

Representative Joseph G. Murray proposes to substitute the following bill:

SUBDIVISION OF LAND AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Joseph G. Murray

AN ACT RELATING TO THE MUNICIPAL CODE AND COUNTIES; AMENDING AND CLARIFYING PROVISIONS RELATING TO THE SUBDIVIDING OF LAND; PROVIDING FOR AN EXEMPTION FOR CERTAIN AGRICULTURAL SUBDIVISIONS; REQUIRING NOTICE ON CERTAIN CONVEYANCES; PROVIDING DEFINITIONS; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

3-1-20, as last amended by Chapter 202, Laws of Utah 1994

10-1-104, as last amended by Chapter 389, Laws of Utah 1997

10-9-103, as last amended by Chapter 291, Laws of Utah 1999

10-9-804, as last amended by Chapter 13, Laws of Utah 1998

10-9-805, as last amended by Chapter 142, Laws of Utah 1997

10-9-806, as last amended by Chapter 179, Laws of Utah 1995

10-9-807, as enacted by Chapter 235, Laws of Utah 1991

10-9-808, as last amended by Chapter 176, Laws of Utah 1999

10-9-811, as last amended by Chapter 180, Laws of Utah 1995

17-27-103, as last amended by Chapters 139 and 291, Laws of Utah 1999

17-27-804, as last amended by Chapter 13, Laws of Utah 1998

17-27-805, as last amended by Chapter 142, Laws of Utah 1997

17-27-806, as last amended by Chapter 179, Laws of Utah 1995

17-27-807, as enacted by Chapter 235, Laws of Utah 1991

26 **17-27-808**, as last amended by Chapter 176, Laws of Utah 1999
27 **17-27-811**, as last amended by Chapter 142, Laws of Utah 1997
28 **30-3-5**, as last amended by Chapters 168 and 277, Laws of Utah 1999

29 ENACTS:

30 **57-1-45**, Utah Code Annotated 1953
31 **75-3-917**, Utah Code Annotated 1953

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

33 Section 1. Section **3-1-20** is amended to read:

34 **3-1-20. Voluntary dissolution -- Distribution of assets -- Proceedings.**

35 (1) (a) An association may be dissolved:

36 (i) at a regular meeting, or a special meeting called for that purpose;

37 (ii) after 30 days advance notice of the time, place, and object of the meeting is served on
38 the members of the association as prescribed in the bylaws; and

39 (iii) by a two-thirds vote of the members voting.

40 (b) (i) The members shall elect a committee of three members to act as trustees on behalf
41 of the association, and the trustees shall liquidate and distribute the association's assets within the
42 time fixed by the members.

43 (ii) The trustees may bring and defend actions necessary to protect and enforce the rights
44 of the association.

45 (iii) Any vacancies in the trusteeship may be filled by the remaining trustees.

46 (2) (a) If an association dissolves pursuant to this section, the trustees, a creditor, a
47 member, or the attorney general may bring an action in the district court in the county where the
48 principal place of business of the association is located.

49 (b) The court may specify:

50 (i) appropriate notice of the time and place for the submission of claims against the
51 association, which notice may require creditors of and claimants against the association to submit
52 accounts and demands in writing at the specified place by a specific day, which date shall be at
53 least 40 days from the date of service or first publication of the notice;

54 (ii) the payment or satisfaction of claims and demands against the association, or the
55 retention of money for such purpose;

56 (iii) the administration of trusts or the disposition of the property held in trust by or for the

57 association;

58 (iv) the sale and disposition of any remaining property of the association and the
59 distribution or division of the property or its proceeds among the members or persons entitled to
60 them; and

61 (v) other matters related to the dissolution.

62 (c) All orders and judgments shall be binding upon the association, its property and assets,
63 trustees, members, creditors, and all claimants against it.

64 (3) On dissolution, the assets of the association shall be distributed in the following
65 manner and order:

66 (a) to pay the association's debts and expenses;

67 (b) to return to any investors the par value of their capital;

68 (c) to pay patrons on a pro rata basis the amount of any patronage capital credited to their
69 accounts; and

70 (d) if there is a surplus, to distribute it among those patrons who have been members of
71 the association at any time during the last five years preceding dissolution or for a longer period
72 of time if determined by the board of directors to be practicable, on the basis of patronage during
73 that period.

74 (4) After the final settlement by the trustees, the association shall be considered dissolved
75 and shall cease to exist.

76 (5) The trustees shall make a report in duplicate of the proceedings held under this section,
77 which shall be signed, acknowledged, and filed as required for the filing of the articles of
78 incorporation.

79 (6) This section shall apply to all associations incorporated in this state.

80 (7) Each owner of real property who prepares or causes to be prepared a document that
81 conveys title to the owner's real property shall comply with Section 57-1-45.

82 Section 2. Section **10-1-104** is amended to read:

83 **10-1-104. Definitions.**

84 As used in this title:

85 (1) "City" includes a city of the first class, a city of the second class, and a city of the third
86 class, as classified in Section 10-2-301.

87 (2) "Contiguous" means:

88 (a) if used to described an area, continuous, uninterrupted, and without an island of
89 territory not included as part of the area; and

90 (b) if used to describe an area's relationship to another area, sharing a common boundary.

91 (3) "Governing body" means collectively the legislative body and the executive of any
92 municipality. Unless otherwise provided:

93 (a) in a city of the first or second class, the governing body is the city commission;

94 (b) in a city of the third class, the governing body is the city council; and

95 (c) in a town, the governing body is the town council.

