Effective 5/9/2017

Part 5
Land Use Regulations

10-9a-501 Enactment of land use regulation, land use decision, or development agreement.

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

(2)

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

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

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

(4)

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

(i) create or amend a zoning district under Subsection 10-9a-503(1)(a); and

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

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

(5) A municipality may not adopt a land use regulation, development agreement, or land use decision that restricts the type of crop that may be grown in an area that is:

(a) zoned agricultural; or

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

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

Amended by Chapter 65, 2023 General Session

10-9a-502 Preparation and adoption of land use regulation.

(1) A planning commission shall:

(a) provide notice as required by Subsection 10-9a-205(1)(a) and, if applicable, Subsection 10-9a-205(4);

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

(c) if applicable, consider each written objection filed in accordance with Subsection 10-9a-205(4) prior to the public hearing; and

(d)

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

(ii) forward to the legislative body all objections filed in accordance with Subsection 10-9a-205(4).

(2)

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

(b) After providing notice as required by Subsection 10-9a-205(1)(b) and holding a public meeting, the legislative body may adopt or reject the land use regulation described in Subsection (2)(a):
(i) as proposed by the planning commission; or
(ii) after making any revision the legislative body considers appropriate.
(c) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

Amended by Chapter 384, 2019 General Session

10-9a-503 Land use ordinance or zoning map amendments -- Historic district or area.
(1) Only a legislative body may amend:
(a) the number, shape, boundaries, area, or general uses of any zoning district;
(b) any regulation of or within the zoning district; or
(c) any other provision of a land use regulation.
(2) A legislative body may not make any amendment authorized by this section unless the legislative body first submits the amendment to the planning commission for the planning commission's recommendation.
(3) A legislative body shall comply with the procedure specified in Section 10-9a-502 in preparing and adopting an amendment to a land use regulation.
(4)
(a) As used in this Subsection (4):
(i) "Citizen-led process" means a process established by a municipality to create a local historic district or area that requires:
(A) a petition signed by a minimum number of property owners within the boundaries of the proposed local historic district or area; or
(B) a vote of the property owners within the boundaries of the proposed local historic district or area.
(ii) "Condominium project" means the same as that term is defined in Section 57-8-3.
(iii) "Unit" means the same as that term is defined in Section 57-8-3.
(b) If a municipality provides a citizen-led process, the process shall require that:
(i) more than 33% of the property owners within the boundaries of the proposed local historic district or area agree in writing to the creation of the proposed local historic district or area;
(ii) before any property owner agrees to the creation of a proposed local historic district or area under Subsection (4)(b)(i), the municipality prepare and distribute, to each property owner within the boundaries of the proposed local historic district or area, a neutral information pamphlet that:
(A) describes the process to create a local historic district or area; and
(B) lists the pros and cons of a local historic district or area;
(iii) after the property owners satisfy the requirement described in Subsection (4)(b)(i), for each parcel or, if the parcel contains a condominium project, each unit, within the boundaries of the proposed local historic district or area, the municipality provide:
(A) a second copy of the neutral information pamphlet described in Subsection (4)(b)(ii); and
(B) one public support ballot that, subject to Subsection (4)(c), allows the owner or owners of record to vote in favor of or against the creation of the proposed local historic district or area;

(iv) in a vote described in Subsection (4)(b)(iii)(B), the returned public support ballots that reflect a vote in favor of the creation of the proposed local historic district or area:
(A) equal at least two-thirds of the returned public support ballots; and
(B) represent more than 50% of the parcels and units within the proposed local historic district or area;
(v) if a local historic district or area proposal fails in a vote described in Subsection (4)(b)(iii)(B), the legislative body may override the vote and create the proposed local historic district or area with an affirmative vote of two-thirds of the members of the legislative body; and
(vi) if a local historic district or area proposal fails in a vote described in Subsection (4)(b)(iii)(B) and the legislative body does not override the vote under Subsection (4)(b)(v), a resident may not initiate the creation of a local historic district or area that includes more than 50% of the same property as the failed local historic district or area proposal for four years after the day on which the public support ballots for the vote are due.
(c) In a vote described in Subsection (4)(b)(iii)(B):
(i) a property owner is eligible to vote regardless of whether the property owner is an individual, a private entity, or a public entity;
(ii) the municipality shall count no more than one public support ballot for:
(A) each parcel within the boundaries of the proposed local historic district or area; or
(B) if the parcel contains a condominium project, each unit within the boundaries of the proposed local historic district or area; and
(iii) if a parcel or unit has more than one owner of record, the municipality shall count a public support ballot for the parcel or unit only if the public support ballot reflects the vote of the property owners who own at least a 50% interest in the parcel or unit.
(d) The requirements described in Subsection (4)(b)(iv) apply to the creation of a local historic district or area that is:
(i) initiated in accordance with a municipal process described in Subsection (4)(b); and
(ii) not complete on or before January 1, 2016.
(e) A vote described in Subsection (4)(b)(iii)(B) is not subject to Title 20A, Election Code.

Amended by Chapter 384, 2019 General Session

10-9a-504 Temporary land use regulations.

(1)
(a) Except as provided in Subsection (2)(b), a municipal legislative body may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the municipality if:
(i) the legislative body makes a finding of compelling, countervailing public interest; or
(ii) the area is unregulated.
(b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.
(c) A temporary land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.

(2)
(a) The municipal legislative body shall establish a period of limited effect for the ordinance not to exceed 180 days.

(b) A municipal legislative body may not apply the provisions of a temporary land use regulation to the review of a specific land use application if the land use application is impaired or prohibited by proceedings initiated under Subsection 10-9a-509(1)(a)(ii)(B).

(3)

(a) A municipal legislative body may, without prior planning commission consideration or recommendation, enact an ordinance establishing a temporary land use regulation prohibiting construction, subdivision approval, and other development activities within an area that is the subject of an Environmental Impact Statement or a Major Investment Study examining the area as a proposed highway or transportation corridor.

(b) A regulation under Subsection (3)(a):

(i) may not exceed 180 days in duration;

(ii) may be renewed, if requested by the Transportation Commission created under Section 72-1-301, for up to two additional 180-day periods by ordinance enacted before the expiration of the previous regulation; and

(iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the Environmental Impact Statement or Major Investment Study is in progress.

Amended by Chapter 478, 2023 General Session

10-9a-505 Zoning districts.

(1)

(a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.

(b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.

(c) A municipality may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:

(i) protect life; and

(ii) prevent:

(A) the substantial loss of real property; or

(B) substantial damage to real property.

(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zoning district, but the regulations in one zone may differ from those in other zones.

(3)

(a) There is no minimum area or diversity of ownership requirement for a zone designation.

(b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a municipal decision.

(4) A municipality may by ordinance exempt from specific zoning district standards a subdivision of land to accommodate the siting of a public utility infrastructure.

Amended by Chapter 327, 2015 General Session

10-9a-505.5 Limit on single family designation.

(1) As used in this section, "single-family limit" means the number of individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.
(2) A municipality may not adopt a single-family limit that is less than:
  (a) three, if the municipality has within its boundary:
    (i) a state university; or
    (ii) a private university with a student population of at least 20,000; or
  (b) four, for each other municipality.

