

Chapter 9a
Municipal Land Use, Development, and Management Act

Part 1
General Provisions

10-9a-101 Title.

This chapter is known as the "Municipal Land Use, Development, and Management Act."

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-102 Purposes -- General land use authority.

- (1) The purposes of this chapter are to:
 - (a) provide for the health, safety, and welfare;
 - (b) promote the prosperity;
 - (c) improve the morals, peace, good order, comfort, convenience, and aesthetics of each municipality and each municipality's present and future inhabitants and businesses;
 - (d) protect the tax base;
 - (e) secure economy in governmental expenditures;
 - (f) foster the state's agricultural and other industries;
 - (g) protect both urban and nonurban development;
 - (h) protect and ensure access to sunlight for solar energy devices;
 - (i) provide fundamental fairness in land use regulation;
 - (j) facilitate orderly growth and allow growth in a variety of housing types; and
 - (k) protect property values.
- (2) To accomplish the purposes of this chapter, a municipality may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that the municipality considers necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:
 - (a) uses;
 - (b) density;
 - (c) open spaces;
 - (d) structures;
 - (e) buildings;
 - (f) energy efficiency;
 - (g) light and air;
 - (h) air quality;
 - (i) transportation and public or alternative transportation;
 - (j) infrastructure;
 - (k) street and building orientation;
 - (l) width requirements;
 - (m) public facilities;
 - (n) fundamental fairness in land use regulation; and
 - (o) considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections.
- (3)

- (a) Any ordinance, resolution, or rule enacted by a municipality pursuant to its authority under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.
- (b) A municipality may enact an ordinance, resolution, or rule that regulates surface activity incident to an oil and gas activity if the municipality demonstrates that the regulation:
 - (i) is necessary for the purposes of this chapter;
 - (ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and
 - (iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

Amended by Chapter 384, 2019 General Session

Superseded 6/1/2022

10-9a-103 Definitions.

As used in this chapter:

- (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.
- (2) "Adversely affected party" means a person other than a land use applicant who:
 - (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or
 - (b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.
- (3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:
 - (a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
 - (b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or
 - (c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.
- (4) "Affected owner" means the owner of real property that is:
 - (a) a single project;
 - (b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5); and
 - (c) determined to be legally referable under Section 20A-7-602.8.
- (5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.
- (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.
- (7)
 - (a) "Charter school" means:
 - (i) an operating charter school;
 - (ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

- (iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.
- (b) "Charter school" does not include a therapeutic school.
- (8) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.
- (9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:
 - (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
 - (b) Utah Constitution Article I, Section 22.
- (10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.
- (11) "Development activity" means:
 - (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
 - (b) any change in use of a building or structure that creates additional demand and need for public facilities; or
 - (c) any change in the use of land that creates additional demand and need for public facilities.
- (12)
 - (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.
 - (b) "Development agreement" does not include an improvement completion assurance.
- (13)
 - (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.
 - (b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.
- (14) "Educational facility":
 - (a) means:
 - (i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;
 - (ii) a structure or facility:
 - (A) located on the same property as a building described in Subsection (14)(a)(i); and
 - (B) used in support of the use of that building; and
 - (iii) a building to provide office and related space to a school district's administrative personnel; and
 - (b) does not include:
 - (i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
 - (A) not located on the same property as a building described in Subsection (14)(a)(i); and
 - (B) used in support of the purposes of a building described in Subsection (14)(a)(i); or
 - (ii) a therapeutic school.

- (15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.
- (16) "Flood plain" means land that:
- (a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or
 - (b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.
- (17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.
- (18) "Geologic hazard" means:
- (a) a surface fault rupture;
 - (b) shallow groundwater;
 - (c) liquefaction;
 - (d) a landslide;
 - (e) a debris flow;
 - (f) unstable soil;
 - (g) a rock fall; or
 - (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.
- (19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:
- (a) recommend land use regulations to preserve local historic districts or areas; and
 - (b) administer local historic preservation land use regulations within a local historic district or area.
- (20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.
- (21) "Identical plans" means building plans submitted to a municipality that:
- (a) are clearly marked as "identical plans";
 - (b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and
 - (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and
 - (iv) does not require any additional engineering or analysis.
- (22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.
- (23) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to

- guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:
- (a) recording a subdivision plat; or
 - (b) development of a commercial, industrial, mixed use, or multifamily project.
- (24) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:
- (a) complies with the municipality's written standards for design, materials, and workmanship; and
 - (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.
- (25) "Improvement warranty period" means a period:
- (a) no later than one year after a municipality's acceptance of required landscaping; or
 - (b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:
 - (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and
 - (ii) has substantial evidence, on record:
 - (A) of prior poor performance by the applicant; or
 - (B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.
- (26) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:
- (a) is required for human occupation; and
 - (b) an applicant must install:
 - (i) in accordance with published installation and inspection specifications for public improvements; and
 - (ii) whether the improvement is public or private, as a condition of:
 - (A) recording a subdivision plat;
 - (B) obtaining a building permit; or
 - (C) development of a commercial, industrial, mixed use, condominium, or multifamily project.
- (27) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:
- (a) runs with the land; and
 - (b)
 - (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
 - (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.
- (28) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.
- (29) "Land use application":
- (a) means an application that is:
 - (i) required by a municipality; and
 - (ii) submitted by a land use applicant to obtain a land use decision; and
 - (b) does not mean an application to enact, amend, or repeal a land use regulation.
- (30) "Land use authority" means:
- (a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or
 - (b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

- (31) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:
- (a) a land use permit; or
 - (b) a land use application.
- (32) "Land use permit" means a permit issued by a land use authority.
- (33) "Land use regulation":
- (a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;
 - (b) includes the adoption or amendment of a zoning map or the text of the zoning code; and
 - (c) does not include:
 - (i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or
 - (ii) a temporary revision to an engineering specification that does not materially:
 - (A) increase a land use applicant's cost of development compared to the existing specification; or
 - (B) impact a land use applicant's use of land.
- (34) "Legislative body" means the municipal council.
- (35) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.
- (36) "Local historic district or area" means a geographically definable area that:
- (a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and
 - (b) is subject to land use regulations to preserve the historic significance of the local historic district or area.
- (37) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.
- (38)
- (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:
 - (i) whether or not the lots are located in the same subdivision; and
 - (ii) with the consent of the owners of record.
 - (b) "Lot line adjustment" does not mean a new boundary line that:
 - (i) creates an additional lot; or
 - (ii) constitutes a subdivision.
 - (c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.
- (39) "Major transit investment corridor" means public transit service that uses or occupies:
- (a) public transit rail right-of-way;
 - (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
 - (c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:
 - (i) a public transit district as defined in Section 17B-2a-802; or
 - (ii) an eligible political subdivision as defined in Section 59-12-2219.
- (40) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

- (41) "Municipal utility easement" means an easement that:
- (a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;
 - (b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;
 - (c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;
 - (d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;
 - (e)
 - (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and
 - (ii) is located in a utility easement granted for public use; or
 - (f) is described in Section 10-9a-529 and is used by a specified public utility.
- (42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:
- (a) verifying that building plans are identical plans; and
 - (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.
- (43) "Noncomplying structure" means a structure that:
- (a) legally existed before the structure's current land use designation; and
 - (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.
- (44) "Nonconforming use" means a use of land that:
- (a) legally existed before its current land use designation;
 - (b) has been maintained continuously since the time the land use ordinance governing the land changed; and
 - (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.
- (45) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:
- (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
 - (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
 - (c) has been adopted as an element of the municipality's general plan.
- (46) "Parcel" means any real property that is not a lot.
- (47)
- (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:
 - (i) none of the property identified in the agreement is a lot; or
 - (ii) the adjustment is to the boundaries of a single person's parcels.
 - (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:
 - (i) creates an additional parcel; or
 - (ii) constitutes a subdivision.

- (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.
- (48) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.
- (49) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:
 - (a) an estimate of the existing supply of moderate income housing located within the municipality;
 - (b) an estimate of the need for moderate income housing in the municipality for the next five years;
 - (c) a survey of total residential land use;
 - (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
 - (e) a description of the municipality's program to encourage an adequate supply of moderate income housing.
- (50) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.
- (51) "Potential geologic hazard area" means an area that:
 - (a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or
 - (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.
- (52) "Public agency" means:
 - (a) the federal government;
 - (b) the state;
 - (c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or
 - (d) a charter school.
- (53) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.
- (54) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.
- (55) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.
- (56) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.
- (57) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.
- (58) "Residential facility for persons with a disability" means a residence:
 - (a) in which more than one person with a disability resides; and
 - (b)
 - (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
 - (ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

- (59) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:
- (a) parliamentary order and procedure;
 - (b) ethical behavior; and
 - (c) civil discourse.
- (60) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.
- (61) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.
- (62) "Specified public agency" means:
- (a) the state;
 - (b) a school district; or
 - (c) a charter school.
- (63) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.
- (64) "State" includes any department, division, or agency of the state.
- (65)
- (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.
 - (b) "Subdivision" includes:
 - (i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and
 - (ii) except as provided in Subsection (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.
 - (c) "Subdivision" does not include:
 - (i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;
 - (ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;
 - (iii) a recorded document, executed by the owner of record:
 - (A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or
 - (B) joining a lot to a parcel;
 - (iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:
 - (A) no new dwelling lot or housing unit will result from the adjustment; and
 - (B) the adjustment will not violate any applicable land use ordinance;
 - (v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:
 - (A) is in anticipation of future land use approvals on the parcel or parcels;
 - (B) does not confer any land use approvals; and

- (C) has not been approved by the land use authority;
 - (vi) a parcel boundary adjustment;
 - (vii) a lot line adjustment;
 - (viii) a road, street, or highway dedication plat;
 - (ix) a deed or easement for a road, street, or highway purpose; or
 - (x) any other division of land authorized by law.
- (66) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:
- (a) vacates all or a portion of the subdivision;
 - (b) alters the outside boundary of the subdivision;
 - (c) changes the number of lots within the subdivision;
 - (d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision;
 - or
 - (e) alters a common area or other common amenity within the subdivision.
- (67) "Substantial evidence" means evidence that:
- (a) is beyond a scintilla; and
 - (b) a reasonable mind would accept as adequate to support a conclusion.
- (68) "Suspect soil" means soil that has:
- (a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;
 - (b) bedrock units with high shrink or swell susceptibility; or
 - (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.
- (69) "Therapeutic school" means a residential group living facility:
- (a) for four or more individuals who are not related to:
 - (i) the owner of the facility; or
 - (ii) the primary service provider of the facility;
 - (b) that serves students who have a history of failing to function:
 - (i) at home;
 - (ii) in a public school; or
 - (iii) in a nonresidential private school; and
 - (c) that offers:
 - (i) room and board; and
 - (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.
- (70) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.
- (71) "Unincorporated" means the area outside of the incorporated area of a city or town.
- (72) "Water interest" means any right to the beneficial use of water, including:
- (a) each of the rights listed in Section 73-1-11; and
 - (b) an ownership interest in the right to the beneficial use of water represented by:
 - (i) a contract; or
 - (ii) a share in a water company, as defined in Section 73-3-3.5.
- (73) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Amended by Chapter 355, 2022 General Session

Effective 6/1/2022

10-9a-103 Definitions.

As used in this chapter:

- (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.
- (2) "Adversely affected party" means a person other than a land use applicant who:
 - (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or
 - (b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.
- (3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:
 - (a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
 - (b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or
 - (c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.
- (4) "Affected owner" means the owner of real property that is:
 - (a) a single project;
 - (b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and
 - (c) determined to be legally referable under Section 20A-7-602.8.
- (5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.
- (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.
- (7)
 - (a) "Charter school" means:
 - (i) an operating charter school;
 - (ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
 - (iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.
 - (b) "Charter school" does not include a therapeutic school.
- (8) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.
- (9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:
 - (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

- (b) Utah Constitution Article I, Section 22.
- (10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.
- (11) "Development activity" means:
 - (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
 - (b) any change in use of a building or structure that creates additional demand and need for public facilities; or
 - (c) any change in the use of land that creates additional demand and need for public facilities.
- (12)
 - (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.
 - (b) "Development agreement" does not include an improvement completion assurance.
- (13)
 - (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.
 - (b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.
- (14) "Educational facility":
 - (a) means:
 - (i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;
 - (ii) a structure or facility:
 - (A) located on the same property as a building described in Subsection (14)(a)(i); and
 - (B) used in support of the use of that building; and
 - (iii) a building to provide office and related space to a school district's administrative personnel; and
 - (b) does not include:
 - (i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
 - (A) not located on the same property as a building described in Subsection (14)(a)(i); and
 - (B) used in support of the purposes of a building described in Subsection (14)(a)(i); or
 - (ii) a therapeutic school.
- (15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.
- (16) "Flood plain" means land that:
 - (a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or
 - (b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.
- (17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