96 (4) "Municipal" means of or relating to a municipality.

97 (5) "Municipality" means a city of the first class, city of the second class, city of the third
98 class, or a town, as classified in Section 10-2-301.

99 (6) "Peninsula," when used to describe an unincorporated area, means an area surrounded
100 on more than 1/2 of its boundary distance, but not completely, by incorporated territory and
101 situated so that the length of a line drawn across the unincorporated area from an incorporated area
102 to an incorporated area on the opposite side shall be less than 25% of the total aggregate
103 boundaries of the unincorporated area.

104 (7) "Person" means an individual, corporation, partnership, organization, association,
105 trust, governmental agency, or any other legal entity.

106 [(7)] (8) "Provisions of law" shall include other statutes of the state of Utah and
107 ordinances, rules, and regulations properly adopted by any municipality unless the construction is
108 clearly contrary to the intent of state law.

109 [(8)] (9) "Recorder," unless clearly inapplicable, includes and applies to a town clerk.

110 [(9)] (10) "Town" means a town as classified in Section 10-2-301.

111 [(10)] (11) "Unincorporated" means not within a municipality.

112 Section 3. Section **10-9-103** is amended to read:

113 **10-9-103. Definitions -- Notice.**

114 (1) As used in this chapter:

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

118 (b) "Chief executive officer" means:

119 (i) the mayor in municipalities operating under all forms of municipal government except
120 the council-manager form; or

121 (ii) the city manager in municipalities operating under the council-manager form of
122 municipal government.

123 (c) "Conditional use" means a land use that, because of its unique characteristics or
124 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be
125 compatible in some areas or may be compatible only if certain conditions are required that mitigate
126 or eliminate the detrimental impacts.

127 (d) "Constitutional taking" has the meaning as defined in Section 63-34-13.

128 (e) "County" means the unincorporated area of the county.

129 (f) "Elderly person" means a person who is 60 years old or older, who desires or needs to
130 live with other elderly persons in a group setting, but who is capable of living independently.

131 (g) (i) "General plan" means a document that a municipality adopts that sets forth general
132 guidelines for proposed future development of the land within the municipality, as set forth in
133 Sections 10-9-301 and 10-9-302.

134 (ii) "General plan" includes what is also commonly referred to as a "master plan."

135 (h) "Legislative body" means the city council or city commission.

136 (i) "Lot line adjustment" in a subdivision means the relocation of the property boundary
137 line between two adjoining lots with the consent of the owners of record.

138 (j) "Municipality" means a city or town.

139 (k) "Nonconforming structure" means a structure that:

140 (i) legally existed before its current zoning designation; and

141 (ii) because of subsequent zoning changes, does not conform with the zoning regulation's
142 setback, height restrictions, or other regulations that govern the structure.

143 (l) "Nonconforming use" means a use of land that:

144 (i) legally existed before its current zoning designation;

145 (ii) has been maintained continuously since the time the zoning regulation governing the
146 land changed; and

147 (iii) because of subsequent zoning changes, does not conform with the zoning regulations
148 that now govern the land.

149 (m) "Official map" means a map of proposed streets that has the legal effect of prohibiting

150 development of the property until the municipality develops the proposed street.

151 (n) "Plat" means a map or other graphical representation of lands being laid out and
152 prepared in accordance with Section 10-9-804.

153 (o) "Record of survey map" means a map of a survey of land prepared in accordance with
154 Section 17-23-17.

155 ~~[(n)]~~ (p) (i) "Residential facility for elderly persons" means a single-family or
156 multiple-family dwelling unit that meets the requirements of Part 5 and any ordinance adopted
157 under authority of that part.

158 (ii) "Residential facility for elderly persons" does not include a health care facility as
159 defined by Section 26-21-2.

160 ~~[(o)]~~ (q) "Special district" means all entities established under the authority of Title 17A,
161 Special Districts, and any other governmental or quasi-governmental entity that is not a county,
162 municipality, school district, or unit of the state.

163 ~~[(p)]~~ (r) "Street" means public rights-of-way, including highways, avenues, boulevards,
164 parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and
165 other ways.

166 ~~[(q)]~~ (s) (i) "Subdivision" means any land that is divided, resubdivided or proposed to be
167 divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose,
168 whether immediate or future, for offer, sale, lease, or development either on the installment plan
169 or upon any and all other plans, terms, and conditions.

170 (ii) "Subdivision" includes:

171 (A) the division or development of land whether by deed, metes and bounds description,
172 devise and testacy, lease, map, plat, or other recorded instrument; and

173 (B) except as provided in Subsection (1)~~[(q)]~~ (s)(iii), divisions of land for all residential
174 and nonresidential uses, including land used or to be used for commercial, agricultural, and
175 industrial purposes.

176 (iii) "Subdivision" does not include:

177 (A) a bona fide division or partition of agricultural land for the purpose of joining one of
178 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither
179 the resulting combined parcel nor the parcel remaining from the division or partition violates an
180 applicable zoning ordinance;

181 (B) a recorded agreement between owners of adjoining properties adjusting their mutual
182 boundary if:

183 (I) no new lot is created; and

184 (II) the adjustment does not result in a violation of applicable zoning ordinances; or

185 (C) a recorded document, executed by the owner of record, revising the legal description
186 of more than one contiguous parcel of property into one legal description encompassing all such
187 parcels of property.

