application.
- 3002 (4)(a) The review cycle requirements of this section apply:
- 3003 (i) to the review of a preliminary subdivision application, if the county requires a
3004 subdivision improvement plan to be submitted with a preliminary subdivision
3005 application; or
- 3006 (ii) to the review of a final subdivision application, if the county requires a
3007 subdivision improvement plan to be submitted with a final subdivision application.
- 3008 (b) A county may not, outside the review cycle, engage in a substantive review of
3009 required infrastructure improvements or a county controlled utility.
- 3010 (5)(a) A county shall complete the initial review of a complete subdivision application
3011 submitted for ordinance review for a residential subdivision for single-family
3012 dwellings, two-family dwellings, or town homes:
- 3013 (i) no later than 15 business days after the complete subdivision application is
3014 submitted, if the county has a population over 5,000; or
- 3015 (ii) no later than 30 business days after the complete subdivision application is
3016 submitted, if the county has a population of 5,000 or less.
- 3017 (b) A county shall maintain and publish a list of the items comprising the complete
3018 subdivision application, including:
- 3019 (i) the application;

- 3020 (ii) the owner's affidavit;
- 3021 (iii) an electronic copy of all plans in PDF format;
- 3022 (iv) the preliminary subdivision plat drawings; and
- 3023 (v) a breakdown of fees due upon approval of the application.
- 3024 (6) A county shall publish a list of the items that comprise a complete subdivision land use
- 3025 application.
- 3026 (7) A county shall complete a subdivision plan review of a subdivision improvement plan
- 3027 that is submitted with a complete subdivision application for a residential subdivision for
- 3028 single-family dwellings, two-family dwellings, or town homes:
- 3029 (a) within 20 business days after the complete subdivision application is submitted, if the
- 3030 county has a population over 5,000; or
- 3031 (b) within 40 business days after the complete subdivision application is submitted, if
- 3032 the county has a population of 5,000 or less.
- 3033 (8)(a) In reviewing a subdivision application, a county may require:
- 3034 (i) additional information relating to an applicant's plans to ensure compliance with
- 3035 county ordinances and approved standards and specifications for construction of
- 3036 public improvements; and
- 3037 (ii) modifications to plans that do not meet current ordinances, applicable standards,
- 3038 or specifications or do not contain complete information.
- 3039 (b) A county's request for additional information or modifications to plans under
- 3040 Subsection (8)(a)(i) or (ii) shall be specific and include citations to ordinances,
- 3041 standards, or specifications that require the modifications to subdivision
- 3042 improvement plans, and shall be logged in an index of requested modifications or
- 3043 additions.
- 3044 (c) A county may not require more than four review cycles for a subdivision
- 3045 improvement plan review.
- 3046 (d)(i) Subject to Subsection (8)(d)(ii), unless the change or correction is necessitated
- 3047 by the applicant's adjustment to a subdivision improvement plan or an update to a
- 3048 phasing plan that adjusts the infrastructure needed for the specific development, a
- 3049 change or correction not addressed or referenced in a county's subdivision
- 3050 improvement plan review is waived.
- 3051 (ii) A modification or correction necessary to protect public health and safety or to
- 3052 enforce state or federal law may not be waived.
- 3053 (iii) If an applicant makes a material change to a subdivision improvement plan, the

3054 county has the discretion to restart the review process at the first review of the
3055 subdivision improvement plan review, but only with respect to the portion of the
3056 subdivision improvement plan that the material change substantively affects.

3057 (e)(i) This Subsection (8) applies if an applicant does not submit a revised
3058 subdivision improvement plan within:

3059 (A) 20 business days after the county requires a modification or correction, if the
3060 county has a population over 5,000; or

3061 (B) 40 business days after the county requires a modification or correction, if the
3062 county has a population of 5,000 or less.

3063 (ii) If an applicant does not submit a revised subdivision improvement plan within the
3064 time specified in Subsection (8)(e)(i), a county has an additional 20 business days
3065 after the time specified in Subsection (7) to respond to a revised subdivision
3066 improvement plan.

3067 (9) After the applicant has responded to the final review cycle, and the applicant has
3068 complied with each modification requested in the county's previous review cycle, the
3069 county may not require additional revisions if the applicant has not materially changed
3070 the plan, other than changes that were in response to requested modifications or
3071 corrections.

3072 (10)(a) In addition to revised plans, an applicant shall provide a written explanation in
3073 response to the county's review comments, identifying and explaining the applicant's
3074 revisions and reasons for declining to make revisions, if any.

3075 (b) The applicant's written explanation shall be comprehensive and specific, including
3076 citations to applicable standards and ordinances for the design and an index of
3077 requested revisions or additions for each required correction.

3078 (c) If an applicant fails to address a review comment in the response, the review cycle is
3079 not complete and the subsequent review cycle may not begin until all comments are
3080 addressed.

3081 (11)[(a)] If, on the fourth or final review, a county fails to respond within 20 business
3082 days, the county shall, upon request of the property owner, and within 10 business
3083 days after the day on which the request is received:

3084 [(i)] (a) for a dispute arising from the subdivision improvement plans, assemble an
3085 appeal panel in accordance with Subsection [17-79-812(5)(d)] 17-79-812(4)(d) to
3086 review and approve or deny the final revised set of plans; or

3087 [(ii)] (b) for a dispute arising from the subdivision ordinance review, advise the

3088 applicant, in writing, of the deficiency in the application and of the right to appeal the
3089 determination to a designated appeal authority.

3090 Section 37. Section **17-79-707** is amended to read:

3091 **17-79-707 (Effective 05/06/26). Subdivision plat recording or development**
3092 **activity before required infrastructure is completed -- Improvement completion**
3093 **assurance -- Improvement warranty.**

3094 (1) As used in this section:

3095 (a) "Private landscaping plan" means a proposal:

- 3096 (i) to install landscaping on a lot owned by a private individual or entity; and
- 3097 (ii) submitted to a county by the private individual or entity, or on behalf of a private
3098 individual or entity, that owns the lot.

3099 (b) "Public landscaping improvement" means landscaping that an applicant is required to
3100 install to comply with published installation and inspection specifications for public
3101 improvements that:

- 3102 (i) will be dedicated to and maintained by the county; or
- 3103 (ii) are associated with and proximate to trail improvements that connect to planned
3104 or existing public infrastructure.

3105 (2) A land use authority shall establish objective inspection standards for acceptance of a
3106 required public landscaping improvement or infrastructure improvement.

3107 (3)(a) Except as provided in Subsection (3)(d) or (3)(e), before an applicant conducts
3108 any development activity or records a plat, the applicant shall:

- 3109 (i) complete any required public landscaping improvements or infrastructure
3110 improvements; or
- 3111 (ii) post an improvement completion assurance for any required public landscaping
3112 improvements or infrastructure improvements.

3113 (b) If an applicant elects to post an improvement completion assurance, the applicant
3114 shall, in accordance with Subsection (5), provide completion assurance for:

- 3115 (i) completion of 100% of the required public landscaping improvements or
3116 infrastructure improvements; or
- 3117 (ii) if the county has inspected and accepted a portion of the public landscaping
3118 improvements or infrastructure improvements, 100% of the incomplete or
3119 unaccepted public landscaping improvements or infrastructure improvements.

3120 (c) A county shall:

- 3121 (i) establish a minimum of two acceptable forms of completion assurance;

- 3122 (ii)(A) if an applicant elects to post an improvement completion assurance, allow
3123 the applicant to post an assurance that meets the conditions of this chapter and
3124 any local ordinances; and
- 3125 (B) beginning on May 7, 2025, if a county accepts cash deposits as a form of
3126 completion assurance and an applicant elects to post a new cash deposit as a
3127 form of completion assurance, place the cash deposit in an interest-bearing
3128 account upon receipt and return any earned interest to the applicant with the
3129 return of the completion assurance according to the conditions of this chapter
3130 and any local ordinances;
- 3131 (iii) establish a system for the partial release of an improvement completion
3132 assurance as portions of required public landscaping improvements or
3133 infrastructure improvements are completed and accepted in accordance with local
3134 ordinance; and
- 3135 (iv) issue or deny a building permit in accordance with Section 17-79-901 based on
3136 the installation of public landscaping improvements or infrastructure
3137 improvements.
- 3138 (d) A county may not require an applicant to post an improvement completion assurance
3139 for:
- 3140 (i) public landscaping improvements or infrastructure improvements that the county
3141 has previously inspected and accepted;
- 3142 (ii) infrastructure improvements that are private and not essential or required to meet
3143 the building code, fire code, flood or storm water management provisions, street
3144 and access requirements, or other essential necessary public safety improvements
3145 adopted in a land use regulation;
- 3146 (iii) in a county where ordinances require all infrastructure improvements within the
3147 area to be private, infrastructure improvements within a development that the
3148 county requires to be private;
- 3149 (iv) landscaping improvements that are not public landscaping improvements, unless
3150 the landscaping improvements and completion assurance are required under the
3151 terms of a development agreement;
- 3152 (v) a private landscaping plan;
- 3153 (vi) landscaping improvements or infrastructure improvements that an applicant
3154 elects to install at the applicant's own risk:
- 3155 (A) before the plat is recorded;

3156 (B) pursuant to inspections required by the county for the infrastructure
3157 improvement; and
3158 (C) pursuant to final civil engineering plan approval by the county; or
3159 (vii) any individual public landscaping improvement or individual infrastructure
3160 improvement when the individual public landscaping improvement or individual
3161 infrastructure improvement is also included as part of a separate improvement
3162 completion assurance.