- (18) "Geologic hazard" means:
- (a) a surface fault rupture;
 - (b) shallow groundwater;
 - (c) liquefaction;
 - (d) a landslide;
 - (e) a debris flow;
 - (f) unstable soil;
 - (g) a rock fall; or
 - (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.
- (19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:
- (a) recommend land use regulations to preserve local historic districts or areas; and
 - (b) administer local historic preservation land use regulations within a local historic district or area.
- (20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.
- (21) "Identical plans" means building plans submitted to a municipality that:
- (a) are clearly marked as "identical plans";
 - (b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and
 - (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and
 - (iv) does not require any additional engineering or analysis.
- (22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.
- (23) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:
- (a) recording a subdivision plat; or
 - (b) development of a commercial, industrial, mixed use, or multifamily project.
- (24) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:
- (a) complies with the municipality's written standards for design, materials, and workmanship; and
 - (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.
- (25) "Improvement warranty period" means a period:
- (a) no later than one year after a municipality's acceptance of required landscaping; or

- (b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:
 - (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and
 - (ii) has substantial evidence, on record:
 - (A) of prior poor performance by the applicant; or
 - (B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.
- (26) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:
 - (a) is required for human occupation; and
 - (b) an applicant must install:
 - (i) in accordance with published installation and inspection specifications for public improvements; and
 - (ii) whether the improvement is public or private, as a condition of:
 - (A) recording a subdivision plat;
 - (B) obtaining a building permit; or
 - (C) development of a commercial, industrial, mixed use, condominium, or multifamily project.
- (27) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:
 - (a) runs with the land; and
 - (b)
 - (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
 - (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.
- (28) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.
- (29) "Land use application":
 - (a) means an application that is:
 - (i) required by a municipality; and
 - (ii) submitted by a land use applicant to obtain a land use decision; and
 - (b) does not mean an application to enact, amend, or repeal a land use regulation.
- (30) "Land use authority" means:
 - (a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or
 - (b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.
- (31) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:
 - (a) a land use permit; or
 - (b) a land use application.
- (32) "Land use permit" means a permit issued by a land use authority.
- (33) "Land use regulation":
 - (a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;
 - (b) includes the adoption or amendment of a zoning map or the text of the zoning code; and
 - (c) does not include:
 - (i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

- (ii) a temporary revision to an engineering specification that does not materially:
 - (A) increase a land use applicant's cost of development compared to the existing specification; or
 - (B) impact a land use applicant's use of land.
- (34) "Legislative body" means the municipal council.
- (35) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.
- (36) "Local historic district or area" means a geographically definable area that:
 - (a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and
 - (b) is subject to land use regulations to preserve the historic significance of the local historic district or area.
- (37) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.
- (38)
 - (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:
 - (i) whether or not the lots are located in the same subdivision; and
 - (ii) with the consent of the owners of record.
 - (b) "Lot line adjustment" does not mean a new boundary line that:
 - (i) creates an additional lot; or
 - (ii) constitutes a subdivision.
 - (c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.
- (39) "Major transit investment corridor" means public transit service that uses or occupies:
 - (a) public transit rail right-of-way;
 - (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or
 - (c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:
 - (i) a public transit district as defined in Section 17B-2a-802; or
 - (ii) an eligible political subdivision as defined in Section 59-12-2219.
- (40) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.
- (41) "Municipal utility easement" means an easement that:
 - (a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;
 - (b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;
 - (c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;
 - (d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;
 - (e)
 - (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

- (ii) is located in a utility easement granted for public use; or
 - (f) is described in Section 10-9a-529 and is used by a specified public utility.
- (42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:
- (a) verifying that building plans are identical plans; and
 - (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.
- (43) "Noncomplying structure" means a structure that:
- (a) legally existed before the structure's current land use designation; and
 - (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.
- (44) "Nonconforming use" means a use of land that:
- (a) legally existed before its current land use designation;
 - (b) has been maintained continuously since the time the land use ordinance governing the land changed; and
 - (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.
- (45) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:
- (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
 - (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
 - (c) has been adopted as an element of the municipality's general plan.
- (46) "Parcel" means any real property that is not a lot.
- (47)
- (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:
 - (i) none of the property identified in the agreement is a lot; or
 - (ii) the adjustment is to the boundaries of a single person's parcels.
 - (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:
 - (i) creates an additional parcel; or
 - (ii) constitutes a subdivision.
 - (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.
- (48) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.
- (49) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:
- (a) an estimate of the existing supply of moderate income housing located within the municipality;
 - (b) an estimate of the need for moderate income housing in the municipality for the next five years;
 - (c) a survey of total residential land use;
 - (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

- (e) a description of the municipality's program to encourage an adequate supply of moderate income housing.
- (50) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.
- (51) "Potential geologic hazard area" means an area that:
 - (a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or
 - (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.
- (52) "Public agency" means:
 - (a) the federal government;
 - (b) the state;
 - (c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or
 - (d) a charter school.
- (53) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.
- (54) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.
- (55) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.
- (56) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.
- (57) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.
- (58) "Residential facility for persons with a disability" means a residence:
 - (a) in which more than one person with a disability resides; and
 - (b)
 - (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
 - (ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
- (59) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:
 - (a) parliamentary order and procedure;
 - (b) ethical behavior; and
 - (c) civil discourse.
- (60) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.
- (61) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.
- (62) "Specified public agency" means:
 - (a) the state;

- (b) a school district; or
 - (c) a charter school.
- (63) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.
- (64) "State" includes any department, division, or agency of the state.
- (65)
- (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.
 - (b) "Subdivision" includes:
 - (i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and
 - (ii) except as provided in Subsection (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.
 - (c) "Subdivision" does not include:
 - (i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;
 - (ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;
 - (iii) a recorded document, executed by the owner of record:
 - (A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or
 - (B) joining a lot to a parcel;
 - (iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:
 - (A) no new dwelling lot or housing unit will result from the adjustment; and
 - (B) the adjustment will not violate any applicable land use ordinance;
 - (v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:
 - (A) is in anticipation of future land use approvals on the parcel or parcels;
 - (B) does not confer any land use approvals; and
 - (C) has not been approved by the land use authority;
 - (vi) a parcel boundary adjustment;
 - (vii) a lot line adjustment;
 - (viii) a road, street, or highway dedication plat;
 - (ix) a deed or easement for a road, street, or highway purpose; or
 - (x) any other division of land authorized by law.
- (66) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:
- (a) vacates all or a portion of the subdivision;
 - (b) alters the outside boundary of the subdivision;
 - (c) changes the number of lots within the subdivision;

- (d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision;
or
 - (e) alters a common area or other common amenity within the subdivision.
- (67) "Substantial evidence" means evidence that:
- (a) is beyond a scintilla; and
 - (b) a reasonable mind would accept as adequate to support a conclusion.
- (68) "Suspect soil" means soil that has:
- (a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;
 - (b) bedrock units with high shrink or swell susceptibility; or
 - (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.
- (69) "Therapeutic school" means a residential group living facility:
- (a) for four or more individuals who are not related to:
 - (i) the owner of the facility; or
 - (ii) the primary service provider of the facility;
 - (b) that serves students who have a history of failing to function:
 - (i) at home;
 - (ii) in a public school; or
 - (iii) in a nonresidential private school; and
 - (c) that offers:
 - (i) room and board; and
 - (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.
- (70) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.
- (71) "Unincorporated" means the area outside of the incorporated area of a city or town.
- (72) "Water interest" means any right to the beneficial use of water, including:
- (a) each of the rights listed in Section 73-1-11; and
 - (b) an ownership interest in the right to the beneficial use of water represented by:
 - (i) a contract; or
 - (ii) a share in a water company, as defined in Section 73-3-3.5.
- (73) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Amended by Chapter 355, 2022 General Session

Amended by Chapter 406, 2022 General Session

10-9a-104 Municipal standards.

- (1) This chapter does not prohibit a municipality from adopting the municipality's own land use standards.
- (2) Notwithstanding Subsection (1), a municipality may not impose a requirement, regulation, condition, or standard that conflicts with a provision of this chapter, other state law, or federal law.

Amended by Chapter 384, 2019 General Session

Part 2 Notice

10-9a-201 Required notice.

- (1) At a minimum, each municipality shall provide actual notice or the notice required by this part.
- (2) A municipality may by ordinance require greater notice than required under this part.

Enacted by Chapter 254, 2005 General Session

10-9a-202 Applicant notice -- Waiver of requirements.

- (1) For each land use application, the municipality shall:
 - (a) notify the applicant of the date, time, and place of each public hearing and public meeting to consider the application;
 - (b) provide to each applicant a copy of each staff report regarding the applicant or the pending application at least three business days before the public hearing or public meeting; and
 - (c) notify the applicant of any final action on a pending application.
- (2) If a municipality fails to comply with the requirements of Subsection (1)(a) or (b) or both, an applicant may waive the failure so that the application may stay on the public hearing or public meeting agenda and be considered as if the requirements had been met.

Amended by Chapter 257, 2006 General Session

10-9a-203 Notice of intent to prepare a general plan or comprehensive general plan amendments in certain municipalities.

- (1) Before preparing a proposed general plan or a comprehensive general plan amendment, each municipality within a county of the first or second class shall provide 10 calendar days notice of the municipality's intent to prepare a proposed general plan or a comprehensive general plan amendment:
 - (a) to each affected entity;
 - (b) to the Utah Geospatial Resource Center created in Section 63A-16-505;
 - (c) to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member; and
 - (d) on the Utah Public Notice Website created under Section 63A-16-601.
- (2) Each notice under Subsection (1) shall:
 - (a) indicate that the municipality intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;
 - (b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;
 - (c) be sent by mail, e-mail, or other effective means;
 - (d) invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:
 - (i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

- (ii) uses of land within the municipality that the affected entity is considering that may conflict with the proposed general plan or amendment; and
- (e) include the address of an Internet website, if the municipality has one, and the name and telephone number of an individual where more information can be obtained concerning the municipality's proposed general plan or amendment.

Amended by Chapter 84, 2021 General Session
Amended by Chapter 162, 2021 General Session
Amended by Chapter 345, 2021 General Session

10-9a-204 Notice of public hearings and public meetings to consider general plan or modifications.

- (1) Each municipality shall provide:
 - (a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and
 - (b) notice of each public meeting on the subject.
- (2) Each notice of a public hearing under Subsection (1)(a) shall be at least 10 calendar days before the public hearing and shall be:
 - (a) published on the Utah Public Notice Website created in Section 63A-16-601;
 - (b) mailed to each affected entity; and
 - (c) posted:
 - (i) in at least three public locations within the municipality; or
 - (ii) on the municipality's official website.
- (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be:
 - (a) published on the Utah Public Notice Website created in Section 63A-16-601; and
 - (b) posted:
 - (i) in at least three public locations within the municipality; or
 - (ii) on the municipality's official website.

Amended by Chapter 84, 2021 General Session
Amended by Chapter 345, 2021 General Session
Amended by Chapter 355, 2021 General Session

10-9a-205 Notice of public hearings and public meetings on adoption or modification of land use regulation.

- (1) Each municipality shall give:
 - (a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use regulation; and
 - (b) notice of each public meeting on the subject.
- (2) Each notice of a public hearing under Subsection (1)(a) shall be:
 - (a) mailed to each affected entity at least 10 calendar days before the public hearing;
 - (b) posted:
 - (i) in at least three public locations within the municipality; or
 - (ii) on the municipality's official website; and
 - (c)
 - (i) posted on the Utah Public Notice Website created in Section 63A-16-601, at least 10 calendar days before the public hearing; or

- (ii) mailed at least 10 days before the public hearing to:
 - (A) each property owner whose land is directly affected by the land use ordinance change;
and
 - (B) each adjacent property owner within the parameters specified by municipal ordinance.
- (3) In addition to the notice requirements described in Subsections (1) and (2), for any proposed modification to the text of a zoning code, the notice posted in accordance with Subsection (2) shall:
 - (a) include a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; and
 - (b) be provided to any person upon written request.
- (4) Each notice of a public meeting under Subsection (1)(b) shall be posted at least 24 hours before the meeting:
 - (a) in at least three public locations within the municipality; or
 - (b) on the municipality's official website.
- (5)
 - (a) A municipality shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within a proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.
 - (b) The notice shall:
 - (i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;
 - (ii) state the current zone in which the real property is located;
 - (iii) state the proposed new zone for the real property;
 - (iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;
 - (v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;
 - (vi) state the address where the property owner should file the protest;
 - (vii) notify the property owner that each written objection filed with the municipality will be provided to the municipal legislative body; and
 - (viii) state the location, date, and time of the public hearing described in Section 10-9a-502.
 - (c) If a municipality mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (5) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Amended by Chapter 355, 2022 General Session

10-9a-206 Third party notice -- High priority transportation corridor notice.

- (1)
 - (a) If a municipality requires notice to adjacent property owners, the municipality shall:
 - (i) mail notice to the record owner of each parcel within parameters specified by municipal ordinance; or
 - (ii) post notice on the property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by.

- (b) If a municipality mails notice to third party property owners under Subsection (1)(a), it shall mail equivalent notice to property owners within an adjacent jurisdiction.
- (2)
- (a) As used in this Subsection (2), "high priority transportation corridor" means a transportation corridor identified as a high priority transportation corridor under Section 72-5-403.
 - (b) The Department of Transportation may request, in writing, that a municipality provide the department with electronic notice of each land use application received by the municipality that may adversely impact the development of a high priority transportation corridor.
 - (c) If the municipality receives a written request as provided in Subsection (2)(b), the municipality shall provide the Department of Transportation with timely electronic notice of each land use application that the request specifies.
- (3)
- (a) A large public transit district, as defined in Section 17B-2a-802, may request, in writing, that a municipality provide the large public transit district with electronic notice of each land use application received by the municipality that may impact the development of a major transit investment corridor.
 - (b) If the municipality receives a written request as provided in Subsection (3)(a), the municipality shall provide the large public transit district with timely electronic notice of each land use application that the request specifies.