188 (iv) The joining of a subdivided parcel of property to another parcel of property that has
189 not been subdivided does not constitute a "subdivision" under this Subsection (1)[(τ)] (s) as to the
190 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
191 subdivision ordinance.

192 [(τ)] (t) "Unincorporated" means the area outside of the incorporated boundaries of cities
193 and towns.

194 (2) (a) A municipality meets the requirements of reasonable notice required by this chapter
195 if it:

196 (i) posts notice of the hearing or meeting in at least three public places within the
197 jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation
198 in the jurisdiction, if one is available; or

199 (ii) gives actual notice of the hearing or meeting.

200 (b) A municipal legislative body may enact an ordinance establishing stricter notice
201 requirements than those required by this Subsection (2).

202 (c) (i) Proof that one of the two forms of notice authorized by this Subsection (2) was
203 given is prima facie evidence that notice was properly given.

204 (ii) If notice given under authority of this section is not challenged as provided in Section
205 10-9-1001 within 30 days from the date of the meeting for which the notice was given, the notice
206 is considered adequate and proper.

207 Section 4. Section **10-9-804** is amended to read:

208 **10-9-804. Plats required.**

209 (1) Unless exempt under Section 10-9-806 or not included in the definition of subdivision
210 under Subsection 10-9-103(1), whenever any lands are laid out and platted, the owner of those
211 lands shall provide an accurate [map-or] plat that describes or specifies:

- 212 (a) the boundaries, course, and dimensions of the parcels of ground;
- 213 (b) whether the parcels of ground are intended to be used as streets or for other public uses,
214 and whether any areas are reserved for public purposes;
- 215 (c) the ~~[number, temporary]~~ lot or unit reference, the block or building reference, the street
216 or site address, the street name or coordinate address, the acreage or square footage for all parcels,
217 units, or lots, and the length and width of the blocks and lots intended for sale; and
- 218 (d) existing right-of-way and easement grants of record for underground facilities, as
219 defined in Section 54-8a-2, and for other utility facilities.
- 220 (2) (a) The owner of the land shall acknowledge the ~~[map or]~~ plat before an officer
221 authorized by law to take the acknowledgement of conveyances of real estate.
- 222 (b) The surveyor making the ~~[map or]~~ plat shall certify it.
- 223 (c) The owner or operator of the underground and utility facilities shall approve the ~~[map~~
224 ~~or]~~ plat of its property interest if it specifies:
- 225 (i) the boundary, course, dimensions, and intended use of the right-of-way and easement
226 grants of record;
- 227 (ii) the location of existing underground and utility facilities; and
- 228 (iii) any conditions or restrictions governing the location of the facilities within the
229 right-of-way, and easement grants of records, and utility facilities within the subdivision.
- 230 (d) The legislative body shall approve the ~~[map or]~~ plat as provided in this part. Before
231 the legislative body may approve a ~~[map or]~~ plat, the owner of the land shall provide the legislative
232 body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have
233 been paid.
- 234 (3) After the ~~[map or]~~ plat has been acknowledged, certified, and approved, the owner of
235 the land shall file and record it in the county recorder's office in the county in which the lands
236 platted and laid out are situated.
- 237 Section 5. Section **10-9-805** is amended to read:
- 238 **10-9-805. Subdivision approval procedure.**
- 239 (1) A person may not submit a plat of a subdivision to the county recorder's office for
240 ~~[filing or]~~ recording unless a recommendation has been received from the planning commission
241 and:
- 242 (a) the plat has been approved by:

- 243 (i) the legislative body of the municipality in which the subdivision is located; or
- 244 (ii) other officers that the municipal legislative body designates in an ordinance; and
- 245 (b) the approvals are entered in writing on the plat by the mayor or chairperson of the
- 246 legislative body or by the other officers designated in the ordinance.

247 (2) In municipalities under the council-mayor form of government, Section 10-3-1219.5
 248 governs.

249 Section 6. Section **10-9-806** is amended to read:

250 **10-9-806. Exemptions from plat requirement.**

251 (1) (a) [~~In subdivisions of less than ten lots, land may be sold~~] Notwithstanding Sections
 252 10-9-804 and 10-9-805, a person may submit to the county recorder's office for recording a
 253 document that subdivides property by metes and bounds into less than ten lots, without the
 254 necessity of recording a plat, if:

255 [~~(a) a recommendation has been received from]~~

256 (i) the planning commission[;], if required by municipal ordinance, has given the
 257 municipal legislative body its recommendation, whether favorable or not; and

258 (b) (ii) the [deed contains a stamp or other mark indicating that the subdivision has been
 259 approved by] document contains a certificate or written approval from:

260 (i) (A) the legislative body of the municipality in which the property is located; or

261 (ii) (B) other officers that the municipal legislative body designates in an ordinance[;].

262 (b) By indicating its approval on a document under Subsection (1)(a), the municipal
 263 legislative body or other officer designated by the municipal legislative officer certifies that:

264 (i) the planning commission:

265 (A) has given its recommendation to the municipal legislative body; or

266 (B) is not required by municipal ordinance to give its recommendation;

267 (c) (ii) the subdivision is not traversed by the mapped lines of a proposed street as shown
 268 in the general plan and does not require the dedication of any land for street or other public
 269 purposes; and

270 (d) (iii) if the subdivision is located in a zoned area, each lot in the subdivision meets the
 271 frontage, width, and area requirements of the zoning ordinance or has been granted a variance from
 272 those requirements by the board of adjustment.