3163 (e)(i) A county may not:

3164 (A) prohibit an applicant from installing a public landscaping improvement or an
3165 infrastructure improvement when the [municipality] county has approved final
3166 civil engineering plans for the development activity or plat for which the public
3167 landscaping improvement or infrastructure improvement is required; or

3168 (B) require an applicant to sign an agreement, release, or other document
3169 inconsistent with this chapter as a condition of posting an improvement
3170 completion assurance, security for an improvement warranty, or receiving a
3171 building permit.

3172 (ii) Notwithstanding Subsection (3)(e)(i)(A), public infrastructure improvements and
3173 infrastructure improvements that are installed by an applicant are subject to
3174 inspection by the county in accordance with the county's adopted inspection
3175 standards.

3176 (f)(i) Each improvement completion assurance and improvement warranty posted by
3177 an applicant with a county shall be independent of any other improvement
3178 completion assurance or improvement warranty posted by the same applicant with
3179 the county.

3180 (ii) Subject to Section 17-79-805, if an applicant has posted a form of security with a
3181 county for more than one infrastructure improvement or public landscaping
3182 improvement, the county may not withhold acceptance of an applicant's required
3183 subdivision improvements, public landscaping improvement, infrastructure
3184 improvements, or the performance of warranty work for the same applicant's
3185 failure to complete a separate subdivision improvement, public landscaping
3186 improvement, infrastructure improvement, or warranty work under a separate
3187 improvement completion assurance or improvement warranty.

3188 (4)(a) Except as provided in Subsection (4)(c), as a condition for increased density or
3189 other entitlement benefit not currently available under the existing zone, a county

- 3190 may require a completion assurance bond for landscaped amenities and common area
3191 that are dedicated to and maintained by a homeowners association.
- 3192 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)
3193 between the applicant and the county shall be memorialized in a development
3194 agreement.
- 3195 (c) A county may not require a completion assurance bond for or dictate who installs or
3196 is responsible for the cost of the landscaping of residential lots or the equivalent open
3197 space surrounding single-family attached homes, whether platted as lots or common
3198 area.
- 3199 (5) The sum of the improvement completion assurance required under Subsections (3) and
3200 (4) may not exceed the sum of:
- 3201 (a) 100% of the estimated cost of the public landscaping improvements or infrastructure
3202 improvements, as evidenced by an engineer's estimate or licensed contractor's bid;
3203 and
- 3204 (b) 10% of the amount of the bond to cover administrative costs incurred by the county
3205 to complete the improvements, if necessary.
- 3206 (6)(a) Upon an applicant's written request that the land use authority accept or reject the
3207 applicant's installation of required subdivision improvements or performance of
3208 warranty work as set forth in Section 17-79-805, and for the duration of each
3209 improvement warranty period, the land use authority may require the applicant to:
- 3210 (i) execute an improvement warranty for the improvement warranty period; and
3211 (ii) post a cash deposit, surety bond, letter of credit, or other similar security, as
3212 required by the county, in the amount of up to 10% of the lesser of the:
- 3213 (A) county engineer's original estimated cost of completion; or
3214 (B) applicant's reasonable proven cost of completion.
- 3215 (b) A county may not require the payment of the deposit of the improvement warranty
3216 assurance described in Subsection (6)(a) for an infrastructure improvement or public
3217 landscaping improvement before the applicant indicates through written request that
3218 the applicant has completed the infrastructure improvement or public landscaping
3219 improvement.
- 3220 (7) When a county accepts an improvement completion assurance for public landscaping
3221 improvements or infrastructure improvements for a development in accordance with
3222 Subsection (3)(c)(ii)(A), the county may not deny an applicant a building permit if the
3223 development meets the requirements for the issuance of a building permit under the

3224 building code and fire code.

3225 (8) A county may not require the submission of a private landscaping plan as part of an
3226 application for a building permit.

3227 (9) The provisions of this section do not supersede the terms of a valid development
3228 agreement, an adopted phasing plan, or the [~~state construction code~~] State Construction
3229 Code.

3230 Section 38. Section **17-79-803** is amended to read:

3231 **17-79-803 (Effective 05/06/26). Applicant's entitlement to land use application**
3232 **approval -- Application relating to land in a high priority transportation corridor --**
3233 **County's requirements and limitations -- Vesting upon submission of development plan**
3234 **and schedule.**

3235 (1)(a)(i) Subject to Subsection [~~(7)~~] (8), an applicant who has submitted a complete
3236 land use application, including the payment of all application fees, is entitled to
3237 substantive review of the application under the land use regulations:

3238 (A) in effect on the date that the application is complete; and

3239 (B) applicable to the application or to the information shown on the submitted
3240 application.

3241 (ii) An applicant is entitled to approval of a land use application if the application
3242 conforms to the requirements of the applicable land use regulations, land use
3243 decisions, and development standards in effect when the applicant submits a
3244 complete application and pays all application fees, unless:

3245 (A) the land use authority, on the record, formally finds that a compelling,
3246 countervailing public interest would be jeopardized by approving the
3247 application and specifies the compelling, countervailing public interest in
3248 writing; or

3249 (B) in the manner provided by local ordinance and before the applicant submits
3250 the application, the county formally initiates proceedings to amend the county's
3251 land use regulations in a manner that would prohibit approval of the
3252 application as submitted.

3253 (b) The county shall process an application without regard to proceedings the county
3254 initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

3255 (i) 180 days have passed since the county initiated the proceedings; and

3256 (ii)(A) the proceedings have not resulted in an enactment that prohibits approval
3257 of the application as submitted; or

- 3258 (B) during the 12 months before the county processing the application or multiple
3259 applications of the same type, the application is impaired or prohibited under
3260 the terms of a temporary land use regulation adopted under Section 17-79-504.
- 3261 (c) A land use application is considered submitted and complete when the applicant
3262 provides the application in a form that complies with the requirements of applicable
3263 ordinances and pays all applicable fees.
- 3264 (d) Unless a phasing sequence is required in an executed development agreement, a
3265 county shall, without regard to any other separate and distinct land use application,
3266 accept and process a complete land use application in accordance with this chapter.
- 3267 (e) The continuing validity of an approval of a land use application is conditioned upon
3268 the applicant proceeding after approval to implement the approval with reasonable
3269 diligence.
- 3270 (f) Subject to Subsection [~~(7)~~] (8), a county may not impose on an applicant who has
3271 submitted a complete application a requirement that is not expressed in:
- 3272 (i) this chapter;
- 3273 (ii) a county ordinance in effect on the date that the applicant submits a complete
3274 application, subject to Subsection (1)(a)(ii); or
- 3275 (iii) a county specification for public improvements applicable to a subdivision or
3276 development that is in effect on the date that the applicant submits an application.
- 3277 (g) A county may not impose on a holder of an issued land use permit or a final,
3278 unexpired subdivision plat a requirement that is not expressed:
- 3279 (i) in a land use permit;
- 3280 (ii) on the subdivision plat;
- 3281 (iii) in a document on which the land use permit or subdivision plat is based;
- 3282 (iv) in the written record evidencing approval of the land use permit or subdivision
3283 plat;
- 3284 (v) in this chapter;
- 3285 (vi) in a county ordinance; or
- 3286 (vii) in a county specification for residential roadways in effect at the time a
3287 residential subdivision was approved.
- 3288 (h) Except as provided in Subsection (1)(i) or (j), a county may not withhold issuance of
3289 a certificate of occupancy or acceptance of subdivision improvements because of an
3290 applicant's failure to comply with a requirement that is not expressed:
- 3291 (i) in the building permit or subdivision plat, documents on which the building permit

3292 or subdivision plat is based, or the written record evidencing approval of the
3293 building permit or subdivision plat; or

3294 (ii) in this chapter or the county's ordinances.