Amended by Chapter 377, 2020 General Session

10-9a-207 Notice for an amendment to a subdivision -- Notice for vacation of or change to street.

- (1)
- (a) For an amendment to a subdivision, each municipality shall provide notice of the date, time, and place of at least one public meeting, as provided in Subsection (1)(b).
 - (b) At least 10 calendar days before the public meeting, the notice required under Subsection (1) (a) shall be:
 - (i) mailed and addressed to the record owner of each parcel within specified parameters of that property; or
 - (ii) posted on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.
- (2) Each municipality shall provide notice as required by Section 10-9a-208 for a subdivision that involves a vacation, alteration, or amendment of a street.

Amended by Chapter 338, 2009 General Session

10-9a-208 Hearing and notice for petition to vacate a public street.

- (1) For any petition to vacate some or all of a public street or municipal utility easement the legislative body shall:
- (a) hold a public hearing; and
 - (b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).
- (2) At least 10 days before the public hearing under Subsection (1)(a), the legislative body shall ensure that the notice required under Subsection (1)(b) is:
- (a) mailed to the record owner of each parcel that is accessed by the public street or municipal utility easement;
 - (b) mailed to each affected entity;

- (c) posted on or near the public street or municipal utility easement in a manner that is calculated to alert the public; and
- (d)
 - (i) published on the website of the municipality in which the land subject to the petition is located until the public hearing concludes; and
 - (ii) published on the Utah Public Notice Website created in Section 63A-16-601.

Amended by Chapter 84, 2021 General Session
Amended by Chapter 345, 2021 General Session

10-9a-209 Notice challenge.

If notice given under authority of this part is not challenged under Section 10-9a-801 within 30 days after the meeting or action for which notice is given, the notice is considered adequate and proper.

Enacted by Chapter 254, 2005 General Session

10-9a-210 Notice to municipality when a private institution of higher education is constructing student housing.

- (1) Each private institution of higher education that intends to construct student housing on property owned by the institution shall provide written notice of the intended construction, as provided in Subsection (2), before any funds are committed to the construction, if any of the proposed student housing buildings is within 300 feet of privately owned residential property.
- (2) Each notice under Subsection (1) shall be provided to the legislative body and, if applicable, the mayor of:
 - (a) the county in whose unincorporated area the privately owned residential property is located; or
 - (b) the municipality in whose boundaries the privately owned residential property is located.
- (3) At the request of a county or municipality that is entitled to notice under this section, the institution and the legislative body of the affected county or municipality shall jointly hold a public hearing to provide information to the public and receive input from the public about the proposed construction.

Enacted by Chapter 231, 2005 General Session

10-9a-211 Canal owner or operator -- Notice to municipality.

- (1) A canal company or a canal operator shall ensure that each municipality in which the canal company or canal operator owns or operates a canal has on file, regarding the canal company or canal operator:
 - (a) a current mailing address and phone number;
 - (b) a contact name; and
 - (c) a general description of the location of each canal owned or operated by the canal owner or canal operator.
- (2) If the information described in Subsection (1) changes after a canal company or a canal operator has provided the information to the municipality, the canal company or canal operator shall provide the correct information within 30 days of the day on which the information changes.

Amended by Chapter 410, 2017 General Session

Amended by Chapter 428, 2017 General Session

10-9a-212 Notice for an amendment to public improvements in a subdivision or development.

Before implementing an amendment to adopted specifications for public improvements that apply to a subdivision or a development, a municipality shall:

- (1) hold a public hearing;
- (2) mail a notice 30 days or more before the date of the public hearing to:
 - (a) each person who has submitted a land use application for which the land use authority has not issued a land use decision; and
 - (b) each person who makes a written request to receive a copy of the notice; and
- (3) allow each person who receives a notice in accordance with Subsection (2) to provide public comment in writing before the public hearing or in person during the public hearing.

Amended by Chapter 355, 2022 General Session

10-9a-213 Hearing and notice procedures for modifying sign regulations.

- (1)
 - (a) Prior to any hearing or public meeting to consider a proposed land use regulation or land use application modifying sign regulations for an illuminated sign within any unified commercial development, as defined in Section 72-7-504.6, or within any planned unit development, a municipality shall give written notice of the proposed illuminated sign to:
 - (i) each property owner within a 500 foot radius of the sign site;
 - (ii) a municipality or county within a 500 foot radius of the sign site; and
 - (iii) any outdoor advertising permit holder described in Subsection 72-7-506(2)(b).
 - (b) The notice described in Subsection (1)(a) shall include the schedule of public meetings at which the proposed changes to land use regulations or land use application will be discussed.
- (2) A municipality shall require the property owner or applicant to commence in good faith the construction of the commercial or industrial development within one year after the installation of the illuminated sign.

Enacted by Chapter 235, 2019 General Session

**Part 3
General Land Use Provisions**

10-9a-301 Ordinance establishing planning commission required -- Ordinance requirements -- Compensation.

- (1)
 - (a) Each municipality shall enact an ordinance establishing a planning commission.
 - (b) The ordinance shall define:
 - (i) the number and terms of the members and, if the municipality chooses, alternate members;
 - (ii) the mode of appointment;
 - (iii) the procedures for filling vacancies and removal from office;
 - (iv) the authority of the planning commission;

- (v) subject to Subsection (1)(c), the rules of order and procedure for use by the planning commission in a public meeting; and
 - (vi) other details relating to the organization and procedures of the planning commission.
- (c) Subsection (1)(b)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.
- (2) The legislative body may authorize a member to receive per diem and travel expenses for meetings actually attended, in accordance with Section 11-55-103.

Amended by Chapter 70, 2017 General Session

10-9a-302 Planning commission powers and duties -- Training requirements.

- (1) The planning commission shall review and make a recommendation to the legislative body for:
- (a) a general plan and amendments to the general plan;
 - (b) land use regulations, including:
 - (i) ordinances regarding the subdivision of land within the municipality; and
 - (ii) amendments to existing land use regulations;
 - (c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;
 - (d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and
 - (e) application processes that:
 - (i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and
 - (ii) shall protect the right of each:
 - (A) land use applicant and adversely affected party to require formal consideration of any application by a land use authority;
 - (B) land use applicant or adversely affected party to appeal a land use authority's decision to a separate appeal authority; and
 - (C) participant to be heard in each public hearing on a contested application.
- (2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section 10-9a-404.
- (3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.
- (4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.
- (5) Nothing in this section limits the right of a municipality to initiate or propose the actions described in this section.
- (6)
- (a)
 - (i) This Subsection (6) applies to:
 - (A) a city of the first, second, third, or fourth class;
 - (B) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; and
 - (C) a metro township with a population of 5,000 or more.
 - (ii) The population figures described in Subsection (6)(a)(i) shall be derived from:
 - (A) the most recent official census or census estimate of the United States Census Bureau; or

- (B) if a population figure is not available under Subsection (6)(a)(ii)(A), an estimate of the Utah Population Committee.
- (b) A municipality described in Subsection (6)(a)(i) shall ensure that each member of the municipality's planning commission completes four hours of annual land use training as follows:
 - (i) one hour of annual training on general powers and duties under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; and
 - (ii) three hours of annual training on land use, which may include:
 - (A) appeals and variances;
 - (B) conditional use permits;
 - (C) exactions;
 - (D) impact fees;
 - (E) vested rights;
 - (F) subdivision regulations and improvement guarantees;
 - (G) land use referenda;
 - (H) property rights;
 - (I) real estate procedures and financing;
 - (J) zoning, including use-based and form-based; and
 - (K) drafting ordinances and code that complies with statute.
- (c) A newly appointed planning commission member may not participate in a public meeting as an appointed member until the member completes the training described in Subsection (6)(b)(i).
- (d) A planning commission member may qualify for one completed hour of training required under Subsection (6)(b)(ii) if the member attends, as an appointed member, 12 public meetings of the planning commission within a calendar year.
- (e) A municipality shall provide the training described in Subsection (6)(b) through:
 - (i) municipal staff;
 - (ii) the Utah League of Cities and Towns; or
 - (iii) a list of training courses selected by:
 - (A) the Utah League of Cities and Towns; or
 - (B) the Division of Real Estate created in Section 61-2-201.
- (f) A municipality shall, for each planning commission member:
 - (i) monitor compliance with the training requirements in Subsection (6)(b); and
 - (ii) maintain a record of training completion at the end of each calendar year.

Amended by Chapter 385, 2021 General Session

10-9a-303 Entrance upon land.

The municipality may enter upon any land at reasonable times to make examinations and surveys pertinent to the:

- (1) preparation of its general plan; or
- (2) preparation or enforcement of its land use ordinances.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-304 State and federal property.

Unless otherwise provided by law, nothing contained in this chapter may be construed as giving a municipality jurisdiction over property owned by the state or the United States.

Amended by Chapter 363, 2021 General Session

10-9a-305 Other entities required to conform to municipality's land use ordinances -- Exceptions -- School districts and charter schools -- Submission of development plan and schedule.

- (1)
 - (a) Each county, municipality, school district, charter school, local district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.
 - (b) In addition to any other remedies provided by law, when a municipality's land use ordinance is violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.
- (2)
 - (a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.
 - (b)
 - (i) Notwithstanding Subsection (3), a municipality may:
 - (A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and
 - (B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).
 - (ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.
 - (iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).
 - (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.
- (3) A municipality may not:
 - (a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;
 - (b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;
 - (c) require a district or charter school to pay fees not authorized by this section;
 - (d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

- (e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;
- (f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or
- (g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:
 - (i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or
 - (ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.
- (4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:
 - (a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and
 - (b) maximize school, student, and site safety.
- (5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:
 - (a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and
 - (b) provide recommendations based upon the walk-through.
- (6)
 - (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
 - (i) a municipal building inspector;
 - (ii)
 - (A) for a school district, a school district building inspector from that school district; or
 - (B) for a charter school, a school district building inspector from the school district in which the charter school is located; or
 - (iii) an independent, certified building inspector who is:
 - (A) not an employee of the contractor;
 - (B) approved by:
 - (I) a municipal building inspector; or
 - (II)
 - (Aa) for a school district, a school district building inspector from that school district; or
 - (Bb) for a charter school, a school district building inspector from the school district in which the charter school is located; and
 - (C) licensed to perform the inspection that the inspector is requested to perform.
 - (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.
 - (c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and municipal building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.
- (7)
 - (a) A charter school shall be considered a permitted use in all zoning districts within a municipality.
 - (b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.

- (c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.
- (d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.
- (e)
 - (i) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:
 - (A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or
 - (B) a municipal official with authority to issue the certificate, if the school district or charter school used a municipal building inspector for inspection of the school building.
 - (ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).
 - (iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.
 - (iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an inspection or a certificate of occupancy.
- (8)
 - (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:
 - (i) as early as practicable in the development process, but no later than the commencement of construction; and
 - (ii) with sufficient detail to enable the land use authority to assess:
 - (A) the specified public agency's compliance with applicable land use ordinances;
 - (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;
 - (C) the amount of any applicable fee described in Section 10-9a-510;
 - (D) any credit against an impact fee; and
 - (E) the potential for waiving an impact fee.
 - (b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.
- (9) Nothing in this section may be construed to:
 - (a) modify or supersede Section 10-9a-304; or
 - (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

Amended by Chapter 35, 2021 General Session

10-9a-306 Land use authority requirements -- Nature of land use decision.

- (1) A land use authority shall apply the plain language of land use regulations.
- (2) If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application.
- (3) A land use decision of a land use authority is an administrative act, even if the land use authority is the legislative body.

Enacted by Chapter 84, 2017 General Session

**Part 4
General Plan**

Superseded 6/1/2022

10-9a-401 General plan required -- Content.

- (1) In order to accomplish the purposes of this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:
 - (a) present and future needs of the municipality; and
 - (b) growth and development of all or any part of the land within the municipality.
- (2) The general plan may provide for:
 - (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;
 - (b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;
 - (c) the efficient and economical use, conservation, and production of the supply of:
 - (i) food and water; and
 - (ii) drainage, sanitary, and other facilities and resources;
 - (d) the use of energy conservation and solar and renewable energy resources;
 - (e) the protection of urban development;
 - (f) if the municipality is a town, the protection or promotion of moderate income housing;
 - (g) the protection and promotion of air quality;
 - (h) historic preservation;
 - (i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and
 - (j) an official map.
- (3)
 - (a) The general plan of a municipality, other than a town, shall plan for moderate income housing growth.
 - (b) On or before December 1, 2019, each of the following that have a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a):
 - (i) a city of the first, second, third, or fourth class;
 - (ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; and
 - (iii) a metro township with a population of 5,000 or more.
 - (c) The population figures described in Subsections (3)(b)(ii) and (iii) shall be derived from:
 - (i) the most recent official census or census estimate of the United States Census Bureau; or

- (ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the Utah Population Committee.
- (4) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Amended by Chapter 282, 2022 General Session

Effective 6/1/2022

10-9a-401 General plan required -- Content.