Amended by Chapter 102, 2021 General Session

10-9a-506 Regulating annexed territory.
(1) The legislative body of each municipality shall assign a land use zone or a variety thereof to territory annexed to the municipality at the time the territory is annexed.
(2) If the legislative body fails to assign a land use zone at the time the territory is annexed, all land uses within the annexed territory shall be compatible with surrounding uses within the municipality.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-507 Conditional uses.
(1)
  (a) A municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in an applicable ordinance.
  (b) A municipality may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.
(2)
  (a)
    (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
    (ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.
  (b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.
  (c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.
(3) A land use authority's decision to approve or deny conditional use is an administrative land use decision.
(4) A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

Amended by Chapter 385, 2021 General Session

10-9a-508 Exactions -- Exaction for water interest -- Requirement to offer to original owner property acquired by exaction.

(1) A municipality may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:
  (a) an essential link exists between a legitimate governmental interest and each exaction; and
  (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

(2) If a land use authority imposes an exaction for another governmental entity:
  (a) the governmental entity shall request the exaction; and
  (b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.

(3)
  (a)
    (i) Subject to the requirements of this Subsection (3), a municipality shall base an exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.
    (ii) Except as described in Subsection (3)(a)(iii), a culinary water authority shall base an exaction for a culinary water interest on:
      (A) consideration of the system-wide minimum sizing standards established for the culinary water authority by the Division of Drinking Water pursuant to Section 19-4-114; and
      (B) the number of equivalent residential connections associated with the culinary water demand for each specific development proposed in the development's land use application, applying lower exactions for developments with lower equivalent residential connections as demonstrated by at least five years of usage data for like land uses within the municipality.
    (iii) A municipality may impose an exaction for a culinary water interest that results in less water being exacted than would otherwise be exacted under Subsection (3)(a)(ii) if the municipality, at the municipality's sole discretion, determines there is good cause to do so.
    (iv) A municipality shall make public the methodology used to comply with Subsection (3)(a)(ii)(B). A land use applicant may appeal to the municipality's governing body an exaction calculation used by the municipality under Subsection (3)(a)(ii). A land use applicant may present data and other information that illustrates a need for an exaction recalculation and the municipality's governing body shall respond with due process.
    (v) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.
  (b) A municipality may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).

(4)
  (a) If a municipality plans to dispose of surplus real property that was acquired under this section and has been owned by the municipality for less than 15 years, the municipality shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the municipality.
  (b) A person to whom a municipality offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the municipality's offer.
  (c) If a person to whom a municipality offers to reconvey property declines the offer, the municipality may offer the property for sale.

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

(5)

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

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

(i) in a vehicle turnaround area;

(ii) in a cul-de-sac;

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

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

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

(vi) as needed for the installation or location of a utility which is maintained by the municipality and is considered a transmission line or requires additional roadway width;

(vii) for third-party utility lines that have an easement preventing the installation of utilities maintained by the municipality within the roadway;

(viii) for utilities over 12 feet in depth;

(ix) for roadways with a design speed that exceeds 25 miles per hour;

(x) as needed for flood and stormwater routing;

(xi) as needed to meet fire code requirements for parking and hydrants; or

(xii) as needed to accommodate street parking.

(c) Nothing in this section shall be construed to prevent a municipality from approving a road cross section with a pavement width less than 32 feet.

(d)

(i) A land use applicant may appeal a municipal requirement for pavement in excess of 32 feet on a residential roadway.

(ii) A land use applicant that has appealed a municipal specification for a residential roadway pavement width in excess of 32 feet may request that the municipality assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(iii) Unless otherwise agreed by the applicant and the municipality, the panel described in Subsection (5)(d)(ii) shall consist of the following three experts:

(A) one licensed engineer, designated by the municipality;

(B) one licensed engineer, designated by the land use applicant; and

(C) one licensed engineer, agreed upon and designated by the two designated engineers under Subsections (5)(d)(iii)(A) and (B).

(iv) A member of the panel assembled by the municipality under Subsection (5)(d)(ii) may not have an interest in the application that is the subject of the appeal.

(v) The land use applicant shall pay:

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

(B) the municipality's published appeal fee.

(vi) The decision of the panel is a final decision, subject to a petition for review under Subsection (5)(d)(vii).

(vii) Pursuant to Section 10-9a-801, a land use applicant or the municipality may file a petition for review of the decision with the district court within 30 days after the date that the decision is final.

Amended by Chapter 255, 2023 General Session
Amended by Chapter 478, 2023 General Session

Superseded 11/1/2024

10-9a-509 Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1)
(a)
(i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:
(A) in effect on the date that the application is complete; and
(B) applicable to the application or to the information shown on the application.
(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:
(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or
(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.
(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:
(i) 180 days have passed since the municipality initiated the proceedings; and
(ii)
(A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or
(B) during the 12 months prior to the municipality processing the application, or multiple applications of the same type, are impaired or prohibited under the terms of a temporary land use regulation adopted under Section 10-9a-504.
(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.
(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.
(e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.
(f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:
(i) this chapter;

(ii) a municipal ordinance in effect on the date that the applicant submits a complete application, subject to Subsection 10-9a-509(1)(a)(ii); or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter;

(vi) in a municipal ordinance; or

(vii) in a municipal specification for residential roadways in effect at the time a residential subdivision was approved.

(h) Except as provided in Subsection (1)(i) or (j), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

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

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

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

(ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

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

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

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

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5)

(a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:
(i) to the local clerk as defined in Section 20A-7-101; and
(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(5).
(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:
(i) the relevant land use approval; and
(ii) any land use regulation enacted specifically in relation to the land use approval.
(6)
(a) After issuance of a building permit, a municipality may not:
(i) change or add to the requirements expressed in the building permit, unless the change or addition is:
(A) requested by the building permit holder; or
(B) necessary to comply with an applicable state building code; or
(ii) revoke the building permit or take action that has the effect of revoking the building permit.
(b) Subsection (6)(a) does not prevent a municipality from issuing a building permit that contains an expiration date defined in the building permit.

Amended by Chapter 329, 2024 General Session
Amended by Chapter 388, 2024 General Session

Effective 11/1/2024
10-9a-509 Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.
(1)
(a)
(i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:
(A) in effect on the date that the application is complete; and
(B) applicable to the application or to the information shown on the application.
(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:
(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or
(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.
(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:
(i) 180 days have passed since the municipality initiated the proceedings; and
(ii)

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

(B) during the 12 months prior to the municipality processing the application, or multiple applications of the same type, are impaired or prohibited under the terms of a temporary land use regulation adopted under Section 10-9a-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

(e) Unless a phasing sequence is required in an executed development agreement, a municipality shall, without regard to any other separate and distinct land use application, accept and process a complete land use application.

(f) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(g) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance in effect on the date that the applicant submits a complete application, subject to Subsection 10-9a-509(1)(a)(ii); or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(h) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter;

(vi) in a municipal ordinance; or

(vii) in a municipal specification for residential roadways in effect at the time a residential subdivision was approved.