3295 (i) A county may not unreasonably withhold issuance of a certificate of occupancy
3296 where an applicant has met all requirements essential for the public health, public
3297 safety, and general welfare of the occupants, in accordance with this chapter, unless:

3298 (i) the applicant and the county have agreed in a written document to the withholding
3299 of a certificate of occupancy; or

3300 (ii) the applicant has not provided a financial assurance for required and uncompleted
3301 public landscaping improvements or infrastructure improvements in accordance
3302 with an applicable local ordinance.

3303 (j) A county may not conduct a final inspection required before issuing a certificate of
3304 occupancy for a residential unit that is within the boundary of an infrastructure
3305 financing district, as defined in Section 17B-1-102, until the applicant for the
3306 certificate of occupancy provides adequate proof to the county that any lien on the
3307 unit arising from the infrastructure financing district's assessment against the unit
3308 under Title 11, Chapter 42, Assessment Area Act, has been released after payment in
3309 full of the infrastructure financing district's assessment against that unit.

3310 (k) A county:

3311 (i) may require the submission of a private landscaping plan, as defined in Section
3312 17-79-707, before landscaping is installed; and

3313 (ii) may not withhold an applicant's building permit or certificate of occupancy
3314 because the applicant has not submitted a private landscaping plan.

3315 (2) A county is bound by the terms and standards of applicable land use regulations and
3316 shall comply with mandatory provisions of those regulations.

3317 (3) Beginning on October 1, 2026, a county shall publish on the county's website an
3318 application checklist for each land use application type that includes a checklist of all
3319 required plans and documents that make a complete application.

3320 [~~3~~] (4) A county may not, as a condition of land use application approval, require a person
3321 filing a land use application to obtain documentation regarding a school district's
3322 willingness, capacity, or ability to serve the development proposed in the land use
3323 application.

3324 [~~4~~] (5) Subject to Subsection [~~7~~] (8), a specified public agency's submission of a
3325 development plan and schedule as required in Subsection 17-79-305(8) that complies

3326 with the requirements of that subsection, the specified public agency vests in the
 3327 county's applicable land use maps, zoning map, hookup fees, impact fees, other
 3328 applicable development fees, and land use regulations in effect on the date of submission.

3329 ~~[(5)]~~ (6)(a) If sponsors of a referendum timely challenge a project in accordance with
 3330 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land
 3331 use approval by delivering a written notice:

3332 (i) to the local clerk as defined in Section 20A-7-101; and
 3333 (ii) no later than seven days after the day on which a petition for a referendum is
 3334 determined sufficient under Subsection 20A-7-607(4).

3335 (b) Upon delivery of a written notice described in Subsection ~~[(5)(a)]~~ (6)(a) the following
 3336 are rescinded and are of no further force or effect:

3337 (i) the relevant land use approval; and
 3338 (ii) any land use regulation enacted specifically in relation to the land use approval.

3339 ~~[(6)]~~ (7)(a) After issuance of a building permit, a county may not:

3340 (i) change or add to the requirements expressed in the building permit, unless the
 3341 change or addition is:
 3342 (A) requested by the building permit holder; or
 3343 (B) necessary to comply with an applicable state building code; or
 3344 (ii) revoke the building permit or take action that has the effect of revoking the
 3345 building permit.

3346 (b) Subsection ~~[(6)(a)]~~ (7)(a) does not prevent a county from issuing a building permit
 3347 that contains an expiration date defined in the building permit.

3348 ~~[(7)]~~ (8) A county shall comply with the provisions of this chapter regarding all pending
 3349 land use applications and new land use applications submitted under this chapter.

3350 Section 39. Section **17-79-811** is amended to read:

3351 **17-79-811 (Effective 05/06/26). Provisions applicable to a provider of culinary or**
 3352 **secondary water.**

3353 A provider of culinary or secondary water that commits to provide a water service
 3353a required

3354 by a land use application process is subject to the following provisions the same as if the
 3355 provider were a county:

3356 (1) Subsections 17-79-804(5) and (6);
 3357 (2) Section 17-79-805;~~and~~
 3358 (3) Section 17-79-812; and

3359 (4) Section 17-79-813.

3360 Section 40. Section **17-79-812** is amended to read:

3361 **17-79-812 (Effective 05/06/26). Exactions -- Requirement to offer to original**
 3362 **owner property acquired by exaction -- Exaction for right-of-way improvements --**
 3363 **Improvement completion assurance requirements.**

3364 (1) A county may impose an exaction or exactions on development proposed in a land use
 3365 application, including, subject to ~~[Subsection (3)]~~ Section 17-79-813, an exaction for a
 3366 water interest, if:

- 3367 (a) an essential link exists between a legitimate governmental interest and each exaction;
 3368 and
 3369 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the
 3370 proposed development.

3371 (2) If a land use authority imposes an exaction for another governmental entity:

- 3372 (a) the governmental entity shall request the exaction; and
 3373 (b) the land use authority shall transfer the exaction to the governmental entity for which
 3374 it was exacted.

3375 ~~[(3)(a)(i) Subject to the requirements of this Subsection (3), a county or, if~~
 3376 ~~applicable, the county's culinary water authority shall base any exaction for a~~
 3377 ~~water interest on the culinary water authority's established calculations of~~
 3378 ~~projected water interest requirements.]~~

3379 ~~[(ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall~~
 3380 ~~base an exaction for a culinary water interest on:]~~

3381 ~~[(A) consideration of the system-wide minimum sizing standards established for~~
 3382 ~~the culinary water authority by the Division of Drinking Water in accordance~~
 3383 ~~with Section 19-4-114; and]~~

3384 ~~[(B) the number of equivalent residential connections associated with the culinary~~
 3385 ~~water demand for each specific development proposed in the development's~~
 3386 ~~land use application, applying lower exactions for developments with lower~~
 3387 ~~equivalent residential connections as demonstrated by at least five years of~~
 3388 ~~usage data for like land uses within the county.]~~

3389 ~~[(iii) A county or culinary water authority may impose an exaction for a culinary~~
 3390 ~~water interest that results in less water being exacted than would otherwise be~~
 3391 ~~exacted under Subsection (3)(a)(ii) if the county or culinary water authority, at the~~
 3392 ~~county's or culinary water authority's sole discretion, determines there is good~~

3393 cause to do so.]

3394 [(iv) A county shall make public the methodology used to comply with Subsection
3395 (3)(a)(ii)(B). A land use applicant may appeal to the county's governing body an
3396 exaction calculation used by the county or the county's culinary water authority
3397 under Subsection (3)(a)(ii). A land use applicant may present data and other
3398 information that illustrates a need for an exaction recalculation and the county's
3399 governing body shall respond with due process.]

3400 [(v) Upon an applicant's request, the culinary water authority shall provide the
3401 applicant with the basis for the culinary water authority's calculations under
3402 Subsection (3)(a)(i) on which an exaction for a water interest is based.]

3403 [(b) A county or the county's culinary water authority may not impose an exaction for a
3404 water interest if the culinary water authority's existing available water interests
3405 exceed the water interests needed to meet the reasonable future water requirement of
3406 the public, as determined under Subsection 73-1-4(2)(f).]

3407 [(4)] (3)(a) If a county plans to dispose of surplus real property under Section 17-78-103
3408 that was acquired under this section and has been owned by the county for less than
3409 15 years, the county shall first offer to reconvey the property, without receiving
3410 additional consideration, to the person who granted the property to the county.

3411 (b) A person to whom a county offers to reconvey property under Subsection [(4)(a)]
3412 (3)(a) has 90 days to accept or reject the county's offer.

3413 (c) If a person to whom a county offers to reconvey property declines the offer, the
3414 county may offer the property for sale.

3415 (d) Subsection [(4)(a)] (3)(a) does not apply to the disposal of property acquired by
3416 exaction by a community development or urban renewal agency.

3417 [(5)] (4)(a) A county may not, as part of an infrastructure improvement, require the
3418 installation of pavement on a residential roadway at a width in excess of 32 feet.