- (1) To accomplish the purposes of this chapter, a municipality shall prepare and adopt a comprehensive, long-range general plan for:
 - (a) present and future needs of the municipality; and
 - (b) growth and development of all or any part of the land within the municipality.
- (2) The general plan may provide for:
 - (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;
 - (b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;
 - (c) the efficient and economical use, conservation, and production of the supply of:
 - (i) food and water; and
 - (ii) drainage, sanitary, and other facilities and resources;
 - (d) the use of energy conservation and solar and renewable energy resources;
 - (e) the protection of urban development;
 - (f) if the municipality is a town, the protection or promotion of moderate income housing;
 - (g) the protection and promotion of air quality;
 - (h) historic preservation;
 - (i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and
 - (j) an official map.
- (3)
 - (a) The general plan of a specified municipality, as defined in Section 10-9a-408, shall include a moderate income housing element that meets the requirements of Subsection 10-9a-403(2)(a)(iii).
 - (b) On or before October 1, 2022, a specified municipality, as defined in Section 10-9a-408, with a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a).
- (4) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Amended by Chapter 282, 2022 General Session

Amended by Chapter 406, 2022 General Session

10-9a-402 Information and technical assistance from the state.

Each state official, department, and agency shall:

- (1) promptly deliver any data and information requested by a municipality unless the disclosure is prohibited by Title 63G, Chapter 2, Government Records Access and Management Act; and
- (2) furnish any other technical assistance and advice that they have available to the municipality without additional cost to the municipality.

Amended by Chapter 382, 2008 General Session

Superseded 6/1/2022

10-9a-403 General plan preparation.

- (1)
 - (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.
 - (b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.
 - (c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.
 - (d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.
- (2)
 - (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:
 - (i) a land use element that:
 - (A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and
 - (B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;
 - (ii) a transportation and traffic circulation element that:
 - (A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;
 - (B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;
 - (C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and
 - (D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan; and
 - (iii) for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet the need for additional moderate income housing.
 - (b) In drafting the moderate income housing element, the planning commission:
 - (i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing;

- (A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and
- (B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;
- (ii) for a town, may include, and for other municipalities, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;
- (iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following strategies:
 - (A) rezone for densities necessary to assure the production of moderate income housing;
 - (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;
 - (C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;
 - (D) consider general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the city;
 - (E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;
 - (F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;
 - (G) encourage higher density or moderate income residential development near major transit investment corridors;
 - (H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;
 - (I) allow for single room occupancy developments;
 - (J) implement zoning incentives for low to moderate income units in new developments;
 - (K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;
 - (L) preserve existing moderate income housing;
 - (M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;
 - (N) participate in a community land trust program for low or moderate income housing;
 - (O) implement a mortgage assistance program for employees of the municipality or of an employer that provides contracted services to the municipality;
 - (P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;
 - (Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;
 - (R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;
 - (S) apply for or partner with an entity that applies for programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act;
 - (T) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;

- (U) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;
- (V) utilize a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and
- (W) any other program or strategy implemented by the municipality to address the housing needs of residents of the municipality who earn less than 80% of the area median income; and
- (iv) in addition to the recommendations required under Subsection (2)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement the strategies described in Subsection (2)(b)(iii)(G) or (H).
- (c) In drafting the land use element, the planning commission shall:
 - (i) identify and consider each agriculture protection area within the municipality; and
 - (ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.
- (d) In drafting the transportation and traffic circulation element, the planning commission shall:
 - (i) consider the regional transportation plan developed by its region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or
 - (ii) consider the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization.
- (3) The proposed general plan may include:
 - (a) an environmental element that addresses:
 - (i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and
 - (ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;
 - (b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;
 - (c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:
 - (i) historic preservation;
 - (ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and
 - (iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;
 - (d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;
 - (e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;
 - (f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

- (g) any other element the municipality considers appropriate.

Amended by Chapter 282, 2022 General Session

Effective 6/1/2022

10-9a-403 General plan preparation.

- (1)
 - (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of the planning commission's intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.
 - (b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.
 - (c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.
 - (d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.
- (2)
 - (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:
 - (i) a land use element that:
 - (A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;
 - (B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;
 - (C) except for a city of the fifth class or a town, is coordinated to integrate the land use element with the water use and preservation element; and
 - (D) except for a city of the fifth class or a town, accounts for the effect of land use categories and land uses on water demand;
 - (ii) a transportation and traffic circulation element that:
 - (A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;
 - (B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;
 - (C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and
 - (D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

- (iii) for a specified municipality as defined in Section 10-9a-408, a moderate income housing element that:
 - (A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;
 - (B) selects three or more moderate income housing strategies described in Subsection (2)(b)(iii) for implementation, including one additional moderate income housing strategy as provided in Subsection (2)(b)(iv) for a specified municipality that has a fixed guideway public transit station; and
 - (C) includes an implementation plan as provided in Subsection (2)(c); and
- (iv) except for a city of the fifth class or a town, a water use and preservation element that addresses:
 - (A) the effect of permitted development or patterns of development on water demand and water infrastructure;
 - (B) methods of reducing water demand and per capita consumption for future development;
 - (C) methods of reducing water demand and per capita consumption for existing development; and
 - (D) opportunities for the municipality to modify the municipality's operations to eliminate practices or conditions that waste water.
- (b) In drafting the moderate income housing element, the planning commission:
 - (i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:
 - (A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and
 - (B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;
 - (ii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;
 - (iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following moderate income housing strategies:
 - (A) rezone for densities necessary to facilitate the production of moderate income housing;
 - (B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;
 - (C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;
 - (D) identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the municipality for the construction or rehabilitation of moderate income housing;
 - (E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;
 - (F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers;
 - (G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

- (H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;
 - (I) amend land use regulations to allow for single room occupancy developments;
 - (J) implement zoning incentives for moderate income units in new developments;
 - (K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or, notwithstanding Section 10-9a-535, establishing a housing loss mitigation fund;
 - (L) reduce, waive, or eliminate impact fees related to moderate income housing;
 - (M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;
 - (N) implement a mortgage assistance program for employees of the municipality, an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality;
 - (O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;
 - (P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;
 - (Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;
 - (R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;
 - (S) create a program to transfer development rights for moderate income housing;
 - (T) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;
 - (U) develop a moderate income housing project for residents who are disabled or 55 years old or older;
 - (V) develop and adopt a station area plan in accordance with Section 10-9a-403.1;
 - (W) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and
 - (X) demonstrate implementation of any other program or strategy to address the housing needs of residents of the municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing; and
- (iv) in addition to the recommendations required under Subsection (2)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement:

- (A) the strategy described in Subsection (2)(b)(iii)(V); and
 - (B) a strategy described in Subsection (2)(b)(iii)(G), (H), or (Q).
- (c)
- (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall establish a timeline for implementing each of the moderate income housing strategies selected by the municipality for implementation.
 - (ii) The timeline described in Subsection (2)(c)(i) shall:
 - (A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the municipality, whether one-time or ongoing; and
 - (B) provide flexibility for the municipality to make adjustments as needed.
- (d) In drafting the land use element, the planning commission shall:
- (i) identify and consider each agriculture protection area within the municipality;
 - (ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and
 - (iii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.
- (e) In drafting the transportation and traffic circulation element, the planning commission shall:
- (i)
 - (A) consider and coordinate with the regional transportation plan developed by the municipality's region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or
 - (B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization; and
 - (ii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.
- (f) In drafting the water use and preservation element, the planning commission:
- (i) shall consider:
 - (A) applicable regional water conservation goals recommended by the Division of Water Resources; and
 - (B) if Section 73-10-32 requires the municipality to adopt a water conservation plan pursuant to Section 73-10-32, the municipality's water conservation plan;
 - (ii) shall include a recommendation for:
 - (A) water conservation policies to be determined by the municipality; and
 - (B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;
 - (iii) shall review the municipality's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;
 - (iv) shall consider principles of sustainable landscaping, including the:
 - (A) reduction or limitation of the use of lawn or turf;
 - (B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;
 - (C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;
 - (D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;
 - (E) reduction of yard waste; and

- (F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;
 - (v) shall consult with the public water system or systems serving the municipality with drinking water regarding how implementation of the land use element and water use and preservation element may affect:
 - (A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and
 - (B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;
 - (vi) may include recommendations for additional water demand reduction strategies, including:
 - (A) creating a water budget associated with a particular type of development;
 - (B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;
 - (C) providing one or more water reduction incentives for existing development such as modification of existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;
 - (D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and
 - (E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and
 - (vii) for a town, may include, and for another municipality, shall include, a recommendation for low water use landscaping standards for a new:
 - (A) commercial, industrial, or institutional development;
 - (B) common interest community, as defined in Section 57-25-102; or
 - (C) multifamily housing project.
- (3) The proposed general plan may include:
- (a) an environmental element that addresses:
 - (i) the protection, conservation, development, and use of natural resources, including the quality of:
 - (A) air;
 - (B) forests;
 - (C) soils;
 - (D) rivers;
 - (E) groundwater and other waters;
 - (F) harbors;
 - (G) fisheries;
 - (H) wildlife;
 - (I) minerals; and
 - (J) other natural resources; and
 - (ii)
 - (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;
 - (B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;
 - (C) the prevention, control, and correction of the erosion of soils;
 - (D) the preservation and enhancement of watersheds and wetlands; and
 - (E) the mapping of known geologic hazards;

- (b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;
- (c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:
 - (i) historic preservation;
 - (ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and
 - (iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;
- (d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;
- (e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;
- (f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and
- (g) any other element the municipality considers appropriate.

Amended by Chapter 282, 2022 General Session

Amended by Chapter 406, 2022 General Session

Amended by Chapter 406, 2022 General Session, (Coordination Clause)

Effective 6/1/2022

10-9a-403.1 Station area plan requirements -- Contents -- Review and certification by applicable metropolitan planning organization.

(1) As used in this section:

- (a) "Applicable metropolitan planning organization" means the metropolitan planning organization that has jurisdiction over the area in which a fixed guideway public transit station is located.
- (b) "Applicable public transit district" means the public transit district, as defined in Section 17B-2a-802, of which a fixed guideway public transit station is included.
- (c) "Existing fixed guideway public transit station" means a fixed guideway public transit station for which construction begins before June 1, 2022.
- (d) "Fixed guideway" means the same as that term is defined in Section 59-12-102.
- (e) "Metropolitan planning organization" means an organization established under 23 U.S.C. Sec. 134.
- (f) "New fixed guideway public transit station" means a fixed guideway public transit station for which construction begins on or after June 1, 2022.
- (g) "Qualifying land use application" means a land use application:
 - (i) that involves land located within a station area for an existing public transit station that provides rail services;
 - (ii) that involves land located within a station area for which the municipality has not yet satisfied the requirements of Subsection (2)(a);
 - (iii) that proposes the development of an area greater than five contiguous acres;
 - (iv) that would require the municipality to amend the municipality's general plan or change a zoning designation for the land use application to be approved;
 - (v) that would require a higher density than the density currently allowed by the municipality;

- (vi) that proposes the construction of new residential units, at least 10% of which are dedicated to moderate income housing; and
 - (vii) for which the land use applicant requests the municipality to initiate the process of satisfying the requirements of Subsection (2)(a) for the station area in which the development is proposed, subject to Subsection (3)(d).
- (h)
- (i) "Station area" means:
 - (A) for a fixed guideway public transit station that provides rail services, the area within a one-half mile radius of the center of the fixed guideway public transit station platform; or
 - (B) for a fixed guideway public transit station that provides bus services only, the area within a one-fourth mile radius of the center of the fixed guideway public transit station platform.
 - (ii) "Station area" includes any parcel bisected by the radius limitation described in Subsection (1)(h)(i)(A) or (B).
- (i) "Station area plan" means a plan that:
- (i) establishes a vision, and the actions needed to implement that vision, for the development of land within a station area; and
 - (ii) is developed and adopted in accordance with this section.
- (2)
- (a) Subject to the requirements of this section, a municipality that has a fixed guideway public transit station located within the municipality's boundaries shall, for the station area:
 - (i) develop and adopt a station area plan; and
 - (ii) adopt any appropriate land use regulations to implement the station area plan.
 - (b) The requirements of Subsection (2)(a) shall be considered satisfied if:
 - (i)
 - (A) the municipality has already taken actions to satisfy the requirements of Subsection (2)(a) for a station area, including actions that involve public and stakeholder engagement processes, market assessments, the creation of a station area vision, planning and implementation activities, capital programs, the adoption of land use regulations, or other similar actions; and
 - (B) the municipality adopts a resolution demonstrating the requirements of Subsection (2)(a) have been satisfied; or
 - (ii)
 - (A) the municipality has determined that conditions exist that make satisfying a portion or all of the requirements of Subsection (2)(a) for a station area impracticable, including conditions that relate to existing development, entitlements, land ownership, land uses that make opportunities for new development and long-term redevelopment infeasible, environmental limitations, market readiness, development impediment conditions, or other similar conditions; and
 - (B) the municipality adopts a resolution describing the conditions that exist to make satisfying the requirements of Subsection (2)(a) impracticable.
 - (c) To the extent that previous actions by a municipality do not satisfy the requirements of Subsection (2)(a) for a station area, the municipality shall take the actions necessary to satisfy those requirements.
- (3)
- (a) A municipality that has a new fixed guideway public transit station located within the municipality's boundaries shall satisfy the requirements of Subsection (2)(a) for the station area surrounding the new fixed guideway public transit station before the new fixed guideway public transit station begins transit services.