(i) Except as provided in Subsection (1)(j) or (k), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

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

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

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

(ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

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

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

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

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5)

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

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

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

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

(i) the relevant land use approval; and

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

(6)

(a) After issuance of a building permit, a municipality may not:

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

(A) requested by the building permit holder; or

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

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

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

Amended by Chapter 415, 2024 General Session

10-9a-509.5 Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

(1)

(a) Each municipality shall, in a timely manner, determine whether a land use application is complete for the purposes of subsequent, substantive land use authority review.

(b) After a reasonable period of time to allow the municipality diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been

paid, the applicant may in writing request that the municipality provide a written determination either that the application is:

(i) complete for the purposes of allowing subsequent, substantive land use authority review; or

(ii) deficient with respect to a specific, objective, ordinance-based application requirement.

(c) Within 30 days of receipt of an applicant's request under this section, the municipality shall either:

(i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application shall be supplemented by specific additional information identified in the notice; or

(ii) accept the application as complete for the purposes of further substantive processing by the land use authority.

(d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.

(e)

(i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).

(ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).

(f)

(i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).

(ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.

(2)

(a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence.

(b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

(c) Within 45 days from the date of service of the written request described in Subsection (2)(b):

(i) except as provided in Subsection (2)(c)(ii), the land use authority shall take final action, approving or denying the application; and

(ii) if a landowner petitions for a land use regulation, a legislative body shall take final action by approving or denying the petition.

(d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.

(e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority is required to take final action under Subsection (2)(c).

(3)

(a) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the municipality's adopted standards.

(b)

(i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.
(ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.
(iii) The land use authority shall accept or reject the performance of warranty work within 45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.
(c) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the municipality's adopted standards, the land use authority shall comprehensively and with specificity list the reasons for the land use authority's determination.
(4) Subject to Section 10-9a-509, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.
(5) There shall be no money damages remedy arising from a claim under this section.

Amended by Chapter 126, 2020 General Session

10-9a-509.7 Transferable development rights.
(1) A municipality may adopt an ordinance:
(a) designating sending zones and receiving zones within the municipality; and
(b) allowing the transfer of a transferable development right from a sending zone to a receiving zone.
(2) A municipality may not allow the use of a transferable development right unless the municipality adopts an ordinance described in Subsection (1).

Amended by Chapter 231, 2012 General Session

10-9a-510 Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.
(1) A municipality may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:
(a) the actual cost of performing the plan review; and
(b) 65% of the amount the municipality charges for a building permit fee for that building.
(2) Subject to Subsection (1), a municipality may impose and collect only a nominal fee for reviewing and approving identical floor plans.
(3) A municipality may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, and appurtenance to connect to the municipal water, sewer, storm water, power, or other utility system.
(4) A municipality may not impose or collect:
(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; or
(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review.
(5)

(a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the municipality shall provide an itemized fee statement that shows the calculation method for each fee.
(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the municipality shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:
(i) for each fee, any studies, reports, or methods relied upon by the municipality to create the calculation method described in Subsection (5)(a);
(ii) an accounting of each fee paid;
(iii) how each fee will be distributed; and
(iv) information on filing a fee appeal through the process described in Subsection (5)(c).
(c) A municipality shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:
(i) regulation;
(ii) processing an application;
(iii) issuing a permit; or
(iv) delivering the service for which the applicant or owner paid the fee.
(6) A municipality may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:
(a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;
(b) subject to Subsection (3), a hookup fee; and
(c) an impact fee for a public facility listed in Subsection 11-36a-102(17)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).
(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a municipality:
(a) Subsections (5) and (6);
(b) Section 10-9a-508; and
(c) Section 10-9a-509.5.

Amended by Chapter 35, 2021 General Session

10-9a-511 Nonconforming uses and noncomplying structures.

(1)
(a) Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.
(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.
(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.
(2) The legislative body may provide for:
(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;

(b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a nonconforming use due to its abandonment.

(3)

(a) A municipality may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

(b) A municipality may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

(i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after the day on which written notice is served to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

(ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

(c)

(i) Notwithstanding a prohibition in the municipality's zoning ordinance, a municipality may permit a billboard owner to relocate the billboard within the municipality's boundaries to a location that is mutually acceptable to the municipality and the billboard owner.

(ii) If the municipality and billboard owner cannot agree to a mutually acceptable location within 180 days after the day on which the owner submits a written request to relocate the billboard, the billboard owner may relocate the billboard in accordance with Subsection 10-9a-513(2).

(4)

(a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use through substantial evidence, which may not be limited to municipal or county records.

(b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

(c) Abandonment may be presumed to have occurred if:

(i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;

(ii) the use has been discontinued for a minimum of one year; or

(iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.

(d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and has the burden of establishing that any claimed abandonment under Subsection (4)(b) has not occurred.

(5) A municipality may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Amended by Chapter 355, 2022 General Session

10-9a-511.5 Changes to dwellings -- Egress windows.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(c) "Rental dwelling" means the same as that term is defined in Section 10-8-85.5.

(2) A municipal ordinance adopted under Section 10-1-203.5 may not:

(a) require physical changes in a structure with a legal nonconforming rental dwelling use unless the change is for:

(i) the reasonable installation of:

(A) a smoke detector that is plugged in or battery operated;

(B) a ground fault circuit interrupter protected outlet on existing wiring;

(C) street addressing;

(D) except as provided in Subsection (3), an egress bedroom window if the existing bedroom window is smaller than that required by current State Construction Code;

(E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;

(F) hand or guard rails; or

(G) occupancy separation doors as required by the International Residential Code; or

(ii) the abatement of a structure; or

(b) be enforced to terminate a legal nonconforming rental dwelling use.

(3)

(a) A municipality may not require physical changes to install an egress or emergency escape window in an existing bedroom that complied with the State Construction Code in effect at the time the bedroom was finished if:

(i) the dwelling is an owner-occupied dwelling or a rental dwelling that is:

(A) a detached one-, two-, three-, or four-family dwelling; or

(B) a town home that is not more than three stories above grade with a separate means of egress; and

(ii)

(A) the window in the existing bedroom is smaller than that required by current State Construction Code; and

(B) the change would compromise the structural integrity of the structure or could not be completed in accordance with current State Construction Code, including set-back and window well requirements.

(b) Subsection (3)(a) does not apply to an internal accessory dwelling unit.

(4) Nothing in this section prohibits a municipality from:

(a) regulating the style of window that is required or allowed in a bedroom;

(b) requiring that a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code; or

(c) requiring that an existing window not be reduced in size if the openable area is smaller than required by current State Construction Code.

Amended by Chapter 102, 2021 General Session

10-9a-512 Termination of a billboard and associated rights.

(1) A municipality may only require termination of a billboard and associated rights through:
(a) gift;
(b) purchase;
(c) agreement;
(d) exchange; or
(e) eminent domain.
(2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent of the billboard owner.
(3) A termination under Subsection (1)(e) requires the municipality to:
(a) acquire the billboard and associated rights through eminent domain, in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain, except as provided in Subsections 10-9a-513(2)(f) and (h); and
(b) after acquiring the rights under Subsection (3)(a), terminate the billboard and associated rights.