3419 (b) Subsection [(5)(a)] (4)(a) does not apply if a county requires the installation of
3420 pavement in excess of 32 feet:

3421 (i) in a vehicle turnaround area;

3422 (ii) in a cul-de-sac;

3423 (iii) to address specific traffic flow constraints at an intersection, mid-block
3424 crossings, or other areas;

3425 (iv) to address an applicable general or master plan improvement, including
3426 transportation, bicycle lanes, trails, or other similar improvements that are not

- 3427 included within an impact fee area;
- 3428 (v) to address traffic flow constraints for service to or abutting higher density
3429 developments or uses that generate higher traffic volumes, including community
3430 centers, schools, and other similar uses;
- 3431 (vi) as needed for the installation or location of a utility which is maintained by the
3432 county and is considered a transmission line or requires additional roadway width;
- 3433 (vii) for third-party utility lines that have an easement preventing the installation of
3434 utilities maintained by the county within the roadway;
- 3435 (viii) for utilities over 12 feet in depth;
- 3436 (ix) for roadways with a design speed that exceeds 25 miles per hour;
- 3437 (x) as needed for flood and stormwater routing;
- 3438 (xi) as needed to meet fire code requirements for parking and hydrants; or
3439 (xii) as needed to accommodate street parking.
- 3440 (c) Nothing in this section shall be construed to prevent a county from approving a road
3441 cross section with a pavement width less than 32 feet.
- 3442 (d)(i) A land use applicant may appeal a municipal requirement for pavement in
3443 excess of 32 feet on a residential roadway.
- 3444 (ii) A land use applicant that has appealed a municipal specification for a residential
3445 roadway pavement width in excess of 32 feet may request that the county
3446 assemble a panel of qualified experts to serve as the appeal authority for purposes
3447 of determining the technical aspects of the appeal.
- 3448 (iii) Unless otherwise agreed by the applicant and the county, the panel described in
3449 Subsection [~~(5)(d)(ii)~~] (4)(d)(ii) shall consist of the following three experts:
- 3450 (A) one licensed engineer, designated by the county;
- 3451 (B) one licensed engineer, designated by the land use applicant; and
3452 (C) one licensed engineer, agreed upon and designated by the two designated
3453 engineers under Subsections [~~(5)(d)(iii)(A)~~] (4)(d)(iii)(A) and (B).
- 3454 (iv) A member of the panel assembled by the county under Subsection [~~(5)(d)(ii)~~]
3455 (4)(d)(ii) may not have an interest in the application that is the subject of the
3456 appeal.
- 3457 (v) The land use applicant shall pay:
- 3458 (A) 50% of the cost of the panel; and
3459 (B) the county's published appeal fee.
- 3460 (vi) The decision of the panel is a final decision, subject to a petition for review under

3461 Subsection [(5)(d)(vii)] (4)(d)(vii).

3462 (vii) In accordance with Section 17-79-1009, a land use applicant or the county may
3463 file a petition for review of the decision with the district court within 30 days after
3464 the date that the decision is final.

3465 Section 41. Section **17-79-813** is enacted to read:

3466 **17-79-813** (Effective 05/06/26). **Exactions for water rights.**

3467 (1) Subject to the requirements of this section, a county or, if applicable, the county's
3468 culinary water authority shall base any exaction for a water interest on the culinary water
3469 authority's established calculations of projected water interest requirements.

3470 (2) Except as described in Subsection (3), a culinary water authority shall base an exaction
3471 for a culinary water interest on:

3472 (a) consideration of the system-wide minimum sizing standards established for the
3473 culinary water authority by the Division of Drinking Water in accordance with
3474 Section 19-4-114; and

3475 (b) the number of equivalent residential connections associated with the culinary water
3476 demand for each specific development proposed in the development's land use
3477 application, applying lower exactions for developments with lower equivalent
3478 residential connections as demonstrated by at least five years of usage data for like
3479 land uses within the county.

3480 (3) If a county or culinary water authority determines, in the sole discretion of the county or
3481 culinary water authority, that good cause exists, the county or culinary water authority
3482 may impose an exaction for a culinary water interest that results in less water being
3483 exacted than would otherwise be exacted under Subsection (2).

3484 (4)(a) A county shall make public the methodology used to comply with Subsection
3485 (2)(b).

3486 (b) A land use applicant may submit a request to the county's governing body an
3487 exaction calculation used by the county or the county's culinary water authority under
3488 Subsection (2).

3489 (c) A land use applicant may present data and other information that illustrates a need
3490 for an exaction recalculation and the county's governing body shall respond with due
3491 process.

3492 (5) Upon an applicant's request, the culinary water authority shall provide the applicant
3493 with the basis for the culinary water authority's calculations under Subsection (2) on
3494 which an exaction for a water interest is based.

3495 (6)(a) A county or the county's culinary water authority may not impose an exaction for
 3496 a water interest if:

3497 (i) the culinary water authority's existing available water interests exceed the water
 3498 interests needed to meet the reasonable future water requirement of the public; or
 3499 (ii) the county or the county's culinary water authority does not have a written plan in
 3500 accordance with Subsection (6)(b).

3501 (b) Beginning on January 1, 2028, a county shall determine the county's water interests
 3502 needed to meet the reasonable future water requirement of the public by completing a
 3503 written plan described in Subsection 73-1-4(2)(f).

3504 Section 42. Section **17-79-901** is amended to read:

3505 **17-79-901 (Effective 05/06/26). Enforcement -- Limitations on a county's ability**
 3506 **to enforce an ordinance by withholding a permit or certificate.**

3507 (1)(a) A county or [~~an adversely affected party~~] a land use applicant may, in addition to
 3508 other remedies provided by law, institute:

3509 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
 3510 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

3511 (b) A county need only establish the violation to obtain the injunction.

3512 (2)(a) Except as provided in Subsections (3) through (6), a county may enforce the
 3513 county's ordinance by withholding a building permit or certificate of occupancy.

3514 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building
 3515 or other structure within a county without approval of a building permit.

3516 (c) The county may not issue a building permit unless the plans of and for the proposed
 3517 erection, construction, reconstruction, alteration, or use fully conform to all
 3518 regulations then in effect.

3519 (d) A county may require an applicant to install a permanent road, cover a temporary
 3520 road with asphalt or concrete, or create another method for servicing a structure that
 3521 is consistent with Appendix D of the International Fire Code, before receiving a
 3522 certificate of occupancy for that structure.

3523 (e) A county may require an applicant to maintain and repair a temporary fire apparatus
 3524 road during the construction of a structure accessed by the temporary fire apparatus
 3525 road in accordance with the county's adopted standards.

3526 (f) A county may require temporary signs to be installed at each street intersection once
 3527 construction of new roadway allows passage by a motor vehicle.

3528 (g) A county may adopt and enforce any appendix of the International Fire Code, 2021

- 3529 Edition.
- 3530 (3)(a) A county may not deny an applicant a building permit or certificate of occupancy
3531 because the applicant has not completed an infrastructure improvement:
- 3532 (i) unless the infrastructure improvement is essential to meet the requirements for the
3533 issuance of a building permit or certificate of occupancy under Title 15A, State
3534 Construction and Fire Codes Act; and
- 3535 (ii) for which the county has accepted an improvement completion assurance for a
3536 public landscaping improvement, as defined in Section 17-79-707, or an
3537 infrastructure improvement for the development.
- 3538 (b) For purposes of Subsection (3)(a)(i), notwithstanding Section 15A-5-205.6,
3539 infrastructure improvement that is essential means:
- 3540 (i) for a building permit:
- 3541 (A) operable fire hydrants installed in a manner that is consistent with the county's
3542 adopted engineering standards; and
- 3543 [(ii)] (B) for temporary roads used during construction, a properly compacted road
3544 base installed in a manner consistent with the county's adopted engineering
3545 standards[-] ;
- 3546 (ii) for a certificate of occupancy, at the discretion of the county, at least one of the
3547 following:
- 3548 (A) a permanent road;
- 3549 (B) a temporary road covered with asphalt or concrete; or
- 3550 (C) another method for accessing a structure consistent with Appendix D of the
3551 International Fire Code; and
- 3552 (iii) public infrastructure necessary for the health, life, and safety of the occupant.
- 3553 (c) A county may not adopt an engineering standard that requires an applicant to install a
3554 permanent road or a temporary road with asphalt or concrete before receiving a
3555 building permit.
- 3556 (4) A county may not deny an applicant a building permit or certificate of occupancy for
3557 failure to:
- 3558 (a) submit a private landscaping plan, as defined in Section 17-79-707; or
- 3559 (b) complete a landscaping improvement that is not a public landscaping improvement,
3560 as defined in Section 17-79-707.
- 3561 (5) A county may not withhold a building permit based on the lack of completion of a
3562 portion of a public sidewalk to be constructed within a public right-of-way serving a lot