273 (2) Municipalities under the council-mayor form of government shall comply with Section

274 10-3-1219.5.

275 (3) (a) Subject to Subsection (3)(b), a lot or parcel resulting from a division of agricultural
276 land is exempt from the plat requirements of Section 10-9-804 if the lot or parcel:

277 (i) qualifies as land in agricultural use under Title 59, Chapter 2, Part 5, Farmland
278 Assessment Act;

279 (ii) meets the minimum size requirement of applicable zoning ordinances; and

280 (iii) is not used and will not be used for any nonagricultural purpose.

281 (b) The boundaries of each lot or parcel exempted under Subsection (3)(a) shall be
282 graphically illustrated on a record of survey map that, after receiving the same approvals as are
283 required for a plat under Section 10-9-805, shall be recorded with the county recorder.

284 (c) If a lot or parcel exempted under Subsection (3)(a) is used for a nonagricultural
285 purpose, the municipality in which the lot or parcel is located may require the lot or parcel to
286 comply with the requirements of Section 10-9-804.

287 (4) (a) A person may not submit to the county recorder's office for recording a document
288 that subdivides property by metes and bounds unless it contains the certificate or written approval
289 required by this section.

290 (b) The recording of a document that subdivides property by metes and bounds and does
291 not contain the certificate or written approval required by this section:

292 (i) does not affect the validity of the document; and

293 (ii) does not affect whether the subdivided property complies with applicable municipal
294 ordinances on land use and development.

295 Section 7. Section **10-9-807** is amended to read:

296 **10-9-807. Dedication of streets.**

297 (1) ~~[Maps and plats]~~ Plats, when made, acknowledged, ~~[filed,]~~ and recorded according to
298 the procedures specified in this part, operate as a dedication of all streets and other public places,
299 and vest the fee of those parcels of land in the municipality for the public for the uses named or
300 intended in those ~~[maps or]~~ plats.

301 (2) The dedication established by this section does not impose liability upon the
302 municipality for streets and other public places that are dedicated in this manner but unimproved.

303 Section 8. Section **10-9-808** is amended to read:

304 **10-9-808. Vacating or changing a subdivision plat.**

305 (1) (a) Subject to Subsection (2), the legislative body of a municipality or any other officer
306 that the legislative body designates by ordinance may, with or without a petition, consider any
307 proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision
308 plat, or any street, lot, or alley contained in a subdivision plat at a public hearing.

309 (b) If a petition is filed, the responsible body or officer shall hold the public hearing within
310 45 days after receipt of the planning commission's recommendation under Subsection (2) if:

311 (i) the plat change includes the vacation of a public street or alley;

312 (ii) any owner within the plat notifies the municipality of their objection in writing within
313 ten days of mailed notification; or

314 (iii) a public hearing is required because all of the owners in the subdivision have not
315 signed the revised plat.

316 (2) (a) Before the legislative body or officer designated by the legislative body may
317 consider a proposed vacation, alteration, or amendment under Subsection (1)(a) or (6), the
318 legislative body or officer shall refer the proposal to the planning commission for its
319 recommendation.

320 (b) The planning commission shall give its recommendation within 30 days after the
321 proposed vacation, alteration, or amendment is referred to it.

322 (3) Any fee owner, as shown on the last county assessment rolls, of land within the
323 subdivision that has been laid out and platted as provided in this part may, in writing, petition the
324 legislative body to have the plat, any portion of it, or any street or lot contained in it, vacated,
325 altered, or amended as provided in this section.

326 (4) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street or
327 lot contained in a plat shall include:

328 (a) the name and address of all owners of record of the land contained in the entire plat;

329 (b) the name and address of all owners of record of land adjacent to any street that is
330 proposed to be vacated, altered, or amended; and

331 (c) the signature of each of these owners who consents to the petition.

332 (5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may not
333 be scheduled for consideration at a public hearing before the legislative body until the notice
334 required by this part is given.

335 (b) The petitioner shall pay the cost of the notice.

336 (6) Subject to Subsection (2), if the responsible body or officer proposes to vacate, alter,
337 or amend a subdivision plat, or any street or lot contained in a subdivision plat, they shall consider
338 the issue at a public hearing after giving the notice required by this part.

339 (7) Petitions to adjust lot lines between adjacent properties may be executed upon the
340 recordation of an appropriate deed if:

- 341 (a) no new dwelling lot or housing unit results from the lot line adjustment;
- 342 (b) the adjoining property owners consent to the lot line adjustment;
- 343 (c) the lot line adjustment does not result in remnant land that did not previously exist; and
- 344 (d) the adjustment does not result in violation of applicable zoning requirements.

345 (8) (a) The name of a recorded subdivision may be changed by recording an amended plat
346 making that change, as provided in this section.

347 (b) Except as provided in Subsection (8)(a), the recording of a declaration or other
348 document that purports to change the name of a recorded plat is void.

349 ~~[(8)]~~ (9) Municipalities operating under the council-mayor form of government shall
350 comply with Section 10-3-1219.5.

351 Section 9. Section **10-9-811** is amended to read:

352 **10-9-811. Prohibited acts.**

353 (1) (a) A county recorder may not record a subdivision plat ~~[of a subdivision without the~~
354 ~~approval of]~~ that has not been approved by the [governing] legislative body of the municipality in
355 which the subdivision is located.

356 (b) A plat of a subdivision recorded without the approval of the ~~[governing]~~ municipal
357 legislative body required by this part is void.