Amended by Chapter 239, 2018 General Session

10-9a-513 Municipality's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboards to be rebuilt or replaced -- Validity of municipal permit after issuance of state permit.

(1) As used in this section:
(a) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.
(b) "Highest allowable height" means:
(i) if the height allowed by the municipality, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the municipality; or
(ii)
(A) for a noninterstate billboard:
(I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or
(II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and
(B) for an interstate billboard:
(I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or
(II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.
(c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.
(d) "Interstate height" means a height that is the higher of:

(i) 65 feet above the ground; and
(ii) 25 feet above the grade of the interstate.
(e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.
(f) "Visibility area" means the area on a street or highway that is:
(i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
(ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:
(A) perpendicular to the street or highway; and
(B)
(I) for an interstate billboard, 500 feet from the base of the billboard; or
(II) for a noninterstate billboard, 300 feet from the base of the billboard.
(2)
(a) If a billboard owner makes a written request to the municipality with jurisdiction over the billboard to take an action described in Subsection (2)(b), the billboard owner may take the requested action, without further municipal land use approval, 180 days after the day on which the billboard owner makes the written request, unless within the 180-day period the municipality:
(i) in an attempt to acquire the billboard and associated rights through eminent domain under Section 10-9a-512 for the purpose of terminating the billboard and associated rights:
(A) completes the procedural steps required under Title 78B, Chapter 6, Part 5, Eminent Domain, before the filing of an eminent domain action; and
(B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain;
(ii) denies the request in accordance with Subsection (2)(d); or
(iii) requires the billboard owner to remove the billboard in accordance with Subsection (3).
(b) Subject to Subsection (2)(a), a billboard owner may:
(i) rebuild, maintain, repair, or restore a billboard structure that is damaged by casualty, an act of God, or vandalism;
(ii) relocate or rebuild a billboard structure, or take another measure, to correct a mistake in the placement or erection of a billboard for which the municipality issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;
(iii) structurally modify or upgrade a billboard;
(iv) relocate a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if the relocated billboard is:
(A) within 5,280 feet of the billboard's previous location; and
(B) no closer than 300 feet from an off-premise sign existing on the same side of the street or highway, or if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; or
(v) make one or more of the following modifications, as the billboard owner determines, to a billboard that is structurally altered by modification or upgrade under Subsection (2)(b)(iii), by relocation under Subsection (2)(b)(iv), or by any combination of these alterations:
(A) erect the billboard:
(I) to the highest allowable height; and

(II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; or

(B) install a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before the billboard's relocation.

(c) A modification under Subsection (2)(b)(v) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

(d) A municipality may deny a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard without acquiring the billboard and associated rights through eminent domain under Section 10-9a-512, if the mistake in placement or erection of the billboard is determined by clear and convincing evidence, in a proceeding that protects the billboard owner's due process rights, to have resulted from an intentionally false or misleading statement:

(i) by the billboard applicant in the application; and

(ii) regarding the placement or erection of the billboard.

(e) A municipality that acquires a billboard and associated rights through eminent domain under Section 10-9a-512 shall pay just compensation to the billboard owner in an amount that is:

(i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;

(ii) the value of any other right associated with the billboard;

(iii) the cost of the sign structure; and

(iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the billboard owner's interest is a part.

(f) If a municipality commences an eminent domain action under Subsection (2)(a)(i):

(i) the provisions of Section 78B-6-510 do not apply; and

(ii) the municipality may not take possession of the billboard or the billboard's associated rights until:

(A) completion of all appeals of a judgment allowing the municipality to acquire the billboard and associated rights; and

(B) the billboard owner receives payment of just compensation, described in Subsection (2)(e).

(g) Unless the eminent domain action is dismissed under Subsection (2)(h)(ii), a billboard owner may proceed, without further municipal land use approval, to take an action requested under Subsection (2)(a), if the municipality's eminent domain action commenced under Subsection (2)(a)(i) is dismissed without an order allowing the municipality to acquire the billboard and associated rights.

(h)

(i) A billboard owner may withdraw a request made under Subsection (2)(a) at any time before the municipality takes possession of the billboard or the billboard's associated rights in accordance with Subsection (2)(f)(ii).

(ii) If a billboard owner withdraws a request in accordance with Subsection (2)(h)(i), the court shall dismiss the municipality's eminent domain action to acquire the billboard or associated rights.

(3) Notwithstanding Section 10-9a-512, a municipality may require the owner of a billboard to remove the billboard without acquiring the billboard and associated rights through eminent domain if:

(a) the municipality determines:

(i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or
(ii) by substantial evidence that the billboard:
(A) is structurally unsafe;
(B) is in an unreasonable state of repair; or
(C) has been abandoned for at least 12 months;
(b) the municipality notifies the billboard owner in writing that the billboard owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);
(c) the billboard owner fails to remedy the condition or conditions within:
(i) 180 days after the day on which the billboard owner receives written notice under Subsection (3)(b); or
(ii) if the condition forming the basis of the municipality's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, after the day on which the billboard owner receives written notice under Subsection (3)(b); and
(d) following the expiration of the applicable period under Subsection (3)(c) and after providing the billboard owner with reasonable notice of proceedings and an opportunity for a hearing, the municipality finds:
(i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or
(ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.
(4) A municipality may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than the billboard's owner, or the billboard's owner acting through a contractor, within 500 feet of the nonconforming location.
(5) A permit that a municipality issues, extends, or renews for a billboard remains valid beginning on the day on which the municipality issues, extends, or renews the permit and ending 180 days after the day on which a required state permit is issued for the billboard if:
(a) the billboard requires a state permit; and
(b) an application for the state permit is filed within 30 days after the day on which the municipality issues, extends, or renews a permit for the billboard.

Amended by Chapter 239, 2018 General Session

10-9a-514 Manufactured homes.
(1) For purposes of this section, a manufactured home is the same as defined in Section 15A-1-302, except that the manufactured home shall be attached to a permanent foundation in accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection in compliance with the applicable building code. All appendages, including carports, garages, storage buildings, additions, or alterations shall be built in compliance with the applicable building code.
(2) A manufactured home may not be excluded from any land use zone or area in which a single-family residence would be permitted, provided the manufactured home complies with all local land use ordinances, building codes, and any restrictive covenants, applicable to a single family residence within that zone or area.
(3) A municipality may not:

(a) adopt or enforce an ordinance or regulation that treats a proposed development that includes manufactured homes differently than one that does not include manufactured homes; or
(b) reject a development plan based on the fact that the development is expected to contain manufactured homes.

Amended by Chapter 14, 2011 General Session

10-9a-515 Regulation of amateur radio antennas.

(1) A municipality may not enact or enforce an ordinance that does not comply with the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R. Part 97.
(2) If a municipality adopts an ordinance involving the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance shall:
(a) reasonably accommodate amateur radio communications; and
(b) represent the minimal practicable regulation to accomplish the municipality's purpose.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-516 Regulation of residential facilities for persons with disabilities.

A municipality may only regulate a residential facility for persons with a disability to the extent allowed by:
(1) Title 57, Chapter 21, Utah Fair Housing Act, and applicable jurisprudence;
(2) the Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., and applicable jurisprudence; and
(3) Section 504, Rehabilitation Act of 1973, and applicable jurisprudence.