- 3563 where a single-family or two-family residence or town home is proposed in a building
 3564 permit application if an improvement completion assurance has been posted for the
 3565 incomplete portion of the public sidewalk.
- 3566 (6) A county may not prohibit the construction of a single-family or two-family residence
 3567 or town home, withhold recording a plat, or withhold acceptance of a public landscaping
 3568 improvement, as defined in Section 17-79-707, or an infrastructure improvement based
 3569 on the lack of installation of a public sidewalk if an improvement completion assurance
 3570 has been posted for the public sidewalk.
- 3571 (7) A county may not redeem an improvement completion assurance securing the
 3572 installation of a public sidewalk sooner than 18 months after the date the improvement
 3573 completion assurance is posted.
- 3574 (8) A county shall allow an applicant to post an improvement completion assurance for a
 3575 public sidewalk separate from an improvement completion assurance for:
 3576 (a) another infrastructure improvement; or
 3577 (b) a public landscaping improvement, as defined in Section 17-79-707.
- 3578 (9) A county may withhold a certificate of occupancy for a single-family or two-family
 3579 residence or town home until the portion of the public sidewalk to be constructed within
 3580 a public right-of-way and located immediately adjacent to the single-family or
 3581 two-family residence or town home is completed and accepted by the county.

3582 Section 43. Section **17-79-1001** is amended to read:

3583 **17-79-1001 (Effective 05/06/26). Appeal authority required -- Condition**
 3584 **precedent to judicial review -- Appeal authority duties.**

- 3585 (1)(a) ~~[Each]~~ Subject to Subsection (1)(d), each county adopting a land use ordinance
 3586 shall, by ordinance, establish one or more appeal authorities.
- 3587 (b) An appeal authority shall hear and decide:
 3588 (i) requests for ~~[variances]~~ a variance from ~~[the terms of]~~ a land use [ordinances]
 3589 ordinance;
 3590 (ii) appeals from a land use [decisions] decision applying a land use [ordinances]
 3591 ordinance; and
 3592 (iii) appeals from a fee charged in accordance with Section 17-79-802.
- 3593 (c) An appeal authority may not hear an appeal from the enactment of a land use
 3594 regulation.
- 3595 (d) Beginning on July 1, 2026, a county described in Subsection 17-79-302(6)(a)(i) may
 3596 not designate the county's legislative body as an appeal authority.

- 3597 (e) Notwithstanding Subsection (1)(d), a legislative body shall continue to be the appeal
 3598 authority for an appeal if:
- 3599 (i) a land use ordinance designated the legislative body as the appeal authority when
 3600 the appellant filed the appeal: and
 3601 (ii) the appellant filed the appeal on or before June 30, 2026.
- 3602 (2) As a condition precedent to judicial review, each adversely affected party or land use
 3603 applicant shall timely and specifically challenge a land use authority's land use decision,
 3604 in accordance with local ordinance.
- 3605 (3) An appeal authority described in Subsection (1)(a):
 3606 (a) shall:
 3607 (i) act in a quasi-judicial manner; and
 3608 (ii) serve as the final arbiter of issues involving the interpretation or application of a
 3609 land use [ordinances] ordinance; and
- 3610 (b) may not entertain an appeal of a matter in which the appeal authority, or any
 3611 participating member, had first acted as the land use authority.
- 3612 (4) By ordinance, a county may:
 3613 (a) designate a separate appeal authority to hear requests for variances than the appeal
 3614 authority the county designates to hear appeals;
 3615 (b) designate one or more separate appeal authorities to hear distinct types of appeals of
 3616 land use authority decisions;
 3617 (c) require an adversely affected party to present to an appeal authority every theory of
 3618 relief that the adversely affected party can raise in district court; and
 3619 ~~[(d) not require a land use applicant or adversely affected party to pursue duplicate or~~
 3620 ~~successive appeals before the same or separate appeal authorities as a condition of an~~
 3621 ~~appealing party's duty to exhaust administrative remedies; and]~~
 3622 ~~[(e)] (d) provide that specified types of land use decisions may be appealed directly to the~~
 3623 ~~district court.~~
- 3624 (5) A county may not:
 3625 (a) require a public hearing for a request for a variance or land use appeal[-] ; or
 3626 (b) require a land use applicant or adversely affected party to pursue successive appeals
 3627 before the same or separate appeal authorities as a condition of an appealing party's
 3628 duty to exhaust administrative remedies.
- 3629 (6) If the county establishes or, before May 2, 2005, has established a multiperson board,
 3630 body, or panel to act as an appeal authority, at a minimum the board, body, or panel

- 3631 shall:
- 3632 (a) notify each of the members of the board, body, or panel of any meeting or hearing of
- 3633 the board, body, or panel;
- 3634 (b) provide each of the members of the board, body, or panel with the same information
- 3635 and access to municipal resources as any other member;
- 3636 (c) convene only if a quorum of the members of the board, body, or panel is present; and
- 3637 (d) act only upon the vote of a majority of the convened members of the board, body, or
- 3638 panel.

3639 Section 44. Section **17-79-1005** is repealed and reenacted to read:

3640 **17-79-1005 (Effective 05/06/26). Burden of proof.**

3641 In an appeal described in this part:

- 3642 (1) if the appellant is a land use applicant, the appellant has the burden of proving that the
- 3643 land use authority's land use decision is illegal or is not supported by substantial
- 3644 evidence; or
- 3645 (2) if the appellant is an adversely affected party, the appellant has the burden of proving
- 3646 that the land use authority's land use decision is illegal, or that the factual findings are
- 3647 clearly erroneous.

3648 Section 45. Section **17-79-1006** is amended to read:

3649 **17-79-1006 (Effective 05/06/26). Due process.**

- 3650 (1) ~~[Each]~~ An appeal authority shall conduct each appeal and variance request as described
- 3651 by local ordinance.
- 3652 (2) ~~[Each]~~ An appeal authority shall respect the due process rights of ~~[each of the~~
- 3653 ~~participants]~~ an appeal participant.
- 3654 (3) An appeal authority may only allow the following people to participate or speak during
- 3655 an appeal hearing:
- 3656 (a) the appellant or the appellant's representatives;
- 3657 (b) the land use applicant or the land use applicant's representatives; and
- 3658 (c) the county's representatives.

3659 Section 46. Section **17-79-1007** is amended to read:

3660 **17-79-1007 (Effective 05/06/26). Scope of review of factual matters on appeal --**
3661 **Appeal authority requirements.**

- 3662 (1) A county may, by ordinance, designate the scope of review of factual matters for
- 3663 appeals of land use authority decisions.
- 3664 (2) If the county fails to designate a scope of review of factual matters, the appeal authority

- 3665 shall review the ~~[matter]~~ factual matters de novo, without deference to the land use
 3666 authority's determination of the factual matters.
- 3667 (3) If the scope of review of factual matters is on the record, the appeal authority shall
 3668 determine whether the record on appeal includes substantial evidence for each essential
 3669 finding of fact.
- 3670 (4) The appeal authority shall:
- 3671 (a) determine the correctness of the land use authority's interpretation and application of
 3672 the plain meaning of the land use regulations; and
- 3673 (b) interpret and apply a land use regulation to favor a land use application unless the
 3674 land use regulation plainly restricts the land use application.
- 3675 (5)(a) An appeal authority's land use decision is a quasi-judicial act.
- 3676 (b) ~~[A]~~ Except as provided in Subsection (5)(c), a legislative body may not act as an
 3677 appeal authority unless both the legislative body and the appealing party agree to
 3678 allow a third party to act as the appeal authority.
- 3679 (c) Beginning on July 1, 2026, the legislative body of a county described in Subsection
 3680 17-79-302(6)(a)(i) may not act as an appeal authority unless:
- 3681 (i) a land use ordinance designated the legislative body as the appeal authority when
 3682 the appellant filed the appeal; and
- 3683 (ii) the appellant filed the appeal on or before June 30, 2026.
- 3684 (6) Only a decision in which a land use authority has applied a land use regulation to a
 3685 particular land use application, person, or parcel may be appealed to an appeal authority.
- 3686 Section 47. Section **17-79-1009** is amended to read:
- 3687 **17-79-1009 (Effective 05/06/26). No district court review until administrative**
 3688 **remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court**
 3689 **review -- Record on review -- Staying of decision.**
- 3690 (1) ~~[No]~~ A person may challenge in district court a land use decision ~~[until that]~~ if the person
 3691 has exhausted the person's administrative remedies as provided in ~~[Part 7, Appeal~~
 3692 Authority and Variances] this part, if applicable.
- 3693 (2)(a) Subject to Subsection (1), a land use applicant or adversely affected party may file
 3694 a petition for review of a land use decision with the district court within 30 days after
 3695 the decision is final.
- 3696 (b)(i) The time under Subsection (2)(a) to file a petition is tolled from the date a
 3697 property owner files a request for arbitration of a constitutional taking issue with
 3698 the property rights ombudsman under Section 13-43-204 until 30 days after:

- 3699 (A) the arbitrator issues a final award; or
3700 (B) the property rights ombudsman issues a written statement under Subsection
3701 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.
- 3702 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
3703 taking issue that is the subject of the request for arbitration filed with the property
3704 rights ombudsman by a property owner.
- 3705 (iii) A request for arbitration filed with the property rights ombudsman after the time
3706 under Subsection (2)(a) to file a petition has expired does not affect the time to
3707 file a petition.
- 3708 (3)(a) A court shall:
- 3709 (i) presume that a land use regulation properly enacted under the authority of this
3710 chapter is valid; and
- 3711 (ii) determine only whether:
- 3712 (A) the land use regulation is expressly preempted by, or was enacted contrary to,
3713 state or federal law; and
- 3714 (B) it is reasonably debatable that the land use regulation is consistent with this
3715 chapter.
- 3716 (b) A court shall presume that a final land use decision of a land use authority or an
3717 appeal authority is valid unless the land use decision is:
- 3718 (i) arbitrary and capricious; or
3719 (ii) illegal.
- 3720 (c)(i) A land use decision is arbitrary and capricious if the land use decision is not
3721 supported by substantial evidence in the record.
- 3722 (ii) A land use decision is illegal if the land use decision:
- 3723 (A) is based on an incorrect interpretation of a land use regulation;
3724 (B) conflicts with the authority granted by this title; or
3725 (C) is contrary to law.
- 3726 (d)(i) A court may affirm or reverse a land use decision.
- 3727 (ii) If the court reverses a land use decision, the court shall remand the matter to the
3728 land use authority with instructions to issue a land use decision consistent with the
3729 court's decision.
- 3730 (4) The provisions of Subsection (2)(a) apply from the date on which the county takes final
3731 action on a land use application, if the county conformed with the notice provisions of
3732 Part 2, Notice, or for any person who had actual notice of the pending land use decision.

- 3733 (5) If the county has complied with Section 17-79-205, a challenge to the enactment of a
 3734 land use regulation[-øŕ] , general plan, or specified land use law may not be filed with the
 3735 district court more than 30 days after the enactment.
- 3736 (6) A challenge to a land use decision is barred unless the challenge is filed within 30 days
 3737 after the land use decision is final.
- 3738 (7)(a) The land use authority or appeal authority, as the case may be, shall transmit to
 3739 the reviewing court the record of the proceedings of the land use authority or appeal
 3740 authority, including the minutes, findings, orders and, if available, a true and correct
 3741 transcript of the proceedings.
- 3742 (b) If the proceeding was recorded, a transcript of that recording is a true and correct
 3743 transcript for purposes of this Subsection (7).
- 3744 (8)(a)(i) If there is a record, the district court's review is limited to the record
 3745 provided by the land use authority or appeal authority, as the case may be.
- 3746 (ii) The court may not accept or consider any evidence outside the record of the land
 3747 use authority or appeal authority, as the case may be, unless that evidence was
 3748 offered to the land use authority or appeal authority, respectively, and the court
 3749 determines that the evidence was improperly excluded.
- 3750 (b) If there is no record, the court may call witnesses and take evidence.
- 3751 (9)(a) The filing of a petition does not stay the land use decision of the land use
 3752 authority or appeal authority, as the case may be.
- 3753 (b)(i) Before filing a petition under this section or a request for mediation or
 3754 arbitration of a constitutional taking issue under Section 13-43-204, a land use
 3755 applicant may petition the appeal authority to stay the appeal authority's decision.
- 3756 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal
 3757 authority's decision stayed pending district court review if the appeal authority
 3758 finds the order to be in the best interest of the county.
- 3759 (iii) After a petition is filed under this section or a request for mediation or arbitration
 3760 of a constitutional taking issue is filed under Section 13-43-204, the petitioner
 3761 may seek an injunction staying the appeal authority's land use decision.
- 3762 (10) If the court determines that a party initiated or pursued a challenge to a land use
 3763 decision on a land use application in bad faith, the court may award attorney fees.
- 3764 Section 48. Section **17B-1-120** is amended to read:
- 3765 **17B-1-120 (Effective 05/06/26). Exactions -- Exaction for water interest --**
 3766 **Requirement to offer to original owner property acquired by exaction.**

- 3767 (1) A special district may impose an exaction on a service received by an applicant,
 3768 including, subject to Subsection (2), an exaction for a water interest if:
- 3769 (a) the special district establishes that a legitimate special district interest makes the
 3770 exaction essential; and
- 3771 (b) the exaction is roughly proportionate, both in nature and extent, to the impact of the
 3772 proposed service on the special district.
- 3773 (2)(a)(i) Subject to the requirements of this Subsection (2), a special district shall
 3774 base an exaction for a water interest on the culinary water authority's established
 3775 calculations of projected water interest requirements.
- 3776 (ii) Except as described in Subsection (2)(a)(iii), a culinary water authority shall base
 3777 an exaction for a culinary water interest on:
- 3778 (A) consideration of the system-wide minimum sizing standards established for
 3779 the culinary water authority by the Division of Drinking Water [~~pursuant to~~] in
 3780 accordance with Section 19-4-114; and
- 3781 (B) the number of equivalent residential connections associated with the culinary
 3782 water demand for each specific development proposed in the development's
 3783 land use application, applying lower exactions for developments with lower
 3784 equivalent residential connections as demonstrated by at least five years of
 3785 usage data for like land uses within the special district.
- 3786 (iii) A special district may impose an exaction for a culinary water interest that
 3787 results in less water being exacted than would otherwise be exacted under
 3788 Subsection (2)(a)(ii) if the special district, at the special district's sole discretion,
 3789 determines there is good cause to do so.
- 3790 (iv) A special district shall make public the methodology used to comply with
 3791 Subsection (2)(a)(ii)(B). A service applicant may appeal to the special district's
 3792 governing body an exaction calculation used by the special district under
 3793 Subsection (2)(a)(ii). A service applicant may present data and other information
 3794 that illustrates a need for an exaction recalculation and the special district's
 3795 governing body shall respond with due process.
- 3796 (v) If requested by a service applicant, the culinary authority shall provide the basis
 3797 for the culinary water authority's calculations described in Subsection (2)(a)(i).
- 3798 (b)(i) A special district may not impose an exaction for a water interest if:
- 3799 (A) the culinary water authority's existing available water interests exceed the
 3800 water interests needed to meet the reasonable future water requirement of the

3801 public[, as determined in accordance with Section 73-1-4.] ; or
 3802 (B) the special district or the special district's culinary water authority does not
 3803 have a written plan in accordance with Subsection (2)(b)(ii).
 3804 (ii) Beginning on January 1, 2028, a special district shall determine the special
 3805 district's water interests needed to meet the reasonable future water requirement of
 3806 the public by completing a written plan described in Subsection 73-1-4(2)(f).

3807 (3)(a) If a special district plans to dispose of surplus real property that was acquired
 3808 under this section and has been owned by the special district for less than 15 years,
 3809 the special district shall offer to reconvey the surplus real property, without receiving
 3810 additional consideration, first to a person who granted the real property to the special
 3811 district.

3812 (b) The person described in Subsection (3)(a) shall, within 90 days after the day on
 3813 which a special district makes an offer under Subsection (3)(a), accept or reject the
 3814 offer.

3815 (c) If a person rejects an offer under Subsection (3)(b), the special district may sell the
 3816 real property.