- (b) Except as provided in Subsections (3)(c) and (d), a municipality that has an existing fixed guideway public transit station located within the municipality's boundaries shall satisfy the requirements of Subsection (2)(a) for the station area surrounding the existing fixed guideway public transit station on or before December 31, 2025.
- (c) If a municipality has more than four existing fixed guideway public transit stations located within the municipality's boundaries, the municipality shall:
 - (i) on or before December 31, 2025, satisfy the requirements of Subsection (2)(a) for four or more station areas located within the municipality; and
 - (ii) on or before December 31 of each year thereafter, satisfy the requirements of Subsection (2)(a) for no less than two station areas located within the municipality until the municipality has satisfied the requirements of Subsection (2)(a) for each station area located within the municipality.
- (d)
 - (i) Subject to Subsection (3)(d)(ii):
 - (A) if a municipality receives a complete qualifying land use application on or before July 1, 2022, the municipality shall satisfy the requirements of Subsection (2)(a) for the station area in which the development is proposed on or before July 1, 2023; and
 - (B) if a municipality receives a complete qualifying land use application after July 1, 2022, the municipality shall satisfy the requirements of Subsection (2)(a) for the station area in which the development is proposed within a 12-month period beginning on the first day of the month immediately following the month in which the qualifying land use application is submitted to the municipality.
 - (ii)
 - (A) A municipality is not required to satisfy the requirements of Subsection (2)(a) for more than two station areas under Subsection (3)(d)(i) within any 12-month period.
 - (B) If a municipality receives more than two complete qualifying land use applications on or before July 1, 2022, the municipality shall select two station areas for which the municipality will satisfy the requirements of Subsection (2)(a) in accordance with Subsection (3)(d)(i)(A).
 - (iii) A municipality shall process on a first priority basis a land use application, including an application for a building permit, if:
 - (A) the land use application is for a residential use within a station area for which the municipality has not satisfied the requirements of Subsection (2)(a); and
 - (B) the municipality would be required to change a zoning designation for the land use application to be approved.
- (e) Notwithstanding Subsections (3)(a) through (d), the time period for satisfying the requirements of Subsection (2)(a) for a station area may be extended once for a period of 12 months if:
 - (i) the municipality demonstrates to the applicable metropolitan planning organization that conditions exist that make satisfying the requirements of Subsection (2)(a) within the required time period infeasible, despite the municipality's good faith efforts; and
 - (ii) the applicable metropolitan planning organization certifies to the municipality in writing that the municipality satisfied the demonstration in Subsection (3)(e)(i).
- (4)
 - (a) Except as provided in Subsection (4)(b), if a station area is included within the boundaries of more than one municipality, each municipality with jurisdiction over the station area shall satisfy the requirements of Subsection (2)(a) for the portion of the station area over which the municipality has jurisdiction.

- (b) Two or more municipalities with jurisdiction over a station area may coordinate to develop a shared station area plan for the entire station area.
- (5) A municipality that has more than one fixed guideway public transit station located within the municipality may, through an integrated process, develop station area plans for multiple station areas if the station areas are within close proximity of each other.
- (6)
 - (a) A municipality that is required to develop and adopt a station area plan under this section may request technical assistance from the applicable metropolitan planning organization.
 - (b) An applicable metropolitan planning organization that receives funds from the Governor's Office of Economic Opportunity under Section 63N-3-113 shall, when utilizing the funds, give priority consideration to requests for technical assistance for station area plans required under Subsection (3)(d).
- (7)
 - (a) A station area plan shall promote the following objectives within the station area:
 - (i) increasing the availability and affordability of housing, including moderate income housing;
 - (ii) promoting sustainable environmental conditions;
 - (iii) enhancing access to opportunities; and
 - (iv) increasing transportation choices and connections.
 - (b)
 - (i) To promote the objective described in Subsection (7)(a)(i), a municipality may consider implementing the following actions:
 - (A) aligning the station area plan with the moderate income housing element of the municipality's general plan;
 - (B) providing for densities necessary to facilitate the development of moderate income housing;
 - (C) providing for affordable costs of living in connection with housing, transportation, and parking; or
 - (D) any other similar action that promotes the objective described in Subsection (7)(a)(i).
 - (ii) To promote the objective described in Subsection (7)(a)(ii), a municipality may consider implementing the following actions:
 - (A) conserving water resources through efficient land use;
 - (B) improving air quality by reducing fuel consumption and motor vehicle trips;
 - (C) establishing parks, open spaces, and recreational opportunities; or
 - (D) any other similar action that promotes the objective described in Subsection (7)(a)(ii).
 - (iii) To promote the objective described in Subsection (7)(a)(iii), a municipality may consider the following actions:
 - (A) maintaining and improving the connections between housing, transit, employment, education, recreation, and commerce;
 - (B) encouraging mixed-use development;
 - (C) enabling employment and educational opportunities within the station area;
 - (D) encouraging and promoting enhanced broadband connectivity; or
 - (E) any other similar action that promotes the objective described in Subsection (7)(a)(iii).
 - (iv) To promote the objective described in Subsection (7)(a)(iv), a municipality may consider the following:
 - (A) supporting investment in infrastructure for all modes of transportation;
 - (B) increasing utilization of public transit;
 - (C) encouraging safe streets through the designation of pedestrian walkways and bicycle lanes;

- (D) encouraging manageable and reliable traffic conditions;
 - (E) aligning the station area plan with the regional transportation plan of the applicable metropolitan planning organization; or
 - (F) any other similar action that promotes the objective described in Subsection (7)(a)(iv).
- (8) A station area plan shall include the following components:
- (a) a station area vision that:
 - (i) is consistent with Subsection (7); and
 - (ii) describes the following:
 - (A) opportunities for the development of land within the station area under existing conditions;
 - (B) constraints on the development of land within the station area under existing conditions;
 - (C) the municipality's objectives for the transportation system within the station area and the future transportation system that meets those objectives;
 - (D) the municipality's objectives for land uses within the station area and the future land uses that meet those objectives;
 - (E) the municipality's objectives for public and open spaces within the station area and the future public and open spaces that meet those objectives; and
 - (F) the municipality's objectives for the development of land within the station area and the future development standards that meet those objectives;
 - (b) a map that depicts:
 - (i) the area within the municipality that is subject to the station area plan, provided that the station area plan may apply to areas outside of the station area; and
 - (ii) the area where each action is needed to implement the station area plan;
 - (c) an implementation plan that identifies and describes each action needed within the next five years to implement the station area plan, and the party responsible for taking each action, including any actions to:
 - (i) modify land use regulations;
 - (ii) make infrastructure improvements;
 - (iii) modify deeds or other relevant legal documents;
 - (iv) secure funding or develop funding strategies;
 - (v) establish design standards for development within the station area; or
 - (vi) provide environmental remediation;
 - (d) a statement that explains how the station area plan promotes the objectives described in Subsection (7)(a); and
 - (e) as an alternative or supplement to the requirements of Subsection (7) or (8), and for purposes of Subsection (2)(b)(ii), a statement that describes any conditions that would make the following impracticable:
 - (i) promoting the objectives described in Subsection (7)(a); or
 - (ii) satisfying the requirements of Subsection (8).
- (9) A municipality shall develop a station area plan with the involvement of all relevant stakeholders that have an interest in the station area through public outreach and community engagement, including:
- (a) other impacted communities;
 - (b) the applicable public transit district;
 - (c) the applicable metropolitan planning organization;
 - (d) the Department of Transportation;
 - (e) owners of property within the station area; and
 - (f) the municipality's residents and business owners.
- (10)

- (a) A municipality that is required to develop and adopt a station area plan for a station area under this section shall submit to the applicable metropolitan planning organization and the applicable public transit district documentation evidencing that the municipality has satisfied the requirement of Subsection (2)(a)(i) for the station area, including:
 - (i) a station area plan; or
 - (ii) a resolution adopted under Subsection (2)(b)(i) or (ii).
- (b) The applicable metropolitan planning organization, in consultation with the applicable public transit district, shall:
 - (i) review the documentation submitted under Subsection (10)(a) to determine the municipality's compliance with this section; and
 - (ii) provide written certification to the municipality if the applicable metropolitan planning organization determines that the municipality has satisfied the requirement of Subsection (2)(a)(i) for the station area.
- (c) The municipality shall include the certification described in Subsection (10)(b)(ii) in the municipality's report to the Department of Workforce Services under Section 10-9a-408.

Enacted by Chapter 406, 2022 General Session

Superseded 6/1/2022

10-9a-404 Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

- (1)
 - (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.
 - (b) The planning commission shall provide notice of the public hearing, as required by Section 10-9a-204.
 - (c) After the public hearing, the planning commission may modify the proposed general plan or amendment.
- (2) The planning commission shall forward the proposed general plan or amendment to the legislative body.
- (3)
 - (a) The legislative body may adopt, reject, or make any revisions to the proposed general plan or amendment that it considers appropriate.
 - (b) If the municipal legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for the planning commission's review and recommendation.
- (4) The legislative body shall adopt:
 - (a) a land use element as provided in Subsection 10-9a-403(2)(a)(i);
 - (b) a transportation and traffic circulation element as provided in Subsection 10-9a-403(2)(a)(ii); and
 - (c) for a municipality, other than a town, after considering the factors included in Subsection 10-9a-403(2)(b)(iii), a plan to provide a realistic opportunity to meet the need for additional moderate income housing within the next five years.

Amended by Chapter 282, 2022 General Session

Effective 6/1/2022

10-9a-404 Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

- (1)
 - (a) After completing the planning commission's recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.
 - (b) The planning commission shall provide notice of the public hearing, as required by Section 10-9a-204.
 - (c) After the public hearing, the planning commission may modify the proposed general plan or amendment.
- (2) The planning commission shall forward the proposed general plan or amendment to the legislative body.
- (3)
 - (a) The legislative body may adopt, reject, or make any revisions to the proposed general plan or amendment that the legislative body considers appropriate.
 - (b) If the municipal legislative body rejects the proposed general plan or amendment, the legislative body may provide suggestions to the planning commission for the planning commission's review and recommendation.
- (4) The legislative body shall adopt:
 - (a) a land use element as provided in Subsection 10-9a-403(2)(a)(i);
 - (b) a transportation and traffic circulation element as provided in Subsection 10-9a-403(2)(a)(ii);
 - (c) for a specified municipality as defined in Section 10-9a-408, a moderate income housing element as provided in Subsection 10-9a-403(2)(a)(iii); and
 - (d) except for a city of the fifth class or a town, on or before December 31, 2025, a water use and preservation element as provided in Subsection 10-9a-403(2)(a)(iv).

Amended by Chapter 282, 2022 General Session

Amended by Chapter 406, 2022 General Session

10-9a-405 Effect of general plan.

Except as provided in Section 10-9a-406, the general plan is an advisory guide for land use decisions, the impact of which shall be determined by ordinance.

Enacted by Chapter 254, 2005 General Session

10-9a-406 Public uses to conform to general plan.

After the legislative body has adopted a general plan, no street, park, or other public way, ground, place, or space, no publicly owned building or structure, and no public utility, whether publicly or privately owned, may be constructed or authorized until and unless it conforms to the current general plan.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-407 Effect of official maps.

- (1) Municipalities may adopt an official map.
- (2)

- (a) An official map does not:
 - (i) require a landowner to dedicate and construct a street as a condition of development approval, except under circumstances provided in Subsection (2)(b)(iii); or
 - (ii) require a municipality to immediately acquire property it has designated for eventual use as a public street.
- (b) This section does not prohibit a municipality from:
 - (i) recommending that an applicant consider and accommodate the location of the proposed streets in the planning of a development proposal in a manner that is consistent with Section 10-9a-508;
 - (ii) acquiring the property through purchase, gift, voluntary dedication, or eminent domain; or
 - (iii) requiring the dedication and improvement of a street if the street is found necessary by the municipality because of a proposed development and if the dedication and improvement are consistent with Section 10-9a-508.

Renumbered and Amended by Chapter 254, 2005 General Session

Superseded 6/1/2022

10-9a-408 Reporting requirements and civil action regarding moderate income housing element of general plan.

- (1) The legislative body of a municipality described in Subsection 10-9a-401(3)(b) shall annually:
 - (a) review the moderate income housing plan element of the municipality's general plan and implementation of that element of the general plan;
 - (b) prepare a report on the findings of the review described in Subsection (1)(a); and
 - (c) post the report described in Subsection (1)(b) on the municipality's website.
- (2) The report described in Subsection (1) shall include:
 - (a) a revised estimate of the need for moderate income housing in the municipality for the next five years;
 - (b) a description of progress made within the municipality to provide moderate income housing, demonstrated by analyzing and publishing data on the number of housing units in the municipality that are at or below:
 - (i) 80% of the adjusted median family income;
 - (ii) 50% of the adjusted median family income; and
 - (iii) 30% of the adjusted median family income;
 - (c) a description of any efforts made by the municipality to utilize a moderate income housing set-aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and
 - (d) a description of how the municipality has implemented any of the recommendations related to moderate income housing described in Subsection 10-9a-403(2)(b)(iii).
- (3) The legislative body of each municipality described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services, the association of governments in which the municipality is located, and, if located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization.
- (4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Amended by Chapter 3, 2021 Special Session 1

Effective 6/1/2022

10-9a-408 Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

- (a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.
- (b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified municipality's general plan as provided in Subsection 10-9a-403(2)(c).
- (c) "Moderate income housing report" or "report" means the report described in Subsection (2)(a).
- (d) "Moderate income housing strategy" means a strategy described in Subsection 10-9a-403(2)(b)(iii).
- (e) "Specified municipality" means:
 - (i) a city of the first, second, third, or fourth class;
 - (ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; or
 - (iii) a metro township with a population of 5,000 or more.