Repealed and Re-enacted by Chapter 309, 2013 General Session

10-9a-520 Licensing of residences for persons with a disability.

The responsibility to license programs or entities that operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with the Department of Health and Human Services as provided in:
(1) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and
(2) Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities.

Amended by Chapter 327, 2023 General Session

10-9a-521 Wetlands.

(1) A municipality may not designate or treat any land as wetlands unless the United States Army Corps of Engineers or other agency of the federal government has designated the land as wetlands.
(2) A land use authority that issues a land use permit that affects land designated as wetlands by the United States Army Corps of Engineers or another agency of the federal government shall provide a copy of the land use permit to the Utah Geological Survey established in Section 79-3-201.

Amended by Chapter 216, 2022 General Session

10-9a-522 Refineries.

(1) As used in this section, "develop" or "development" means:
  (a) the construction, alteration, or improvement of land, including any related moving, demolition, or excavation outside of a refinery property boundary;
  (b) the subdivision of land for a non-industrial use; or
  (c) the construction of a non-industrial structure on a parcel that is not subject to the subdivision process.
(2) Before a legislative body may adopt a non-industrial zoning change to permit development within 500 feet of a refinery boundary, the legislative body shall consult with the refinery to determine whether the proposed change is compatible with the refinery.
(3) Before a land use authority may approve an application to develop within 500 feet of a refinery boundary, the land use authority shall consult with the refinery to determine whether the development is compatible with the refinery.
(4) A legislative body described in Subsection (2), or a land use authority described in Subsection (3), may not request from the refinery:
  (a) proprietary information;
  (b) information, if made public, that would create a security or safety risk to the refinery or the public;
  (c) information that is restricted from public disclosure under federal or state law; or
  (d) information that is available in public record.
(5)
  (a) This section does not grant authority to a legislative body described in Subsection (2), or a land use authority described in Subsection (3), to require a refinery to undertake or cease an action.
  (b) This section does not create a cause of action against a refinery.
  (c) Except as expressly provided in this section, this section does not alter or remove any legal right or obligation of a refinery.

Enacted by Chapter 306, 2010 General Session

10-9a-523 Property boundary adjustment.

(1) To make a parcel boundary adjustment, a property owner shall:
  (a) execute a boundary adjustment through:
    (i) a quitclaim deed; or
    (ii) a boundary line agreement under Section 10-9a-524; and
  (b) record the quitclaim deed or boundary line agreement described in Subsection (1)(a) in the office of the county recorder of the county in which each property is located.
(2) To make a lot line adjustment, a property owner shall:
  (a) obtain approval of the boundary adjustment under Section 10-9a-608;
  (b) execute a boundary adjustment through:
    (i) a quitclaim deed; or
    (ii) a boundary line agreement under Section 10-9a-524; and
  (c) record the quitclaim deed or boundary line agreement described in Subsection (2)(b) in the office of the county recorder of the county in which each property is located.
(3) A parcel boundary adjustment under Subsection (1) is not subject to review of a land use authority unless:
  (a) the parcel includes a dwelling; and
  (b) the land use authority's approval is required under Subsection 10-9a-524(5).

(4) The recording of a boundary line agreement or other document used to adjust a mutual boundary line that is not subject to review of a land use authority:
  (a) does not constitute a land use approval; and
  (b) does not affect the validity of the boundary line agreement or other document used to adjust a mutual boundary line.
(5) A municipality may withhold approval of a land use application for property that is subject to a recorded boundary line agreement or other document used to adjust a mutual boundary line if the municipality determines that the lots or parcels, as adjusted by the boundary line agreement or other document used to adjust the mutual boundary line, are not in compliance with the municipality's land use regulations in effect on the day on which the boundary line agreement or other document used to adjust the mutual boundary line is recorded.

Amended by Chapter 385, 2021 General Session

10-9a-524 Boundary line agreement.
(1) If properly executed and acknowledged as required by law, an agreement between owners of adjoining property that designates the boundary line between the adjoining properties acts, upon recording in the office of the recorder of the county in which each property is located, as a quitclaim deed to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement.
(2) Adjoining property owners executing a boundary line agreement described in Subsection (1) shall:
  (a) ensure that the agreement includes:
    (i) a legal description of the agreed upon boundary line and of each parcel or lot after the boundary line is changed;
    (ii) the name and signature of each grantor that is party to the agreement;
    (iii) a sufficient acknowledgment for each grantor's signature;
    (iv) the address of each grantee for assessment purposes;
    (v) a legal description of the parcel or lot each grantor owns before the boundary line is changed; and
    (vi) the date of the agreement if the date is not included in the acknowledgment in a form substantially similar to a quitclaim deed as described in Section 57-1-13;
  (b) if any of the property subject to the boundary line agreement is a lot, prepare an amended plat in accordance with Section 10-9a-608 before executing the boundary line agreement; and
  (c) if none of the property subject to the boundary line agreement is a lot, ensure that the boundary line agreement includes a statement citing the file number of a record of a survey map in accordance with Section 17-23-17, unless the statement is exempted by the municipality.
(3) A boundary line agreement described in Subsection (1) that complies with Subsection (2) presumptively:
  (a) has no detrimental effect on any easement on the property that is recorded before the day on which the agreement is executed unless the owner of the property benefitting from the easement specifically modifies the easement within the boundary line agreement or a separate recorded easement modification or relinquishment document; and
  (b) relocates the parties' common boundary line for an exchange of consideration.
(4) Notwithstanding Part 6, Subdivisions, or a municipality's ordinances or policies, a boundary line agreement that only affects parcels is not subject to:

(a) any public notice, public hearing, or preliminary platting requirement;
(b) the review of a land use authority; or
(c) an engineering review or approval of the municipality, except as provided in Subsection (5).
(5)
(a) If a parcel that is the subject of a boundary line agreement contains a dwelling unit, the municipality may require a review of the boundary line agreement if the municipality:
(i) adopts an ordinance that:
(A) requires review and approval for a boundary line agreement containing a dwelling unit; and
(B) includes specific criteria for approval; and
(ii) completes the review within 14 days after the day on which the property owner submits the boundary line agreement for review.
(b)
(i) If a municipality, upon a review under Subsection (5)(a), determines that the boundary line agreement is deficient or if the municipality requires additional information to approve the boundary line agreement, the municipality shall send, within the time period described in Subsection (5)(a)(ii), written notice to the property owner that:
(A) describes the specific deficiency or additional information that the municipality requires to approve the boundary line agreement; and
(B) states that the municipality shall approve the boundary line agreement upon the property owner's correction of the deficiency or submission of the additional information described in Subsection (5)(b)(i)(A).
(ii) If a municipality, upon a review under Subsection (5)(a), approves the boundary line agreement, the municipality shall send written notice of the boundary line agreement's approval to the property owner within the time period described in Subsection (5)(a)(ii).
(c) If a municipality fails to send a written notice under Subsection (5)(b) within the time period described in Subsection (5)(a)(ii), the property owner may record the boundary line agreement as if no review under this Subsection (5) was required.