3817 Section 49. Section **63I-2-210** is amended to read:

3818 **63I-2-210 (Effective 05/06/26). Repeal dates: Title 10.**

- 3819 (1) Subsection 10-2a-205(2)(b)(iii), regarding a feasibility study for the proposed
 3820 incorporation of a community council area, is repealed July 1, 2028.
- 3821 (2) Section 10-2a-205.5, Additional feasibility consultant considerations for proposed
 3822 incorporation of community council area -- Additional feasibility study requirements, is
 3823 repealed July 1, 2028.
- 3824 (3) Subsection 10-20-904(4)(c), regarding an inspection fee on a qualified water
 3825 conservancy district, is repealed July 1, 2026.
- 3826 (4) Section 10-20-626, Structure height, is repealed July 1, 2027.

3827 Section 50. Section **63I-2-217** is amended to read:

3828 **63I-2-217 (Effective 05/06/26). Repeal dates: Titles 17 through 17D.**

- 3829 (1) Subsection 17-79-804(4)(c), regarding an inspection fee on a qualified water
 3830 conservancy district, is repealed July 1, 2026.
- 3831 (2) Subsection 17-62-102(3), regarding the process for changing a form of county
 3832 government, is repealed January 1, 2028.
- 3833 (3) Subsections 17-62-203(10) through (12), regarding the process to create a districting
 3834 commission and implementing a district map, are repealed July 1, 2029.

3835 (4) Section 17-79-621, Structure height, is repealed July 1, 2027.

3836 Section 51. Section **73-1-4** is amended to read:

3837 **73-1-4 (Effective 05/06/26) (Partially Repealed 12/31/30). Reversion to the public**
3838 **by abandonment or forfeiture for nonuse within seven years -- Saved water -- Nonuse**
3839 **application -- Written plan standards for future water.**

3840 (1) As used in this section:

3841 (a) "Public entity" means:

3842 (i) the United States;

3843 (ii) an agency of the United States;

3844 (iii) the state;

3845 (iv) a state agency;

3846 (v) a political subdivision of the state; or

3847 (vi) an agency of a political subdivision of the state.

3848 (b) "Public water supplier" means an entity that:

3849 (i) supplies water, directly or indirectly, to the public for municipal, domestic, or
3850 industrial use; and

3851 (ii) is:

3852 (A) a public entity;

3853 (B) a water corporation, as defined in Section 54-2-1, that is regulated by the
3854 Public Service Commission;

3855 (C) a community water system:

3856 (I) that:

3857 (Aa) supplies water to at least 100 service connections used by year-round
3858 residents; or

3859 (Bb) regularly serves at least 200 year-round residents; and

3860 (II) whose voting members:

3861 (Aa) own a share in the community water system;

3862 (Bb) receive water from the community water system in proportion to the
3863 member's share in the community water system; and

3864 (Cc) pay the rate set by the community water system based on the water the
3865 member receives; or

3866 (D) a water users association:

3867 (I) in which one or more public entities own at least 70% of the outstanding
3868 shares; and

- 3869 (II) that is a local sponsor of a water project constructed by the United States
3870 Bureau of Reclamation.
- 3871 (c) "Saved water" means the same as that term is defined in Section 73-3-3.
3872 (d) "Shareholder" means the same as that term is defined in Section 73-3-3.5.
3873 (e) "Water company" means the same as that term is defined in Section 73-3-3.5.
3874 (f) "Water supply entity" means an entity that supplies water as a utility service or for
3875 irrigation purposes and is also:
- 3876 (i) a municipality, water conservancy district, metropolitan water district, irrigation
3877 district, or other public agency;
3878 (ii) a water company regulated by the Public Service Commission; or
3879 (iii) any other owner of a community water system.
- 3880 (2)(a) Except as provided in Subsection (2)(b) or (e), when an appropriator or the
3881 appropriator's successor in interest abandons or ceases to beneficially use all or a
3882 portion of a water right for a period of at least seven years, the water right or the
3883 unused portion of that water right is subject to forfeiture in accordance with
3884 Subsection (2)(c).
- 3885 (b)(i) An appropriator or the appropriator's successor in interest may file an
3886 application for nonuse with the state engineer.
3887 (ii) A nonuse application may be filed on all or a portion of the water right, including
3888 water rights held by a water company.
3889 (iii) After giving written notice to the water company, a shareholder may file a
3890 nonuse application with the state engineer on the water represented by the stock.
3891 (iv)(A) The approval of a nonuse application excuses the requirement of
3892 beneficial use of water from the date of filing.
3893 (B) The time during which an approved nonuse application is in effect does not
3894 count toward the seven-year period described in Subsection (2)(a).
- 3895 (v) The filing or approval of a nonuse application or a series of nonuse applications
3896 under Subsection (3) does not:
- 3897 (A) constitute beneficial use of a water right;
3898 (B) protect a water right that is already subject to forfeiture under this section; or
3899 (C) bar a water right owner from:
- 3900 (I) using the water under the water right as permitted under the water right; or
3901 (II) claiming the benefit of Subsection (2)(e) or any other forfeiture defense
3902 provided by law.

- 3903 (c)(i) Except as provided in Subsection (2)(c)(ii), a water right or a portion of the
3904 water right may not be forfeited unless a judicial action to declare the right
3905 forfeited is commenced:
- 3906 (A) within 15 years from the end of the latest period of nonuse of at least seven
3907 years; or
 - 3908 (B) within the combined time of 15 years from the end of the most recent period
3909 of nonuse of at least seven years and the time the water right was subject to one
3910 or more nonuse applications.
- 3911 (ii)(A) The state engineer, in a proposed determination of rights filed with the
3912 court and prepared in accordance with Section 73-4-11, may not assert that a
3913 water right was forfeited unless the most recent period of nonuse of seven
3914 years ends or occurs:
- 3915 (I) during the 15 years immediately preceding the day on which the state
3916 engineer files the proposed determination of rights with the court; or
 - 3917 (II) during the combined time immediately preceding the day on which the
3918 state engineer files the proposed determination of rights consisting of 15
3919 years and the time the water right was subject to one or more approved
3920 nonuse applications.
 - 3921 (B) After the day on which a proposed determination of rights is filed with the
3922 court a person may not assert that a water right subject to that determination
3923 was forfeited before the issuance of the proposed determination, unless the
3924 state engineer asserts forfeiture in the proposed determination, or a person, in
3925 accordance with Section 73-4-11, makes an objection to the proposed
3926 determination that asserts forfeiture.
- 3927 (iii) A water right, found to be valid in a decree entered in an action for general
3928 determination of rights under Chapter 4, Determination of Water Rights, is subject
3929 to a claim of forfeiture based on a seven-year period of nonuse that begins after
3930 the day on which the state engineer filed the related proposed determination of
3931 rights with the court, unless the decree provides otherwise.
- 3932 (iv) If in a judicial action a court declares a water right forfeited, on the date on which
3933 the water right is forfeited:
- 3934 (A) the right to beneficially use the water reverts to the public; and
 - 3935 (B) the water made available by the forfeiture:
 - 3936 (I) first, satisfies other water rights in the hydrologic system in order of priority

- 3937 date; and
- 3938 (II) second, may be appropriated as provided in this title.
- 3939 (d) Except as provided in Subsection (2)(e), this section applies whether the unused or
- 3940 abandoned water or a portion of the water is:
- 3941 (i) permitted to run to waste; or
- 3942 (ii) beneficially used by others without right with the knowledge of the water right
- 3943 holder.
- 3944 (e) This section does not apply to:
- 3945 (i) the beneficial use of water according to a written, terminable lease or other
- 3946 agreement with the appropriator or the appropriator's successor in interest;
- 3947 (ii) a water right if its place of use is contracted under an approved state agreement or
- 3948 federal conservation following program;
- 3949 (iii) those periods of time when a surface water or groundwater source fails to yield
- 3950 sufficient water to satisfy the water right;
- 3951 (iv) a water right when water is unavailable because of the water right's priority date;
- 3952 (v) a water right to store water in a surface reservoir, or an aquifer in accordance with
- 3953 Chapter 3b, Groundwater Recharge and Recovery Act, if the water is stored for
- 3954 present or future beneficial use;
- 3955 (vi) a water right if a water user has beneficially used substantially all of the water
- 3956 right within a seven-year period, provided that this exemption does not apply to
- 3957 the adjudication of a water right in a general determination of water rights under
- 3958 Chapter 4, Determination of Water Rights;
- 3959 (vii) except as provided by Subsection (2)(g), a water right:
- 3960 (A)(I) owned by a public water supplier;
- 3961 (II) represented by a public water supplier's ownership interest in a water
- 3962 company; or
- 3963 (III) to which a public water supplier owns the right of beneficial use; and
- 3964 (B) conserved or held for the reasonable future water requirement of the public,
- 3965 which is determined according to Subsection (2)(f);
- 3966 (viii) a supplemental water right during a period of time when another water right
- 3967 available to the appropriator or the appropriator's successor in interest provides
- 3968 sufficient water so as to not require beneficial use of the supplemental water right;
- 3969 (ix) a period of nonuse of a water right during the time the water right is subject to an
- 3970 approved change application where the applicant is diligently pursuing