358 (2) (a) An owner or agent of the owner of any land located in a subdivision, as defined in
359 this chapter, who transfers or sells any land in that subdivision ~~[must disclose to the transferee or~~
360 ~~purchaser the location, width, and restrictions of a right-of-way and easement of record within the~~
361 ~~subdivision, or before a plan or plat of the subdivision has been approved and recorded]~~ before a
362 plat of the subdivision has been approved and recorded is guilty of a violation of this part for each
363 lot or parcel transferred or sold.

364 (b) The description by metes and bounds in the instrument of transfer or other documents
365 used in the process of selling or transferring does not exempt the transaction from being a violation
366 of Subsection (2)(a) or from the penalties or remedies provided in this chapter.

367 (c) Notwithstanding any other provision of this Subsection (2), the recording of an
368 instrument of transfer or other document used in the process of selling or transferring real property
369 that violates this part:

370 (i) does not affect the validity of the instrument or other document; and

371 (ii) does not affect whether the property that is the subject of the instrument or other
372 document complies with applicable municipal ordinances on land use and development.

373 (3) (a) A municipality may bring an action against an owner to require the property to
374 conform to the provisions of this part or an ordinance enacted under the authority of this part.

375 (b) An action under this Subsection (3) may include an injunction, abatement, merger of
376 title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation.

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

378 Section 10. Section **17-27-103** is amended to read:

379 **17-27-103. Definitions -- Notice.**

380 (1) As used in this chapter:

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

384 (b) "Chief executive officer" means the county executive, or if the county has adopted an
385 alternative form of government, the official who exercises the executive powers.

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

390 (d) "Constitutional taking" has the meaning as defined in Section 63-34-13.

391 (e) "County" means the unincorporated area of the county.

392 (f) "Elderly person" means a person who is 60 years old or older, who desires or needs to
393 live with other elderly persons in a group setting, but who is capable of living independently.

394 (g) "Gas corporation" has the same meaning as defined in Section 54-2-1.

395 (h) (i) "General plan" means a document that a county adopts that sets forth general
396 guidelines for proposed future development of the land within the county, as set forth in Sections
397 17-27-301 and 17-27-302.

398 (ii) "General plan" includes what is also commonly referred to as a "master plan."

399 (i) "Interstate pipeline company" means a person or entity engaged in natural gas
400 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the
401 Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

402 (j) "Intrastate pipeline company" means a person or entity engaged in natural gas
403 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission
404 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

405 (k) "Legislative body" means the county legislative body, or for a county that has adopted
406 an alternative form of government, the body exercising legislative powers.

407 (l) "Lot line adjustment" means the relocation of the property boundary line between two
408 adjoining lots with the consent of the owners of record.

409 (m) "Municipality" means a city or town.

410 (n) "Nonconforming structure" means a structure that:

411 (i) legally existed before its current zoning designation; and

412 (ii) because of subsequent zoning changes, does not conform with the zoning regulation's
413 setback, height restrictions, or other regulations that govern the structure.

414 (o) "Nonconforming use" means a use of land that:

415 (i) legally existed before its current zoning designation;

416 (ii) has been maintained continuously since the time the zoning regulation governing the
417 land changed; and

418 (iii) because of subsequent zoning changes, does not conform with the zoning regulations
419 that now govern the land.

420 (p) "Official map" means a map of proposed streets that has the legal effect of prohibiting
421 development of the property until the county develops the proposed street.

422 (q) "Person" means an individual, corporation, partnership, organization, association, trust,
423 governmental agency, or any other legal entity.

424 (r) "Plat" means a map or other graphical representation of lands being laid out and
425 prepared in accordance with Section 17-27-804.

426 (s) "Record of survey map" means a map of a survey of land prepared in accordance with
427 Section 17-23-17.

428 [~~(q)~~] (t) (i) "Residential facility for elderly persons" means a single-family or

429 multiple-family dwelling unit that meets the requirements of Part 5 and any ordinance adopted
430 under authority of that part.

431 (ii) "Residential facility for elderly persons" does not include a health care facility as
432 defined by Section 26-21-2.

433 [~~(r)~~] (u) "Special district" means all entities established under the authority of Title 17A,
434 Special Districts, and any other governmental or quasi-governmental entity that is not a county,
435 municipality, school district, or unit of the state.

436 [~~(s)~~] (v) "Street" means public rights-of-way, including highways, avenues, boulevards,
437 parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and
438 other ways.

439 [~~(t)~~] (w) (i) "Subdivision" means any land that is divided, resubdivided or proposed to be
440 divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose,
441 whether immediate or future, for offer, sale, lease, or development either on the installment plan
442 or upon any and all other plans, terms, and conditions.

443 (ii) "Subdivision" includes the division or development of land whether by deed, metes
444 and bounds description, devise and testacy, lease, map, plat, or other recorded instrument.

445 (iii) "Subdivision" does not include:

446 (A) a bona fide division or partition of agricultural land for agricultural purposes;

447 (B) a recorded agreement between owners of adjoining properties adjusting their mutual
448 boundary if:

449 (I) no new lot is created; and

450 (II) the adjustment does not result in a violation of applicable zoning ordinances;

451 (C) a recorded document, executed by the owner of record, revising the legal description
452 of more than one contiguous parcel of property into one legal description encompassing all such
453 parcels of property; or

454 (D) a bona fide division or partition of land in a county other than a first class county for
455 the purpose of siting, on one or more of the resulting separate parcels, an unmanned facility
456 appurtenant to a pipeline owned or operated by a gas corporation, interstate pipeline company, or
457 intrastate pipeline company.