Amended by Chapter 385, 2021 General Session

10-9a-525 High tunnels -- Exemption from municipal regulation.
(1) As used in this section, "high tunnel" means a structure that:
(a) is not a permanent structure;
(b) is used for the keeping, storing, sale, or shelter of an agricultural commodity; and
(c) has a:
(i) metal, wood, or plastic frame;
(ii) plastic, woven textile, or other flexible covering; and
(iii) floor made of soil, crushed stone, matting, pavers, or a floating concrete slab.
(2) A municipal building code does not apply to a high tunnel.
(3) No building permit shall be required for the construction of a high tunnel.

Enacted by Chapter 129, 2015 General Session

10-9a-527 Historic preservation authority.
(1)
(a) A legislative body may designate a historic preservation authority.

(b) A legislative body may not designate the legislative body or the municipality's governing body as a historic preservation authority.
(2) In making administrative decisions on land use applications, a historic preservation authority shall apply the plain language of the land use regulations to a land use application.
(3) If a land use regulation does not plainly restrict a land use application, the historic preservation authority shall interpret and apply the land use regulation to favor the land use application.

Enacted by Chapter 17, 2017 General Session

10-9a-528 Cannabis production establishments, medical cannabis pharmacies, and industrial hemp producer licensee.

(1) As used in this section:
(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102 and includes a closed-door medical cannabis pharmacy.
(b) "Closed-door medical cannabis pharmacy" means the same as that term is defined in Section 4-41a-102.
(c) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.
(d) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.
(2)
(a)
(i) A municipality may not regulate a cannabis production establishment or a medical cannabis pharmacy in conflict with:
(A) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, and applicable jurisprudence; and
(B) this chapter.
(ii) A municipality may not regulate an industrial hemp producer licensee in conflict with:
(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and
(B) this chapter.
(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment or a medical cannabis pharmacy.
(3)
(a) Within the time period described in Subsection (3)(b), a municipality shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:
(i) regarding a cannabis production establishment, Section 4-41a-406; or
(ii) regarding a medical cannabis pharmacy, Section 4-41a-1105.
(b) A municipality shall take the action described in Subsection (3)(a):
(i) before January 1, 2021, within 45 days after the day on which the municipality receives a petition for the action; and
(ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

Amended by Chapter 238, 2024 General Session

10-9a-529 Specified public utility located in a municipal utility easement.

A specified public utility may exercise each power of a public utility under Section 54-3-27 if the specified public utility uses an easement:
(1) with the consent of a municipality; and

(2) that is located within a municipal utility easement described in Subsections 10-9a-103(42)(a) through (e).

Amended by Chapter 464, 2024 General Session

10-9a-530 Internal accessory dwelling units.

(1) As used in this section:
  (a) "Internal accessory dwelling unit" means an accessory dwelling unit created:
    (i) within a primary dwelling;
    (ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and
    (iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.
  (b)
    (i) "Primary dwelling" means a single-family dwelling that:
      (A) is detached; and
      (B) is occupied as the primary residence of the owner of record.
    (ii) "Primary dwelling" includes a garage if the garage:
      (A) is a habitable space; and
      (B) is connected to the primary dwelling by a common wall.
(2) In any area zoned primarily for residential use:
  (a) the use of an internal accessory dwelling unit is a permitted use;
  (b) except as provided in Subsections (3) and (4), a municipality may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:
    (i) the size of the internal accessory dwelling unit in relation to the primary dwelling;
    (ii) total lot size;
    (iii) street frontage; or
    (iv) internal connectivity; and
  (c) a municipality's regulation of architectural elements for internal accessory dwelling units shall be consistent with the regulation of single-family units, including single-family units located in historic districts.
(3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.
(4) A municipality may:
  (a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;
  (b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;
  (c) require a primary dwelling:
    (i) regardless of whether the primary dwelling is existing or new construction, to include one additional on-site parking space for an internal accessory dwelling unit, in addition to the parking spaces required under the municipality's land use regulation, except that if the municipality's land use ordinance requires four off-street parking spaces, the municipality may not require the additional space contemplated under this Subsection (4)(c)(i); and
    (ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport and is a habitable space;
  (d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;
(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to:
(i) 25% or less of the total area in the municipality that is zoned primarily for residential use, except that the municipality may not prohibit newly constructed internal accessory dwelling units that:
(A) have a final plat approval dated on or after October 1, 2021; and
(B) comply with applicable land use regulations; or
(ii) 67% or less of the total area in the municipality that is zoned primarily for residential use, if the main campus of a state or private university with a student population of 10,000 or more is located within the municipality;
(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;
(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;
(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;
(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;
(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (5); and
(l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).
(5)
(a) In addition to any other legal or equitable remedies available to a municipality, a municipality may hold a lien against a property that contains an internal accessory dwelling unit if:
(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection (4);
(ii) the municipality provides a written notice of violation in accordance with Subsection (5)(b);
(iii) the municipality holds a hearing and determines that the violation has occurred in accordance with Subsection (5)(d), if the owner files a written objection in accordance with Subsection (5)(b)(iv);
(iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (5)(b);
(v) the municipality provides a written notice of lien in accordance with Subsection (5)(c); and
(vi) the municipality records a copy of the written notice of lien described in Subsection (5)(a)(v) with the county recorder of the county in which the property is located.
(b) The written notice of violation shall:
(i) describe the specific violation;
(ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:
(A) no less than 14 days after the day on which the municipality sends the written notice of violation, if the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than 30 consecutive days; or
(B) no less than 30 days after the day on which the municipality sends the written notice of violation, for any other violation;
(iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection (5)(b)(ii), the municipality may hold a lien against the property in an

amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) notify the owner of the property:

(A) that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and

(B) of the name and address of the municipal office where the owner may file the written objection;

(v) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(vi) be posted on the property.

(c) The written notice of lien shall:

(i) comply with the requirements of Section 38-12-102;

(ii) state that the property is subject to a lien;

(iii) specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(v) be posted on the property.

(d)

(i) If an owner of property files a written objection in accordance with Subsection (5)(b)(iv), the municipality shall:

(A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection (5)(b) has occurred; and

(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.

(ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a municipality may not record a lien under this Subsection (5) until the municipality holds a hearing and determines that the specific violation has occurred.

(iii) If the municipality determines at the hearing that the specific violation has occurred, the municipality may impose a lien in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.

(e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (5)(b), the municipality may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation under Subsection (5)(b).

(6)

(a) A municipality that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

(b) The notice described in Subsection (6)(a) shall include:

(i) a description of the primary dwelling;

(ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and
(iii) a statement that the internal accessory dwelling unit may only be used in accordance with the municipality's land use regulations.
(c) The municipality shall, upon recording the notice described in Subsection (6)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Amended by Chapter 501, 2023 General Session

10-9a-531 Utility service connections.
(1) A municipality may not enact an ordinance, a resolution, or a policy that prohibits, or has the effect of prohibiting, the connection or reconnection of an energy utility service provided by a public utility as that term is defined in Section 54-2-1.
(2) Subsection (1) does not apply to:
(a) an incentive offered by a municipality; or
(b) a building owned by a municipality.