(2)

- (a) Beginning in 2022, on or before October 1 of each calendar year, the legislative body of a specified municipality shall annually submit a written moderate income housing report to the division.
- (b) The moderate income housing report submitted in 2022 shall include:
 - (i) a description of each moderate income housing strategy selected by the specified municipality for implementation; and
 - (ii) an implementation plan.
- (c) The moderate income housing report submitted in each calendar year after 2022 shall include:
 - (i) the information required under Subsection (2)(b);
 - (ii) a description of each action, whether one-time or ongoing, taken by the specified municipality during the previous fiscal year to implement the moderate income housing strategies selected by the specified municipality for implementation;
 - (iii) a description of each land use regulation or land use decision made by the specified municipality during the previous fiscal year to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified municipality's efforts to implement the moderate income housing strategies;
 - (iv) a description of any barriers encountered by the specified municipality in the previous fiscal year in implementing the moderate income housing strategies;
 - (v) information regarding the number of internal and external or detached accessory dwelling units located within the specified municipality for which the specified municipality:
 - (A) issued a building permit to construct; or
 - (B) issued a business license to rent;
 - (vi) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and
 - (vii) any recommendations on how the state can support the specified municipality in implementing the moderate income housing strategies.
- (d) The moderate income housing report shall be in a form:

- (i) approved by the division; and
 - (ii) made available by the division on or before July 1 of the year in which the report is required.
- (3) Within 90 days after the day on which the division receives a specified municipality's moderate income housing report, the division shall:
- (a) post the report on the division's website;
 - (b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and
 - (c) subject to Subsection (4), review the report to determine compliance with Subsection (2).
- (4)
- (a) The report described in Subsection (2)(b) complies with Subsection (2) if the report:
 - (i) includes the information required under Subsection (2)(b);
 - (ii) demonstrates to the division that the specified municipality made plans to implement:
 - (A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or
 - (B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station; and
 - (iii) is in a form approved by the division.
 - (b) The report described in Subsection (2)(c) complies with Subsection (2) if the report:
 - (i) includes the information required under Subsection (2)(c);
 - (ii) demonstrates to the division that the specified municipality made plans to implement:
 - (A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or
 - (B) four or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station;
 - (iii) is in a form approved by the division; and
 - (iv) provides sufficient information for the division to:
 - (A) assess the specified municipality's progress in implementing the moderate income housing strategies;
 - (B) monitor compliance with the specified municipality's implementation plan;
 - (C) identify a clear correlation between the specified municipality's land use regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies; and
 - (D) identify how the market has responded to the specified municipality's selected moderate income housing strategies.
- (5)
- (a) A specified municipality qualifies for priority consideration under this Subsection (5) if the specified municipality's moderate income housing report:
 - (i) complies with Subsection (2); and
 - (ii) demonstrates to the division that the specified municipality made plans to implement:
 - (A) five or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or
 - (B) six or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station.
 - (b) The following apply to a specified municipality described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required:

- (i) the Transportation Commission may give priority consideration to transportation projects located within the boundaries of the specified municipality in accordance with Subsection 72-1-304(3)(c); and
 - (ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).
- (c) Upon determining that a specified municipality qualifies for priority consideration under this Subsection (5), the division shall send a notice of prioritization to the legislative body of the specified municipality, the Department of Transportation, and the Governor's Office of Planning and Budget.
- (d) The notice described in Subsection (5)(c) shall:
- (i) name the specified municipality that qualifies for priority consideration;
 - (ii) describe the funds or projects for which the specified municipality qualifies to receive priority consideration;
 - (iii) specify the fiscal year during which the specified municipality qualifies for priority consideration; and
 - (iv) state the basis for the division's determination that the specified municipality qualifies for priority consideration.
- (6)
- (a) If the division, after reviewing a specified municipality's moderate income housing report, determines that the report does not comply with Subsection (2), the division shall send a notice of noncompliance to the legislative body of the specified municipality.
- (b) The notice described in Subsection (6)(a) shall:
- (i) describe each deficiency in the report and the actions needed to cure each deficiency;
 - (ii) state that the specified municipality has an opportunity to cure the deficiencies within 90 days after the day on which the notice is sent; and
 - (iii) state that failure to cure the deficiencies within 90 days after the day on which the notice is sent will result in ineligibility for funds under Subsection (7).
- (7)
- (a) A specified municipality is ineligible for funds under this Subsection (7) if the specified municipality:
- (i) fails to submit a moderate income housing report to the division; or
 - (ii) fails to cure the deficiencies in the specified municipality's moderate income housing report within 90 days after the day on which the division sent to the specified municipality a notice of noncompliance under Subsection (6).
- (b) The following apply to a specified municipality described in Subsection (7)(a) during the fiscal year immediately following the fiscal year in which the report is required:
- (i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the boundaries of the specified municipality in accordance with Subsection 72-2-124(5); and
 - (ii) the Governor's Office of Planning and Budget may not award financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7).
- (c) Upon determining that a specified municipality is ineligible for funds under this Subsection (7), the division shall send a notice of ineligibility to the legislative body of the specified municipality, the Department of Transportation, and the Governor's Office of Planning and Budget.

- (d) The notice described in Subsection (7)(c) shall:
 - (i) name the specified municipality that is ineligible for funds;
 - (ii) describe the funds for which the specified municipality is ineligible to receive;
 - (iii) specify the fiscal year during which the specified municipality is ineligible for funds; and
 - (iv) state the basis for the division's determination that the specified municipality is ineligible for funds.
- (8) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Amended by Chapter 406, 2022 General Session

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.

Amended by Chapter 60, 2021 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) 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) The municipal legislative body shall establish a period of limited effect for the ordinance not to exceed six months.
- (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 six months in duration;
 - (ii) may be renewed, if requested by the Transportation Commission created under Section 72-1-301, for up to two additional six-month 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.

Renumbered and Amended by Chapter 254, 2005 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) A municipality shall base any exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.
 - (ii) 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.

Amended by Chapter 350, 2016 General Session

Superseded 6/1/2022

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) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.
- (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; 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; or
 - (vi) in a municipal ordinance.
- (h) Except as provided in Subsection (1)(i), 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 landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.
- (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(4).
 - (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.

Amended by Chapter 355, 2022 General Session

Effective 6/1/2022

Superseded 1/1/2023

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) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.
- (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; 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; or
 - (vi) in a municipal ordinance.
- (h) Except as provided in Subsection (1)(i), 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 landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.
- (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(4).
 - (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.

Effective 1/1/2023

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) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

- (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; 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; or
 - (vi) in a municipal ordinance.
- (h) Except as provided in Subsection (1)(i), 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 landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.
- (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.

Amended by Chapter 325, 2022 General Session

Amended by Chapter 355, 2022 General Session

Amended by Chapter 406, 2022 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:

- (1) for programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Title 62A, Chapter 5, Services for People with Disabilities; and
- (2) for programs or entities licensed or certified by the Department of Health, the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

Amended by Chapter 309, 2013 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.
 - (b) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.
 - (c) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.
- (2)
 - (a)
 - (i) A municipality may not regulate a cannabis production establishment in conflict with:
 - (A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable jurisprudence;
 - and
 - (B) this chapter.

- (ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:
 - (A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence; and
 - (B) this chapter.
 - (iii) 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.
 - (c) The Department of Health has plenary authority to license programs or entities that operate 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 26-61a-507.
 - (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 60, 2021 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(41)(a) through (e).

Amended by Chapter 385, 2021 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) "Primary dwelling" means a single-family dwelling that:
 - (i) is detached; and
 - (ii) is occupied as the primary residence of the owner of record.
- (2) In any area zoned primarily for residential use:
 - (a) the use of an internal accessory dwelling unit is a permitted use; and
 - (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; or
 - (iii) street frontage.
- (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) to include one additional on-site parking space for an internal accessory dwelling unit, regardless of whether the primary dwelling is existing or new construction; 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;
 - (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; 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)(iv) 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.

Enacted by Chapter 102, 2021 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.
- (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) contain a term that conflicts with, or is different from, a standard set forth in an existing land use regulation that governs the area subject to the development agreement, 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) A municipality may not require a development agreement as the only option for developing land within the municipality.
- (d) 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.

Enacted by Chapter 385, 2021 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

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 to 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 9-8-402; or
 - (iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021;
 - (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.

Enacted by Chapter 3, 2021 Special Session 1

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

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;
 - (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.

Enacted by Chapter 230, 2022 General Session

Part 6 Subdivisions

10-9a-601 Enactment of subdivision ordinance.

- (1) The legislative body of a municipality may enact ordinances requiring that a subdivision plat comply with the provisions of the municipality's ordinances and this part before:
 - (a) the subdivision plat may be filed and recorded in the county recorder's office; and
 - (b) lots may be sold.
- (2) If the legislative body fails to enact a subdivision ordinance, the municipality may regulate subdivisions only to the extent provided in this part.
- (3) The joining of a lot or lots to a parcel does not constitute a subdivision as to the parcel or subject the parcel to the municipality's subdivision ordinance.
- (4) A legislative body may adopt a land use regulation that specifies that combining lots does not require a subdivision plat amendment.

Amended by Chapter 355, 2022 General Session

10-9a-602 Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.

- (1) A planning commission shall:
 - (a) review and provide a recommendation to the legislative body on any proposed ordinance that regulates the subdivision of land in the municipality;
 - (b) review and make a recommendation to the legislative body on any proposed ordinance that amends the regulation of the subdivision of the land in the municipality;
 - (c) provide notice consistent with Section 10-9a-205; and
 - (d) hold a public hearing on the proposed ordinance before making the planning commission's final recommendation to the legislative body.
- (2)
 - (a) A legislative body may adopt, modify, revise, or reject an ordinance described in Subsection (1) that the planning commission recommends.
 - (b) 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-603 Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

- (1) As used in this section:
 - (a)
 - (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.
 - (ii) "Facility owner" includes a canal owner or associated canal operator contact described in:
 - (A) Section 10-9a-211;

- (B) Subsection 73-5-7(3); or
- (C) Subsection (6)(c).
- (b) "Local health department" means the same as that term is defined in Section 26A-1-102.
- (c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section 73-5-7.
- (d) "Underground facility" means the same as that term is defined in Section 54-8a-2.
- (e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.
- (2) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide to the municipality in which the land is located an accurate plat that describes or specifies:
 - (a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;
 - (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;
 - (c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale;
 - (d) every existing right-of-way and recorded easement located within the plat for:
 - (i) an underground facility;
 - (ii) a water conveyance facility; or
 - (iii) any other utility facility; and
 - (e) any water conveyance facility located, entirely or partially, within the plat that:
 - (i) is not recorded; and
 - (ii) of which the owner of the land has actual or constructive knowledge, including from information made available to the owner of the land:
 - (A) in the state engineer's inventory of canals; or
 - (B) from a surveyor under Subsection (6)(c).
- (3)
 - (a) Subject to Subsections (4), (6), and (7), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.
 - (b) Municipalities are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.
 - (c) A municipality may not require that a plat be approved or signed by a person or entity who:
 - (i) is not an employee or agent of the municipality; or
 - (ii) does not:
 - (A) have a legal or equitable interest in the property within the proposed subdivision;
 - (B) provide a utility or other service directly to a lot within the subdivision;
 - (C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

- (D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.
- (d) A municipality shall:
- (i) within 20 days after the day on which an owner of land submits to the municipality a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat, as determined using information made available to the municipality:
 - (A) from the facility owner under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;
 - (B) in the state engineer's inventory of canals; or
 - (C) from a surveyor under Subsection (6)(c); and
 - (ii) not approve the subdivision plat for at least 20 days after the day on which the municipality mails to each facility owner the notice described in Subsection (3)(d)(i), in order to receive any comments from each facility owner regarding:
 - (A) access to the water conveyance facility;
 - (B) maintenance of the water conveyance facility;
 - (C) protection of the water conveyance facility;
 - (D) safety of the water conveyance facility; or
 - (E) any other issue related to water conveyance facility operations.
- (e) When applicable, the owner of the land seeking subdivision plat approval shall comply with Section 73-1-15.5.
- (f) A facility owner's failure to provide comments to a municipality in accordance with Subsection (3)(d)(ii) does not affect or impair the municipality's authority to approve the subdivision plat.
- (4) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.
- (5)
- (a) Within 30 days after approving a final plat under this section, a municipality shall submit to the Utah Geospatial Resource Center, created in Section 63A-16-505, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):
 - (i) an electronic copy of the approved final plat; or
 - (ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.
 - (b) If requested by the Utah Geospatial Resource Center, a municipality that approves a final plat under this section shall:
 - (i) coordinate with the Utah Geospatial Resource Center to validate the information described in Subsection (5)(a); and
 - (ii) assist the Utah Geospatial Resource Center in creating electronic files that contain the information described in Subsection (5)(a) for inclusion in the unified statewide 911 emergency service database.
- (6)
- (a) A county recorder may not record a plat unless:
 - (i) prior to recordation, the municipality has approved and signed the plat;
 - (ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

- (iii) the signature of each owner described in Subsection (6)(a)(ii) is acknowledged as provided by law.
- (b) A surveyor who prepares the plat shall certify that the surveyor:
 - (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
 - (ii)
 - (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; or
 - (B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and
 - (iii) has placed monuments as represented on the plat.
- (c)
 - (i) To the extent possible, the surveyor shall consult with the owner or operator, or a representative designated by the owner or operator, of an existing water conveyance facility located within the proposed subdivision, or an existing or proposed underground facility or utility facility located within the proposed subdivision, to verify the accuracy of the surveyor's depiction of the:
 - (A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;
 - (B) location of the existing water conveyance facility, or the existing or proposed underground facility or utility facility; and
 - (C) physical restrictions governing the location of the existing or proposed underground facility or utility facility.
 - (ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection (6)(c)(i):
 - (A) indicates only that the plat approximates the location of the existing facilities but does not warrant or verify their precise location; and
 - (B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.
- (7)
 - (a) Except as provided in Subsection (6)(c), after the plat has been acknowledged, certified, and approved, the owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.
 - (b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the municipality.
- (8) A municipality acting as a land use authority shall approve a condominium plat that complies with the requirements of Section 57-8-13 unless the condominium plat violates a land use regulation of the municipality.