- 3971 certification;
- 3972 (x) a water right to store water in a surface reservoir if:
- 3973 (A) storage is limited by a safety, regulatory, or engineering restraint that the
- 3974 appropriator or the appropriator's successor in interest cannot reasonably
- 3975 correct; and
- 3976 (B) not longer than seven years have elapsed since the limitation described in
- 3977 Subsection (2)(e)(x)(A) is imposed;
- 3978 (xi) a water right subject to an approved change application for use within a water
- 3979 bank that has been authorized but not dissolved under Chapter 31, Water Banking
- 3980 Act, during the period of time the state engineer authorizes the water right to be
- 3981 used within the water bank; or
- 3982 (xii) subject to Subsection (2)(h), that portion of a water right that is quantified as
- 3983 saved water in a final order from the state engineer approving a change
- 3984 application, but not to exceed the amount subsequently verified by the state
- 3985 engineer in a certificate issued under Section 73-3-17.
- 3986 (f)(i) The reasonable future water requirement of the public is the amount of water
- 3987 needed in the next 40 years by:
- 3988 (A) the persons within the public water supplier's reasonably anticipated service
- 3989 area based on reasonably anticipated population growth; or
- 3990 (B) other water use demand.
- 3991 (ii) For purposes of Subsection (2)(f)(i), a community water system's reasonably
- 3992 anticipated service area:
- 3993 (A) is the area served by the community water system's distribution facilities; and
- 3994 (B) expands as the community water system expands the distribution facilities in
- 3995 accordance with Title 19, Chapter 4, Safe Drinking Water Act.
- 3996 ~~[(iii) The state engineer shall by rule made in accordance with Subsection 73-2-1(4)~~
- 3997 ~~establish standards for a written plan that may be presented as evidence in~~
- 3998 ~~conformance with this Subsection (2)(f), except that before a rule establishing~~
- 3999 ~~standards for a written plan under this Subsection (2)(f) takes effect, in addition to~~
- 4000 ~~complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the~~
- 4001 ~~state engineer shall present the rule to:]~~
- 4002 ~~[(A) if the Legislature is not in session, the Natural Resources, Agriculture, and~~
- 4003 ~~Environment Interim Committee; or]~~
- 4004 ~~[(B) if the Legislature is in session, the House of Representatives and Senate~~

Natural Resources, Agriculture, and Environment standing committees.]

- 4005
- 4006 (iii) In accordance with Subsection 73-2-1(4) and Title 63G, Chapter 3, Utah
- 4007 Administrative Rulemaking Act, the state engineer shall make rules to establish
- 4008 standards for a written plan under this Subsection (2)(f) that:
- 4009 (A) determines the reasonable future water requirement of the public for a public
- 4010 water supplier; and
- 4011 (B) a public water supplier shall complete to demonstrate compliance with this
- 4012 Subsection (2)(f).
- 4013 (iv) The state engineer shall present rules developed under Subsection (2)(f)(iii),
- 4014 before the rules take effect, to:
- 4015 (A) if the Legislature is not in session, the Natural Resources, Agriculture, and
- 4016 Environment Interim Committee; or
- 4017 (B) if the Legislature is in session, the House and Senate Natural Resources,
- 4018 Agriculture, and Environment standing committees.
- 4019 (v) The rules that the state engineer makes to establish standards for a written plan in
- 4020 accordance with Subsection (2)(f)(iii) shall include a standard for determining:
- 4021 (A) a population estimate, including anticipated population growth, consistent
- 4022 with an estimate or methodology under Title 63C, Chapter 20, Utah Population
- 4023 Committee;
- 4024 (B) an impact of current and future drought conditions;
- 4025 (C) an anticipated loss of a water source due to a natural disaster, including an
- 4026 earthquake or a change in climate;
- 4027 (D) an impact of a water conservation activity described in a public water
- 4028 supplier's water conservation plan described in Section 73-10-32;
- 4029 (E) the amount of water a public water supplier needs per capita; and
- 4030 (F) any other factor relevant to establishing the reasonable future water
- 4031 requirement of the public for a public water supplier.
- 4032 (g) For a water right acquired by a public water supplier on or after May 5, 2008,
- 4033 Subsection (2)(e)(vii) applies if:
- 4034 (i) the public water supplier submits a change application under Section 73-3-3; and
- 4035 (ii) the state engineer approves the change application.
- 4036 (h) Saved water does not retain the protection of Subsection (2)(e)(xii) and any period of
- 4037 nonuse for saved water begins to run the day on which:
- 4038 (i) the underlying water right that serves as the basis for the saved water is declared

- 4039 by court decree to have been lost due to forfeiture under this section; or
- 4040 (ii) the title of a right to saved water segregated under Section 73-3-27 is conveyed
- 4041 independent of the underlying water right.
- 4042 (3)(a) The state engineer shall furnish a nonuse application form requiring the following
- 4043 information:
- 4044 (i) the name and address of the applicant;
- 4045 (ii) a description of the water right or a portion of the water right, including the point
- 4046 of diversion, place of use, and priority;
- 4047 (iii) the quantity of water;
- 4048 (iv) the period of use;
- 4049 (v) the extension of time applied for;
- 4050 (vi) a statement of the reason for the nonuse of the water; and
- 4051 (vii) any other information that the state engineer requires.
- 4052 (b)(i) Upon receipt of the application, the state engineer shall publish a notice of the
- 4053 application once a week for two successive weeks:
- 4054 (A) in a newspaper of general circulation in the county in which the source of the
- 4055 water supply is located and where the water is to be beneficially used; and
- 4056 (B) as required in Section 45-1-101.
- 4057 (ii) The notice shall:
- 4058 (A) state that an application has been made; and
- 4059 (B) specify where the interested party may obtain additional information relating
- 4060 to the application.
- 4061 (c) An interested person may file a written protest with the state engineer against the
- 4062 granting of the application:
- 4063 (i) within 20 days after the notice is published, if the adjudicative proceeding is
- 4064 informal; and
- 4065 (ii) within 30 days after the notice is published, if the adjudicative proceeding is
- 4066 formal.
- 4067 (d) In a proceeding to determine whether the nonuse application should be approved or
- 4068 rejected, the state engineer shall follow Title 63G, Chapter 4, Administrative
- 4069 Procedures Act.
- 4070 (e) After further investigation, the state engineer may approve or reject the application.
- 4071 (4)(a) The state engineer shall grant a nonuse application on all or a portion of a water
- 4072 right for a period of time not exceeding seven years if the applicant shows a

4073 reasonable cause for nonuse.

4074 (b) A reasonable cause for nonuse includes:

4075 (i) a demonstrable financial hardship or economic depression;

4076 (ii) a physical cause or change that renders use beyond the reasonable control of the
4077 water right owner so long as the water right owner acts with reasonable diligence
4078 to resume or restore the use;

4079 (iii) the initiation of water conservation or an efficiency practice, or the operation of a
4080 groundwater recharge recovery program approved by the state engineer;

4081 (iv) operation of a legal proceeding;

4082 (v) the holding of a water right or stock in a mutual water company without use by a
4083 water supply entity to meet the reasonable future requirements of the public;

4084 (vi) situations where, in the opinion of the state engineer, the nonuse would assist in
4085 implementing an existing, approved water management plan; or

4086 (vii) the loss of capacity caused by deterioration of the water supply or delivery
4087 equipment if the applicant submits, with the application, a specific plan to resume
4088 full use of the water right by replacing, restoring, or improving the equipment.

4089 (5)(a) Sixty days before the expiration of a nonuse application, the state engineer shall
4090 notify the applicant by mail or by a form of electronic communication through which
4091 receipt is verifiable, of the date when the nonuse application will expire.

4092 (b) An applicant may file a subsequent nonuse application in accordance with this
4093 section.

4094 **Section 52. Effective Date.**

4095 (1) Except as provided in Subsection (2), this bill takes effect May 6, 2026.

4096 (2) The actions affecting Section 10-21-304 (**Effective 10/01/26**) take effect on October 1,
4097 2026.