458 (iv) The joining of a subdivided parcel of property to another parcel of property that has
459 not been subdivided does not constitute a "subdivision" under this Subsection (1)[~~(t)~~] (w) as to the

460 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
461 ordinance.

462 [(t)] (x) "Unincorporated" means the area outside of the incorporated boundaries of cities
463 and towns.

464 (2) (a) A county meets the requirements of reasonable notice required by this chapter if
465 it:

466 (i) posts notice of the hearing or meeting in at least three public places within the
467 jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation
468 in the jurisdiction, if one is available; or

469 (ii) gives actual notice of the hearing or meeting.

470 (b) A county legislative body may enact an ordinance establishing stricter notice
471 requirements than those required by this Subsection (2).

472 (c) (i) Proof that one of the two forms of notice authorized by this subsection was given
473 is prima facie evidence that notice was properly given.

474 (ii) If notice given under authority of this section is not challenged as provided in Section
475 17-27-1001 within 30 days from the date of the meeting for which the notice was given, the notice
476 is considered adequate and proper.

477 Section 11. Section **17-27-804** is amended to read:

478 **17-27-804. Plats required.**

479 (1) Unless exempt under Section 17-27-806 or not included in the definition of a
480 subdivision under Subsection 17-27-103(1), whenever any lands are divided, the owner of those
481 lands shall have an accurate plat made of them that sets forth and describes:

482 (a) all the parcels of ground divided, by their boundaries, course, and extent, and whether
483 they are intended for streets or other public uses, together with any areas that are reserved for
484 public purposes; and

485 (b) all the lot or unit reference, the block or building reference, the street or site address,
486 the street name or coordinate address, the acreage or square footage for all parcels, units, or lots,
487 and the length and width of the blocks and lots intended for sale~~[, by numbers, and their precise~~
488 ~~length and width]~~.

489 (2) (a) The owner of the land shall acknowledge the plat before an officer authorized by
490 law to take the acknowledgement of conveyances of real estate.

491 (b) The surveyor making the plat shall certify it.

492 (c) The county legislative body shall approve the plat as provided in this part. Before the
493 legislative body may approve a [map or] plat, the owner of the land shall provide the legislative
494 body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have
495 been paid.

496 (3) After the plat has been acknowledged, certified, and approved, the owner of the land
497 shall file and record it in the county recorder's office in the county in which the lands platted and
498 divided are situated.

499 Section 12. Section **17-27-805** is amended to read:

500 **17-27-805. Subdivision approval procedure.**

501 A person may not submit a plat of a subdivision to the county recorder's office for [filing
502 or] recording unless a recommendation has been received from the planning commission and:

503 (1) the plat has been approved by:

504 (a) the legislative body of the county in whose unincorporated area the subdivision is
505 located; or

506 (b) other officers that the county legislative body designates in an ordinance; and

507 (2) the approvals are entered in writing on the plat by the chief executive officer or
508 chairperson of the legislative body or by the other officers designated in the ordinance.

509 Section 13. Section **17-27-806** is amended to read:

510 **17-27-806. Exemptions from plat requirement.**

511 [~~In subdivisions of less than ten lots, land may be sold]~~

512 (1) (a) Notwithstanding Sections 17-27-804 and 17-27-805, a person may submit to the
513 county recorder's office for recording a document that subdivides property by metes and bounds
514 into less than ten lots, without the necessity of recording a plat, if:

515 [~~(1) a recommendation has been received from]~~

516 (i) the planning commission[;], if required by county ordinance, has given the county
517 legislative body its recommendation, whether favorable or not; and

518 [~~(2) the deed contains a stamp or other mark indicating that the subdivision has been~~
519 ~~approved by:]~~

520 (ii) the document contains a certificate or written approval from:

521 [(a)] (A) the legislative body of the county in whose unincorporated area the property is

522 located; or
523 [(b)] (B) other officers that the county legislative body designates in an ordinance[;].
524 (b) By indicating its approval on a document under Subsection (1)(a), the county
525 legislative body or other officer designated by the county legislative officer certifies that:
526 (i) the planning commission:
527 (A) has given its recommendation to the county legislative body; or
528 (B) is not required by county ordinance to give its recommendation;
529 [(3)] (ii) the subdivision is not traversed by the mapped lines of a proposed street as shown
530 in the general plan and does not require the dedication of any land for street or other public
531 purposes; and
532 [(4)] (iii) if the subdivision is located in a zoned area, each lot in the subdivision meets the
533 frontage, width, and area requirements of the zoning ordinance or has been granted a variance from
534 those requirements by the board of adjustment.
535 (2) (a) Subject to Subsection (2)(b), a lot or parcel resulting from a division of agricultural
536 land is exempt from the plat requirements of Section 17-27-804 if the lot or parcel:
537 (i) qualifies as land in agricultural use under Title 59, Chapter 2, Part 5, Farmland
538 Assessment Act;
539 (ii) meets the minimum size requirement of applicable zoning ordinances; and
540 (iii) is not used and will not be used for any nonagricultural purpose.
541 (b) The boundaries of each lot or parcel exempted under Subsection (2)(a) shall be
542 graphically illustrated on a record of survey map that, after receiving the same approvals as are
543 required for a plat under Section 17-27-805, shall be recorded with the county recorder.
544 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural
545 purpose, the county in whose unincorporated area the lot or parcel is located may require the lot
546 or parcel to comply with the requirements of Section 17-27-804.
547 (3) (a) A person may not submit to the county recorder's office for recording a document
548 that subdivides property by metes and bounds unless it contains the certificate or written approval
549 required by this section.
550 (b) The recording of a document that subdivides property by metes and bounds and does
551 not contain the certificate or written approval required by this section:
552 (i) does not affect the validity of the document; and

553 (ii) does not affect whether the subdivided property complies with applicable county
554 ordinances on land use and development.