Amended by Chapter 355, 2022 General Session

10-9a-604 Subdivision plat approval procedure -- Effect of not complying.

- (1) A person may not submit a subdivision plat to the county recorder's office for recording unless:
 - (a) the person has complied with the requirements of Subsection 10-9a-603(6)(a);
 - (b) the plat has been approved by:

- (i) the land use authority of the municipality in which the land described in the plat is located; and
 - (ii) other officers that the municipality designates in its ordinance;
 - (c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the designated officers; and
 - (d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.
- (2) A subdivision plat recorded without the signatures required under this section is void.
- (3) A transfer of land pursuant to a void plat is voidable by the land use authority.

Amended by Chapter 47, 2021 General Session

10-9a-604.5 Subdivision plat recording or development activity before required infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

- (1) A land use authority shall establish objective inspection standards for acceptance of a landscaping or infrastructure improvement that the land use authority requires.
- (2)
- (a) Before an applicant conducts any development activity or records a plat, the applicant shall:
 - (i) complete any required landscaping or infrastructure improvements; or
 - (ii) post an improvement completion assurance for any required landscaping or infrastructure improvements.
 - (b) If an applicant elects to post an improvement completion assurance, the applicant shall provide completion assurance for:
 - (i) completion of 100% of the required landscaping or infrastructure improvements; or
 - (ii) if the municipality has inspected and accepted a portion of the landscaping or infrastructure improvements, 100% of the incomplete or unaccepted landscaping or infrastructure improvements.
 - (c) A municipality shall:
 - (i) establish a minimum of two acceptable forms of completion assurance;
 - (ii) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this title, and any local ordinances;
 - (iii) establish a system for the partial release of an improvement completion assurance as portions of required landscaping or infrastructure improvements are completed and accepted in accordance with local ordinance; and
 - (iv) issue or deny a building permit in accordance with Section 10-9a-802 based on the installation of landscaping or infrastructure improvements.
 - (d) A municipality may not require an applicant to post an improvement completion assurance for:
 - (i) landscaping or an infrastructure improvement that the municipality has previously inspected and accepted;
 - (ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation; or
 - (iii) in a municipality where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the municipality requires to be private.

- (3) At any time before a municipality accepts a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the municipality may require the applicant to:
 - (a) execute an improvement warranty for the improvement warranty period; and
 - (b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:
 - (i) municipal engineer's original estimated cost of completion; or
 - (ii) applicant's reasonable proven cost of completion.
- (4) When a municipality accepts an improvement completion assurance for landscaping or infrastructure improvements for a development in accordance with Subsection (2)(c)(ii), the municipality may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.
- (5) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Amended by Chapter 384, 2019 General Session

10-9a-605 Exemptions from plat requirement.

- (1) Notwithstanding any other provision of law, a plat is not required if:
 - (a) a municipality establishes a process to approve an administrative land use decision for a subdivision of 10 or fewer lots without a plat; and
 - (b) the municipality provides in writing that:
 - (i) the municipality has provided notice as required by ordinance; and
 - (ii) the proposed subdivision:
 - (A) is not traversed by the mapped lines of a proposed street as shown in the general plan unless the municipality has approved the location and dedication of any public street, municipal utility easement, any other easement, or any other land for public purposes as the municipality's ordinance requires;
 - (B) has been approved by the culinary water authority and the sanitary sewer authority;
 - (C) is located in a zoned area; and
 - (D) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.
- (2)
 - (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 10-9a-603 if the lot or parcel:
 - (i) qualifies as land in agricultural use under Section 59-2-502;
 - (ii) meets the minimum size requirement of applicable land use ordinances; and
 - (iii) is not used and will not be used for any nonagricultural purpose.
 - (b) The boundaries of each lot or parcel exempted under Subsection (2)(a) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under Section 10-9a-604, shall be recorded with the county recorder.
 - (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the municipality may require the lot or parcel to comply with the requirements of Section 10-9a-603.
- (3)
 - (a) Documents recorded in the county recorder's office that divide property by a metes and bounds description do not create an approved subdivision allowed by this part unless the land

use authority's certificate of written approval required by Subsection (1) is attached to the document.

- (b) The absence of the certificate or written approval required by Subsection (1) does not:
 - (i) prohibit the county recorder from recording a document; or
 - (ii) affect the validity of a recorded document.
- (c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached and that complies with Section 57-3-106.

Amended by Chapter 434, 2020 General Session

10-9a-606 Common area parcels on a plat -- No separate ownership -- Ownership interest equally divided among other parcels on plat and included in description of other parcels.

- (1) As used in this section:
 - (a) "Association" means the same as that term is defined in:
 - (i) regarding a common area, Section 57-8a-102; and
 - (ii) regarding a common area and facility, Section 57-8-3.
 - (b) "Common area" means the same as that term is defined in Section 57-8a-102.
 - (c) "Common area and facility" means the same as that term is defined in Section 57-8-3.
 - (d) "Declarant" means the same as that term is defined in:
 - (i) regarding a common area, Section 57-8a-102; and
 - (ii) regarding a common area and facility, Section 57-8-3.
 - (e) "Declaration," regarding a common area and facility, means the same as that term is defined in Section 57-8-3.
 - (f) "Period of administrative control" means the same as that term is defined in:
 - (i) regarding a common area, Section 57-8a-102; and
 - (ii) regarding a common area and facility, Section 57-8-3.
- (2) A person may not separately own, convey, or modify a parcel designated as a common area or common area and facility, on a plat recorded in compliance with this part, independent of the other lots, units, or parcels created by the plat unless:
 - (a) an association holds in trust the parcel designated as a common area for the owners of the other lots, units, or parcels created by the plat; or
 - (b) the conveyance or modification is approved under Subsection (5).
- (3) If a conveyance or modification of a common area or common area and facility is approved in accordance with Subsection (5), the person who presents the instrument of conveyance to a county recorder shall:
 - (a) attach a notice of the approval described in Subsection (5) as an exhibit to the document of conveyance; or
 - (b) record a notice of the approval described in Subsection (5) concurrently with the conveyance as a separate document.
- (4) When a plat contains a common area or common area and facility:
 - (a) for purposes of assessment, each parcel that the plat creates has an equal ownership interest in the common area or common area and facility within the plat, unless the plat or an accompanying recorded document indicates a different division of interest for assessment purposes; and
 - (b) each instrument describing a parcel on the plat by the parcel's identifying plat number implicitly includes the ownership interest in the common area or common area and facility, even if that ownership interest is not explicitly stated in the instrument.

- (5) Notwithstanding Subsection (2), a person may modify the size or location of or separately convey a common area or common area and facility if the following approve the conveyance or modification:
- (a) the local government;
 - (b)
 - (i) for a common area that an association owns, 67% of the voting interests in the association; or
 - (ii) for a common area that an association does not own, or for a common area and facility, 67% of the owners of lots, units, and parcels designated on a plat that is subject to a declaration and on which the common area or common area and facility is included; and
 - (c) during the period of administrative control, the declarant.

Amended by Chapter 405, 2017 General Session

10-9a-607 Dedication by plat of public streets and other public places.

- (1) A plat that is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part, operates, when recorded, as a dedication of all public streets and other public places, and vests the fee of those parcels of land in the municipality for the public for the uses named or intended in the plat.
- (2) The dedication established by this section does not impose liability upon the municipality for public streets and other public places that are dedicated in this manner but are unimproved unless:
 - (a) adequate financial assurance has been provided in accordance with this chapter; and
 - (b) the municipality has accepted the dedication.

Amended by Chapter 384, 2019 General Session

10-9a-608 Subdivision amendments.

- (1)
 - (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to request a subdivision amendment.
 - (b) Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 10-9a-603 that:
 - (i) depicts only the portion of the subdivision that is proposed to be amended;
 - (ii) includes a plat name distinguishing the amended plat from the original plat;
 - (iii) describes the differences between the amended plat and the original plat; and
 - (iv) includes references to the original plat.
 - (c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the petition for a subdivision amendment.
 - (d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:
 - (i) any owner within the plat notifies the municipality of the owner's objection in writing within 10 days of mailed notification; or

- (ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.
- (e) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.
- (2) The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:
 - (a) the petition seeks to:
 - (i) join two or more of the petitioner fee owner's contiguous lots;
 - (ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;
 - (iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the fee owners of each of the adjoining properties join in the petition, regardless of whether the properties are located in the same subdivision;
 - (iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or
 - (v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:
 - (A) owned by the petitioner; or
 - (B) designated as a common area; and
 - (b) notice has been given to adjoining property owners in accordance with any applicable local ordinance.
- (3) A petition under Subsection (1)(a) that contains a request to amend a public street or municipal utility easement is also subject to Section 10-9a-609.5.
- (4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:
 - (a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and
 - (b) the signature of each owner described in Subsection (4)(a) who consents to the petition.
- (5)
 - (a) The owners of record of adjoining properties where one or more of the properties is a lot may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).
 - (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.
 - (c) If an exchange of title is approved under Subsection (5)(b):
 - (i) a notice of approval shall be recorded in the office of the county recorder which:
 - (A) is executed by each owner included in the exchange and by the land use authority;
 - (B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and
 - (C) recites the legal descriptions of both the original properties and the properties resulting from the exchange of title; and
 - (ii) a document of conveyance shall be recorded in the office of the county recorder with an amended plat.
 - (d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.

- (6)
- (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).
 - (b) The surveyor preparing the amended plat shall certify that the surveyor:
 - (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
 - (ii)
 - (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; or
 - (B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and
 - (iii) has placed monuments as represented on the plat.
 - (c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.
 - (d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Amended by Chapter 355, 2022 General Session

10-9a-609 Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

- (1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:
 - (a) there is good cause for the vacation or amendment; and
 - (b) no public street or municipal utility easement has been vacated or amended.
- (2)
 - (a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.
 - (b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.
- (3)
 - (a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.
 - (b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.
- (4) An amended plat may not be submitted to the county recorder for recording unless it is:
 - (a) signed by the land use authority; and
 - (b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.
- (5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.
- (6) A plat may be corrected as provided in Section 57-3-106.

Amended by Chapter 384, 2019 General Session

10-9a-609.5 Petition to vacate a public street.

- (1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 10-9a-603 through 10-9a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.
- (2) A petition to vacate some or all of a public street or municipal utility easement shall include:
 - (a) the name and address of each owner of record of land that is:
 - (i) adjacent to the public street or municipal utility easement between the two nearest public street intersections; or
 - (ii) accessed exclusively by or within 300 feet of the public street or municipal utility easement;
 - (b) proof of written notice to operators of utilities and culinary water or sanitary sewer facilities located within the bounds of the public street or municipal utility easement sought to be vacated; and
 - (c) the signature of each owner under Subsection (2)(a) who consents to the vacation.
- (3) If a petition is submitted containing a request to vacate some or all of a public street or municipal utility easement, the legislative body shall hold a public hearing in accordance with Section 10-9a-208 and determine whether:
 - (a) good cause exists for the vacation; and
 - (b) the public interest or any person will be materially injured by the proposed vacation.
- (4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or municipal utility easement if the legislative body finds that:
 - (a) good cause exists for the vacation; and
 - (b) neither the public interest nor any person will be materially injured by the vacation.
- (5) If the legislative body adopts an ordinance vacating some or all of a public street or municipal utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:
 - (a) a plat reflecting the vacation; or
 - (b)
 - (i) an ordinance described in Subsection (4); and
 - (ii) a legal description of the public street to be vacated.
- (6) The action of the legislative body vacating some or all of a public street or municipal utility easement that has been dedicated to public use:
 - (a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the municipality's fee in the vacated public street or municipal utility easement; and
 - (b) may not be construed to impair:
 - (i) any right-of-way or easement of any parcel or lot owner;
 - (ii) the rights of any public utility; or
 - (iii) the rights of a culinary water authority or sanitary sewer authority.
- (7)
 - (a) A municipality may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.
 - (b) If a municipality submits a petition and initiates a process under Subsection (7)(a):
 - (i) the legislative body shall hold a public hearing;
 - (ii) the petition and process may not apply to or affect a public utility easement, except to the extent:
 - (A) the easement is not a protected utility easement as defined in Section 54-3-27;
 - (B) the easement is included within the public street; and
 - (C) the notice to vacate the public street also contains a notice to vacate the easement; and

- (iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.
- (8) A legislative body may not approve a petition to vacate a public street under this section unless the vacation identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the public street.