Enacted by Chapter 15, 2021 General Session

10-9a-532 Development agreements.
(1) Subject to Subsection (2), a municipality may enter into a development agreement containing any term that the municipality considers necessary or appropriate to accomplish the purposes of this chapter, including a term relating to:
(a) a master planned development;
(b) a planned unit development;
(c) an annexation;
(d) affordable or moderate income housing with development incentives;
(e) a public-private partnership; or
(f) a density transfer or bonus within a development project or between development projects.
(2)
(a) A development agreement may not:
(i) limit a municipality's authority in the future to:
(A) enact a land use regulation; or
(B) take any action allowed under Section 10-8-84;
(ii) require a municipality to change the zoning designation of an area of land within the municipality in the future; or
(iii) allow a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Section 10-9a-502, including a review and recommendation from the planning commission and a public hearing.
(b) A development agreement that requires the implementation of an existing land use regulation as an administrative act does not require a legislative body's approval under Section 10-9a-502.
(c) Subject to Subsection (2)(d), a municipality may require a development agreement for developing land within the municipality if the applicant has applied for a legislative or discretionary approval, including an approval relating to:
(i) the height of a structure;
(ii) a parking or setback exception;

(iii) a density transfer or bonus;
(iv) a development incentive;
(v) a zone change; or
(vi) an amendment to a prior development agreement.
(d) A municipality may not require a development agreement as a condition for developing land within the municipality if:
(i) the development otherwise complies with applicable statute and municipal ordinances;
(ii) the development is an allowed or permitted use; or
(iii) the municipality's land use regulations otherwise establish all applicable standards for development on the land.
(e) A municipality may submit to a county recorder's office for recording:
(i) a fully executed agreement; or
(ii) a document related to:
(A) code enforcement;
(B) a special assessment area;
(C) a local historic district boundary; or
(D) the memorializing or enforcement of an agreed upon restriction, incentive, or covenant.
(f) Subject to Subsection (2)(e), a municipality may not cause to be recorded against private real property a document that imposes development requirements, development regulations, or development controls on the property.
(g) To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by:
(i) this chapter; and
(ii) any applicable land use regulations.

Amended by Chapter 415, 2024 General Session

10-9a-533 Infrastructure improvements involving roadways.
(1) As used in this section:
(a) "Low impact development" means the same as that term is defined in Section 19-5-108.5.
(b)
(i) "Pavement" means the bituminous or concrete surface of a roadway.
(ii) "Pavement" does not include a curb or gutter.
(c) "Residential street" means a public or private roadway that:
(i) currently serves or is projected to serve an area designated primarily for single-family residential use;
(ii) requires at least two off-site parking spaces for each single-family residential property abutting the roadway; and
(iii) has or is projected to have, on average, traffic of no more than 1,000 trips per day, based on findings contained in:
(A) a traffic impact study;
(B) the municipality's general plan under Section 10-9a-401;
(C) an adopted phasing plan; or
(D) a written plan or report on current or projected traffic usage.
(2)
(a) Except as provided in Subsection (2)(b), a municipality may not, as part of an infrastructure improvement, require the installation of pavement on a residential street at a width in excess

of 32 feet if the municipality requires low impact development for the area in which the residential street is located.

(b) Subsection (2)(a) does not apply if a municipality requires the installation of pavement:

(i) in a vehicle turnaround area; or

(ii) to address specific traffic flow constraints at an intersection or other area.

(3)

(a) A municipality shall, by ordinance, establish any standards that the municipality requires, as part of an infrastructure improvement, for fire department vehicle access and turnaround on roadways.

(b) The municipality shall ensure that the standards established under Subsection (3)(a) are consistent with the State Fire Code as defined in Section 15A-1-102.

Enacted by Chapter 385, 2021 General Session

Superseded 11/1/2024

10-9a-534 Regulation of building design elements prohibited -- Exceptions.

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(d) exterior nonstructural architectural ornamentation;

(e) location, design, placement, or architectural styling of a window or door;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing.

(2) Except as provided in Subsection (3), a municipality may not impose a requirement for a building design element on a one- or two-family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8a-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021, except as provided under Subsection (3)(b);

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:
(i) defects in the material of existing cladding; or
(ii) consistent defects in the installation of existing cladding; or
(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:
(i) the municipality to apply to the owner's property; and
(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

Amended by Chapter 160, 2023 General Session
Amended by Chapter 478, 2023 General Session

Effective 11/1/2024
10-9a-534 Regulation of building design elements prohibited -- Exceptions.
(1) As used in this section, "building design element" means:
(a) exterior color;
(b) type or style of exterior cladding material;
(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;
(d) exterior nonstructural architectural ornamentation;
(e) location, design, placement, or architectural styling of a window or door;
(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;
(g) number or type of rooms;
(h) interior layout of a room;
(i) minimum square footage over 1,000 square feet, not including a garage;
(j) rear yard landscaping requirements;
(k) minimum building dimensions; or
(l) a requirement to install front yard fencing.
(2) Except as provided in Subsection (3), a municipality may not impose a requirement for a building design element on a one- or two-family dwelling.
(3) Subsection (2) does not apply to:
(a) a dwelling located within an area designated as a historic district in:
(i) the National Register of Historic Places;
(ii) the state register as defined in Section 9-8a-402; or
(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021, except as provided under Subsection (3)(b);
(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;
(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;
(d) building design elements agreed to under a development agreement;
(e) a dwelling located within an area that:
(i) is zoned primarily for residential use; and
(ii) was substantially developed before calendar year 1950;
(f) an ordinance enacted to implement water efficient landscaping in a rear yard;
(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or
(ii) consistent defects in the installation of existing cladding;
(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:
(i) the municipality to apply to the owner's property; and
(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district; or
(i) an ordinance enacted to mitigate the impacts of an accidental explosion:
(i) in excess of 20,000 pounds of trinitrotoluene equivalent;
(ii) that would create overpressure waves greater than .2 pounds per square inch; and
(iii) that would pose a risk of damage to a window, garage door, or carport of a facility located within the vicinity of the regulated area.

Amended by Chapter 415, 2024 General Session

10-9a-535 Moderate income housing.
(1) A municipality may only require the development of a certain number of moderate income housing units as a condition of approval of a land use application if:
(a) the municipality and the applicant enter into a written agreement regarding the number of moderate income housing units; or
(b) the municipality provides incentives for an applicant who agrees to include moderate income housing units in a development.
(2) If an applicant does not agree to participate in the development of moderate income housing units under Subsection (1)(a) or (b), a municipality may not take into consideration the applicant's decision in the municipality's determination of whether to approve or deny a land use application.
(3) Notwithstanding Subsections (1) and (2), a municipality that imposes a resort community sales and use tax as described in Section 59-12-401, may require the development of a certain number of moderate income housing units as a condition of approval of a land use application if the requirement is in accordance with an ordinance enacted by the municipality before January 1, 2022.

Enacted by Chapter 355, 2022 General Session

Superseded 11/1/2024
10-9a-536 Water wise landscaping.
(1) As used in this section:
(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.
(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.
(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.
(d)
(i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.
(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.
(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:
(A) remain healthy with minimal irrigation once established; or
(B) be maintained without the use of overhead spray irrigation;
(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or
(iii) use of other landscape design features that:
(A) minimize the need of the landscape for supplemental water from irrigation; or
(B) reduce the landscape area dedicated to lawn or turf.