555 Section 14. Section **17-27-807** is amended to read:

556 **17-27-807. Dedication of streets.**

557 (1) [~~Maps and plats~~] Plats, when made, acknowledged, [~~filed,~~] and recorded according to
558 the procedures specified in this part, operate as a dedication of all streets and other public places,
559 and vest the fee of those parcels of land in the county for the public for the uses named or intended
560 in those [~~maps or~~] plats.

561 (2) The dedication established by this section does not impose liability upon the county
562 for streets and other public places that are dedicated in this manner but unimproved.

563 Section 15. Section **17-27-808** is amended to read:

564 **17-27-808. Vacating or changing a subdivision plat.**

565 (1) (a) Subject to Subsection (2), the county legislative body or any other officer that the
566 legislative body designates by ordinance may, with or without a petition, consider any proposed
567 vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any
568 street, lot, or alley contained in a subdivision plat at a public hearing.

569 (b) If a petition is filed, the responsible body or officer shall hold the public hearing within
570 45 days after receipt of the planning commission's recommendation under Subsection (2) if:

571 (i) the plat change includes the vacation of a public street or alley;

572 (ii) any owner within the plat notifies the municipality of their objection in writing within
573 ten days of mailed notification; or

574 (iii) a public hearing is required because all of the owners in the subdivision have not
575 signed the revised plat.

576 (2) (a) Before the county legislative body or officer designated by the county legislative
577 body may consider a proposed vacation, alteration, or amendment under Subsection (1)(a) or (6),
578 the county legislative body or officer shall refer the proposal to the planning commission for its
579 recommendation.

580 (b) The planning commission shall give its recommendation within 30 days after the
581 proposed vacation, alteration, or amendment is referred to it.

582 (3) Any fee owner, as shown on the last county assessment rolls, of land within the
583 subdivision that has been laid out and platted as provided in this part may, in writing, petition the

584 legislative body to have the plat, any portion of it, or any street or lot contained in it, vacated,
585 altered, or amended as provided in this section.

586 (4) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street or
587 lot contained in a plat shall include:

588 (a) the name and address of all owners of record of the land contained in the entire plat;

589 (b) the name and address of all owners of record of land adjacent to any street that is
590 proposed to be vacated, altered, or amended; and

591 (c) the signature of each of these owners who consents to the petition.

592 (5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may not
593 be scheduled for consideration at a public hearing before the responsible body or officer until the
594 notice required by this part is given.

595 (b) The petitioner shall pay the cost of the notice.

596 (6) Subject to Subsection (2), if the responsible body or officer proposes to vacate, alter,
597 or amend a subdivision plat, or any street or lot contained in a subdivision plat, they shall consider
598 the issue at a public hearing after giving the notice required by this part.

599 (7) Petitions to adjust lot lines between adjacent properties may be executed upon the
600 recordation of an appropriate deed if:

601 (a) no new dwelling lot or housing unit results from the lot line adjustment;

602 (b) the adjoining property owners consent to the lot line adjustment;

603 (c) the lot line adjustment does not result in remnant land that did not previously exist; and

604 (d) the adjustment does not result in violation of applicable zoning requirements.

605 (8) (a) The name of a recorded subdivision may be changed by recording an amended plat
606 making that change, as provided in this section.

607 (b) Except as provided in Subsection (8)(a), the recording of a declaration or other
608 document that purports to change the name of a recorded plat is void.

609 Section 16. Section **17-27-811** is amended to read:

610 **17-27-811. Prohibited acts -- Plat void if recorded without approvals -- Penalties.**

611 (1) (a) A county recorder may not [~~file or~~] record a subdivision plat [~~of a subdivision~~
612 ~~without the approvals required by this part~~] that has not been approved by the legislative body of
613 the county in whose unincorporated area the subdivision is located.

614 (b) [~~Any~~] A plat of a subdivision [~~filed or~~] recorded without the [~~approvals required by~~

615 this part] approval of the county legislative body is void.

616 (2) (a) [~~Any~~] An owner or agent of the owner of any land located in a subdivision, as
617 defined in this [part] chapter, who transfers or sells any land in that subdivision before a [plan or]
618 plat of the subdivision has been approved and recorded as required in this part is guilty of a
619 violation of this part for each lot or parcel transferred or sold.

620 (b) The description by metes and bounds in the instrument of transfer or other documents
621 used in the process of selling or transferring does not exempt the transaction from a violation of
622 Subsection (2)(a) or from the penalties or remedies provided in this [part] chapter.

623 (c) Notwithstanding any other provision of this Subsection (2), the recording of an
624 instrument of transfer or other document used in the process of selling or transferring real property
625 that violates this part:

626 (i) does not affect the validity of the instrument or other document; and

627 (ii) does not affect whether the property that is the subject of the instrument or other
628 document complies with applicable municipal ordinances on land use and development.

629 (3) (a) A county may bring an action against an owner to require the property to conform
630 to the provisions of this part or an ordinance enacted under the authority of this part.