Amended by Chapter 385, 2021 General Session

10-9a-610 Restrictions for solar and other energy devices.

The land use authority may refuse to approve or renew any plat, subdivision plan, or dedication of any street or other ground, if deed restrictions, covenants, or similar binding agreements running with the land for the lots or parcels covered by the plat or subdivision prohibit or have the effect of prohibiting reasonably sited and designed solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the plat or subdivision.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-611 Prohibited acts.

- (1)
 - (a)
 - (i) If a subdivision requires a plat, an owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.
 - (ii) A violation of Subsection (1)(a)(i) is an infraction.
 - (b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.
 - (c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:
 - (i) does not affect the validity of the instrument or other document; and
 - (ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable municipal ordinances on land use and development.
- (2)
 - (a) A municipality may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.
 - (b) An action under this Subsection (2) may include an injunction or any other appropriate action or proceeding to prevent or enjoin the violation.
 - (c) A municipality need only establish the violation to obtain the injunction.

Amended by Chapter 434, 2020 General Session

**Part 7
Appeal Authority and Variances**

10-9a-701 Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

- (1)
 - (a) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities.
 - (b) An appeal authority described in Subsection (1)(a) shall hear and decide:
 - (i) requests for variances from the terms of land use ordinances;
 - (ii) appeals from land use decisions applying land use ordinances; and
 - (iii) appeals from a fee charged in accordance with Section 10-9a-510.
 - (c) An appeal authority described in Subsection (1)(a) may not hear an appeal from the enactment of a land use regulation.
- (2) As a condition precedent to judicial review, each adversely affected party shall timely and specifically challenge a land use authority's land use decision, in accordance with local ordinance.
- (3) An appeal authority described in Subsection (1)(a):
 - (a) shall:
 - (i) act in a quasi-judicial manner; and
 - (ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and
 - (b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.
- (4) By ordinance, a municipality may:
 - (a) designate a separate appeal authority to hear requests for variances than the appeal authority the municipality designates to hear appeals;
 - (b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;
 - (c) require an adversely affected party to present to an appeal authority every theory of relief that the adversely affected party can raise in district court;
 - (d) not require a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of an appealing party's duty to exhaust administrative remedies; and
 - (e) provide that specified types of land use decisions may be appealed directly to the district court.
- (5) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:
 - (a) notify each of the members of the board, body, or panel of any meeting or hearing of the board, body, or panel;
 - (b) provide each of the members of the board, body, or panel with the same information and access to municipal resources as any other member;
 - (c) convene only if a quorum of the members of the board, body, or panel is present; and
 - (d) act only upon the vote of a majority of the convened members of the board, body, or panel.

Amended by Chapter 385, 2021 General Session

10-9a-702 Variances.

- (1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some

other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.

- (2)
 - (a) The appeal authority may grant a variance only if:
 - (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (v) the spirit of the land use ordinance is observed and substantial justice done.
 - (b)
 - (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:
 - (A) is located on or associated with the property for which the variance is sought; and
 - (B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 - (ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
 - (c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:
 - (i) relate to the hardship complained of; and
 - (ii) deprive the property of privileges granted to other properties in the same zone.
- (3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (4) Variances run with the land.
- (5) The appeal authority may not grant a use variance.
- (6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
 - (a) mitigate any harmful affects of the variance; or
 - (b) serve the purpose of the standard or requirement that is waived or modified.

Renumbered and Amended by Chapter 254, 2005 General Session

10-9a-703 Appealing a land use authority's decision -- Panel of experts for appeals of geologic hazard decisions -- Automatic appeal for certain decisions.

- (1) The land use applicant, a board or officer of the municipality, or an adversely affected party may, within the applicable time period, appeal that decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.
- (2)
 - (a) A land use applicant who has appealed a decision of the land use authority administering or interpreting the municipality's geologic hazard ordinance may request the municipality

to assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

- (b) If a land use applicant makes a request under Subsection (2)(a), the municipality shall assemble the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the applicant and municipality:
 - (i) one expert designated by the municipality;
 - (ii) one expert designated by the land use applicant; and
 - (iii) one expert chosen jointly by the municipality's designated expert and the land use applicant's designated expert.
- (c) A member of the panel assembled by the municipality under Subsection (2)(b) may not be associated with the application that is the subject of the appeal.
- (d) The land use applicant shall pay:
 - (i) 1/2 of the cost of the panel; and
 - (ii) the municipality's published appeal fee.

Amended by Chapter 434, 2020 General Session

10-9a-704 Time to appeal.

- (1) The municipality shall enact an ordinance establishing a reasonable time of not less than 10 days to appeal to an appeal authority a written decision issued by a land use authority.
- (2) In the absence of an ordinance establishing a reasonable time to appeal, a land use applicant or adversely affected party shall have 10 calendar days to appeal to an appeal authority a written decision issued by a land use authority.
- (3) Notwithstanding Subsections (1) and (2), for an appeal from a decision of a historic preservation authority regarding a land use application, the land use applicant may appeal the decision within 30 days after the day on which the historic preservation authority issues a written decision.

Amended by Chapter 434, 2020 General Session

10-9a-705 Burden of proof.

The appellant has the burden of proving that the land use authority erred.

Enacted by Chapter 254, 2005 General Session

10-9a-706 Due process.

- (1) Each appeal authority shall conduct each appeal and variance request as provided in local ordinance.
- (2) Each appeal authority shall respect the due process rights of each of the participants.

Enacted by Chapter 254, 2005 General Session

10-9a-707 Scope of review of factual matters on appeal -- Appeal authority requirements.

- (1) A municipality may, by ordinance, designate the scope of review of factual matters for appeals of land use authority decisions.
- (2) If the municipality fails to designate a scope of review of factual matters, the appeal authority shall review the matter de novo, without deference to the land use authority's determination of factual matters.

- (3) If the scope of review of factual matters is on the record, the appeal authority shall determine whether the record on appeal includes substantial evidence for each essential finding of fact.
- (4) The appeal authority shall:
 - (a) determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations; and
 - (b) interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.
- (5)
 - (a) An appeal authority's land use decision is a quasi-judicial act.
 - (b) A legislative body may act as an appeal authority unless both the legislative body and the appealing party agree to allow a third party to act as the appeal authority.
- (6) Only a decision in which a land use authority has applied a land use regulation to a particular land use application, person, or parcel may be appealed to an appeal authority.

Amended by Chapter 384, 2019 General Session

10-9a-708 Final decision.

- (1) A decision of an appeal authority takes effect on the date when the appeal authority issues a written decision, or as otherwise provided by ordinance.
- (2) A written decision, or other event as provided by ordinance, constitutes a final decision under Subsection 10-9a-801(2)(a) or a final action under Subsection 10-9a-801(4).

Amended by Chapter 126, 2020 General Session

**Part 8
District Court Review**

10-9a-801 No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

- (1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.
- (2)
 - (a) Subject to Subsection (1), a land use applicant or adversely affected party may file a petition for review of a land use decision with the district court within 30 days after the decision is final.
 - (b)
 - (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:
 - (A) the arbitrator issues a final award; or
 - (B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)
 - (b) declining to arbitrate or to appoint an arbitrator.

- (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.
 - (iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.
- (3)
- (a) A court shall:
 - (i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and
 - (ii) determine only whether:
 - (A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and
 - (B) it is reasonably debatable that the land use regulation is consistent with this chapter.
 - (b) A court shall presume that a final land use decision of a land use authority or an appeal authority is valid unless the land use decision is:
 - (i) arbitrary and capricious; or
 - (ii) illegal.
 - (c)
 - (i) A land use decision is arbitrary and capricious if the land use decision is not supported by substantial evidence in the record.
 - (ii) A land use decision is illegal if the land use decision:
 - (A) is based on an incorrect interpretation of a land use regulation;
 - (B) conflicts with the authority granted by this title; or
 - (C) is contrary to law.
 - (d)
 - (i) A court may affirm or reverse a land use decision.
 - (ii) If the court reverses a land use decision, the court shall remand the matter to the land use authority with instructions to issue a land use decision consistent with the court's ruling.
- (4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes final action on a land use application, if the municipality conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending land use decision.
- (5) If the municipality has complied with Section 10-9a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.
- (6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.
- (7)
- (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of the proceedings of the land use authority or appeal authority, including the minutes, findings, orders, and, if available, a true and correct transcript of the proceedings.
 - (b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).
- (8)
- (a)
 - (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.
 - (ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to

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

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

(9)

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

(b)

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

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

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

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

Amended by Chapter 355, 2022 General Session

10-9a-802 Enforcement.

(1)

(a) A municipality or an adversely affected party may, in addition to other remedies provided by law, institute:

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

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

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

(2)

(a) A municipality may enforce the municipality's ordinance by withholding a building permit.

(b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any building or other structure within a municipality without approval of a building permit.

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

(d) A municipality may not deny an applicant a building permit or certificate of occupancy because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit or certificate of occupancy under the building code and fire code; and

(ii) for which the municipality has accepted an improvement completion assurance for landscaping or infrastructure improvements for the development.

Amended by Chapter 434, 2020 General Session

10-9a-803 Penalties -- Notice.

(1) The municipality may, by ordinance, establish civil penalties for violations of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter.

- (2) Violation of any of the provisions of this chapter or of any ordinances adopted under the authority of this chapter is punishable as a class C misdemeanor upon conviction either:
 - (a) as a class C misdemeanor; or
 - (b) by imposing the appropriate civil penalty adopted under the authority of this section.
- (3) Prior to imposing upon an owner of record a civil penalty established by ordinance under authority of this chapter, a municipality shall provide:
 - (a) written notice, by mail or hand delivery, of each ordinance violation to the address of the:
 - (i) owner of record on file in the office of the county recorder; or
 - (ii) person designated, in writing, by the owner of record as the owner's agent for the purpose of receiving notice of an ordinance violation;
 - (b) the owner of record a reasonable opportunity to cure a noticed violation; and
 - (c) a schedule of the civil penalties that may be imposed upon the expiration of a time certain.

Amended by Chapter 218, 2012 General Session

Part 9

Vested Critical Infrastructure Materials Operations

10-9a-901 Definitions.

As used in this part:

- (1) "Critical infrastructure materials" means sand, gravel, or rock aggregate.
- (2) "Critical infrastructure materials operations" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.
- (3) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:
 - (a) owns, controls, or manages a critical infrastructure materials operations; and
 - (b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.
- (4) "Vested critical infrastructure materials operations" means critical infrastructure materials operations operating in accordance with a legal nonconforming use or a permit issued by the municipality that existed or was conducted or otherwise engaged in before:
 - (a) a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations; and
 - (b) January 1, 2019.

Enacted by Chapter 227, 2019 General Session

10-9a-902 Vested critical infrastructure materials operations -- Conclusive presumption.

- (1)
 - (a) Critical infrastructure materials operations operating in accordance with a legal nonconforming use or a permit issued by the municipality are conclusively presumed to be vested critical infrastructure materials operations if the critical infrastructure materials operations permitted by the municipality, existed or was conducted or otherwise engaged

in before January 1, 2019 and before when a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations.

- (b) A person claiming that a vested critical infrastructure materials operations has been established has the burden of proof to show by the preponderance of the evidence that the vested critical infrastructure materials operations has been established.
- (2) A vested critical infrastructure materials operations:
- (a) runs with the land; and
 - (b) may be changed to another critical infrastructure materials operations conducted within the scope of a legal nonconforming use or the permit for the vested critical infrastructure materials operations without losing its status as a vested critical infrastructure materials operations.

Enacted by Chapter 227, 2019 General Session

10-9a-903 Rights of a critical infrastructure materials operator with a vested critical infrastructure materials operations.

Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a critical infrastructure materials operations adopted after the establishment of the critical infrastructure materials operations, the rights of a critical infrastructure materials operator with vested critical infrastructure materials operations include the right to:

- (1) use, operate, construct, reconstruct, restore, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings; and
- (2) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily or permanently, all or any part of the critical infrastructure materials operations.

Enacted by Chapter 227, 2019 General Session

10-9a-904 Notice.

For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a vested critical infrastructure materials operations, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Vested Critical Infrastructure Materials Operations

This property is located in the vicinity of an established vested critical infrastructure materials operations in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from such normal critical infrastructure materials operations."

Enacted by Chapter 227, 2019 General Session

10-9a-905 Abandonment of a vested critical infrastructure materials operations.

- (1) A critical infrastructure materials operator may abandon some or all of a vested critical infrastructure materials operations use only as provided in this section.
- (2) To abandon some or all of a vested critical infrastructure materials operations, a critical infrastructure materials operator shall record a written declaration of abandonment with the recorder of the county in which the vested critical infrastructure materials operations being abandoned is located.

- (3) The written declaration of abandonment under Subsection (2) shall specify the vested critical infrastructure materials operations or the portion of the vested critical infrastructure materials operations being abandoned.

Enacted by Chapter 227, 2019 General Session