(2) A municipality may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3)
(a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality from requiring a property owner to:
(i) comply with a site plan review or other review process before installing water wise landscaping;
(ii) maintain plant material in a healthy condition; and
(iii) follow specific water wise landscaping design requirements adopted by the municipality, including a requirement that:
(A) restricts or clarifies the use of mulches considered detrimental to municipal operations;
(B) imposes minimum or maximum vegetative coverage standards; or
(C) restricts or prohibits the use of specific plant materials.
(b) A municipality may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

(4) A municipality shall report to the Division of Water Resources the existence, enactment, or modification of an ordinance, resolution, or policy that implements regional-based water use efficiency standards established by the Division of Water Resources by rule under Section 73-10-37.

Amended by Chapter 139, 2023 General Session
Amended by Chapter 247, 2023 General Session

Effective 11/1/2024

10-9a-536 Water wise landscaping.

(1) As used in this section:
(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.
(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.
(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.
(d)
(i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.
(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.
(e) "Water wise landscaping" means any or all of the following:
(i) installation of plant materials suited to the microclimate and soil conditions that can:
(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;
(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or
(iii) use of other landscape design features that:
(A) minimize the need of the landscape for supplemental water from irrigation; or
(B) reduce the landscape area dedicated to lawn or turf.
(2) A municipality may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.
(3)
(a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality from requiring a property owner to:
(i) comply with a site plan review or other review process before installing water wise landscaping;
(ii) maintain plant material in a healthy condition; and
(iii) follow specific water wise landscaping design requirements adopted by the municipality, including a requirement that:
(A) restricts or clarifies the use of mulches considered detrimental to municipal operations;
(B) imposes minimum or maximum vegetative coverage standards; or
(C) restricts or prohibits the use of specific plant materials.
(b) A municipality may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.
(4) A municipality may require a seller of a newly constructed residence to inform the first buyer of the newly constructed residence of a municipal ordinance requiring water wise landscaping.
(5) A municipality shall report to the Division of Water Resources the existence, enactment, or modification of an ordinance, resolution, or policy that implements regional-based water use efficiency standards established by the Division of Water Resources by rule under Section 73-10-37.

Amended by Chapter 415, 2024 General Session

10-9a-537 Land use compatibility with military use.
(1) As used in this section:
(a) "Department" means the Department of Veterans and Military Affairs.
(b) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.
(c) "Military land" means the following land or facilities:
(i) Camp Williams;
(ii) Hill Air Force Base;
(iii) Dugway Proving Ground;
(iv) Tooele Army Depot;
(v) Utah Test and Training Range;
(vi) Nephi Readiness Center;
(vii) Cedar City Alternate Flight Facility; or
(viii) Little Mountain Test Facility.
(2)
(a) Except as provided in Subsection (2)(b), on or before July 1, 2025, for any area in a municipality within 5,000 feet of a boundary of military land, a municipality shall, in

consultation with the department, develop and maintain a compatible use plan to ensure permitted uses and conditional uses relevant to the military land are compatible with the military operations on military land.

(b) A municipality that has a compatible use plan as of January 1, 2023, is not required to develop a new compatible use plan.

(3) If a municipality receives a land use application related to land within 5,000 feet of a boundary of military land, before the municipality may approve the land use application, the municipality shall notify the department in writing.

(4)

(a) If the department receives the notice described in Subsection (3), the executive director of the department shall:

(i) determine whether the proposed land use is compatible with the military use of the relevant military land; and

(ii) within 90 days after the receipt of the notice described in Subsection (3), respond in writing to the municipality regarding the determination of compatibility described in Subsection (4)(a)(i).

(b)

(i) For a land use application pertaining to a parcel within 5,000 feet of military land that may have an adverse effect on the operations of the military installation, except as provided in Subsection (4)(b)(ii), the municipality shall consider the compatible use plan in processing the land use application.

(ii) For a land use application pertaining to a parcel within 5,000 feet of military land that may have an adverse effect on the operations of the military installation, if the applicant has a vested right, the municipality is not required to consider the compatible land use plan in consideration of the land use application.

(5) If the department receives the notice described in Subsection (3) before the municipality has completed the compatible use plan as described in this section, the department shall consult with the municipality and representatives of the relevant military land to determine whether the use proposed in the land use application is a compatible use.

Amended by Chapter 336, 2024 General Session

10-9a-538 Modular building.

(1) Title 15A, State Construction and Fire Codes Act, governs regulations related to the construction, transportation, installation, inspection, fees, and enforcement related to modular building.

(2) A municipality may adopt an ordinance regulating modular building so long as the ordinance conforms with Title 15A, State Construction and Fire Codes Act, and this chapter.

Enacted by Chapter 431, 2024 General Session

10-9a-539 Operation of a tower crane.

(1) As used in this section:

(a) "Affected land" means a parcel of land over which a part of a tower crane travels, other than the parcel on which the tower crane is located.

(b) "Airspace approval" means a license, easement, permission of the owner of affected land, or other approval for a part of a tower crane to travel within the air space over affected land.

(c)

(i) "Live load" means material being suspended from or lifted by a tower crane.
(ii) "Live load" does not include the components of a tower crane.
(d) "Permit period" means the period during which a land use permit is in effect.
(e)
(i) "Tower crane" means a crane that is attached to and supported by a building or foundation.
(ii) "Tower crane" does not include a crane supported by tracks or tires.
(2) Except as provided in Subsection (3), a municipality may not require airspace approval as a condition for the municipality's:
(a) approval of a building permit; or
(b) authorization of a development activity.
(3) A municipality may require airspace approval relating to affected land as a condition for the municipality's approval of a building permit or for the municipality's authorization of a development activity if:
(a) the tower crane will, during the permit period or development activity, carry a live load over the affected land; or
(b) the affected land is within:
(i) an airport overlay zone; or
(ii) another zone designated to protect the airspace around an airport.

Enacted by Chapter 329, 2024 General Session

Effective 11/1/2024

10-9a-540 Residential rear setback limitations.

(1) As used in this section:
(a) "Allowable feature" means:
(i) a landing or walkout porch that:
(A) is no more than 32 square feet in size; and
(B) is used for ingress to and egress from the rear of the residential dwelling; or
(ii) a window well.
(b) "Landing" means an uncovered, above-ground platform, with or without stairs, connected to the rear of a residential dwelling.
(c) "Setback" means the required distance between the property line of a lot or parcel and the location where a structure is allowed to be placed under an adopted land use regulation.
(d) "Walkout porch" means an uncovered platform that is on the ground and connected to the rear of a residential dwelling.
(e) "Window well" means a recess in the ground around a residential dwelling to allow for ingress and egress through a window installed in a basement that is fully or partially below ground.
(2) A municipality may not enact or enforce an ordinance, resolution, or policy that prohibits or has the effect of prohibiting an allowable feature within the rear setback of a residential building lot or parcel.
(3) Subsection (2) does not apply to a historic district within the municipality.

Enacted by Chapter 415, 2024 General Session