631 (b) An action under this Subsection (3)(d) may include an injunction, abatement, merger
632 of title, or any other appropriate action or proceedings to prevent, enjoin, or abate the violation.

633 (c) A county need only establish the violation to obtain the injunction.

634 Section 17. Section **30-3-5** is amended to read:

635 **30-3-5. Disposition of property -- Maintenance and health care of parties and**
636 **children -- Division of debts -- Court to have continuing jurisdiction -- Custody and visitation**
637 **-- Determination of alimony -- Nonmeritorious petition for modification.**

638 (1) (a) When a decree of divorce is rendered, the court may include in it equitable orders
639 relating to the children, property, debts or obligations, and parties. The court shall include the
640 following in every decree of divorce:

641 [~~(a)~~] (i) an order assigning responsibility for the payment of reasonable and necessary
642 medical and dental expenses of the dependent children;

643 [~~(b)~~] (ii) if coverage is or becomes available at a reasonable cost, an order requiring the
644 purchase and maintenance of appropriate health, hospital, and dental care insurance for the
645 dependent children;

646 ~~[(e)]~~ (iii) pursuant to Section 15-4-6.5:

647 ~~[(i)]~~ (A) an order specifying which party is responsible for the payment of joint debts,
648 obligations, or liabilities of the parties contracted or incurred during marriage;

649 ~~[(ii)]~~ (B) an order requiring the parties to notify respective creditors or obligees, regarding
650 the court's division of debts, obligations, or liabilities and regarding the parties' separate, current
651 addresses; and

652 ~~[(iii)]~~ (C) provisions for the enforcement of these orders; and

653 ~~[(d)]~~ (iv) provisions for income withholding in accordance with Title 62A, Chapter 11,
654 Recovery Services.

655 (b) The court shall require compliance with Section 57-1-45 with respect to each order or
656 other document that conveys title to real property to a party.

657 (2) The court may include, in an order determining child support, an order assigning
658 financial responsibility for all or a portion of child care expenses incurred on behalf of the
659 dependent children, necessitated by the employment or training of the custodial parent. If the court
660 determines that the circumstances are appropriate and that the dependent children would be
661 adequately cared for, it may include an order allowing the noncustodial parent to provide child care
662 for the dependent children, necessitated by the employment or training of the custodial parent.

663 (3) The court has continuing jurisdiction to make subsequent changes or new orders for
664 the custody of the children and their support, maintenance, health, and dental care, and for
665 distribution of the property and obligations for debts as is reasonable and necessary.

666 (4) (a) In determining visitation rights of parents, grandparents, and other members of the
667 immediate family, the court shall consider the best interest of the child.

668 (b) Upon a specific finding by the court of the need for peace officer enforcement, the
669 court may include in an order establishing a visitation schedule a provision, among other things,
670 authorizing any peace officer to enforce a court ordered visitation schedule entered under this
671 chapter.

672 (5) If a petition for modification of child custody or visitation provisions of a court order
673 is made and denied, the court shall order the petitioner to pay the reasonable attorneys' fees
674 expended by the prevailing party in that action, if the court determines that the petition was without
675 merit and not asserted or defended against in good faith.

676 (6) If a petition alleges substantial noncompliance with a visitation order by a parent, a

677 grandparent, or other member of the immediate family pursuant to Section 78-32-12.2 where a
678 visitation right has been previously granted by the court, the court may award to the prevailing
679 party costs, including actual attorney fees and court costs incurred by the prevailing party because
680 of the other party's failure to provide or exercise court-ordered visitation.

681 (7) (a) The court shall consider at least the following factors in determining alimony:

682 (i) the financial condition and needs of the recipient spouse;

683 (ii) the recipient's earning capacity or ability to produce income;

684 (iii) the ability of the payor spouse to provide support;

685 (iv) the length of the marriage;

686 (v) whether the recipient spouse has custody of minor children requiring support;

687 (vi) whether the recipient spouse worked in a business owned or operated by the payor
688 spouse; and

689 (vii) whether the recipient spouse directly contributed to any increase in the payor spouse's
690 skill by paying for education received by the payor spouse or allowing the payor spouse to attend
691 school during the marriage.

692 (b) The court may consider the fault of the parties in determining alimony.

693 (c) As a general rule, the court should look to the standard of living, existing at the time
694 of separation, in determining alimony in accordance with Subsection (7)(a). However, the court
695 shall consider all relevant facts and equitable principles and may, in its discretion, base alimony
696 on the standard of living that existed at the time of trial. In marriages of short duration, when no
697 children have been conceived or born during the marriage, the court may consider the standard of
698 living that existed at the time of the marriage.

699 (d) The court may, under appropriate circumstances, attempt to equalize the parties'
700 respective standards of living.

701 (e) When a marriage of long duration dissolves on the threshold of a major change in the
702 income of one of the spouses due to the collective efforts of both, that change shall be considered
703 in dividing the marital property and in determining the amount of alimony. If one spouse's earning
704 capacity has been greatly enhanced through the efforts of both spouses during the marriage, the
705 court may make a compensating adjustment in dividing the marital property and awarding alimony.

706 (f) In determining alimony when a marriage of short duration dissolves, and no children
707 have been conceived or born during the marriage, the court may consider restoring each party to

708 the condition which existed at the time of the marriage.

709 (g) (i) The court has continuing jurisdiction to make substantive changes and new orders
710 regarding alimony based on a substantial material change in circumstances not foreseeable at the
711 time of the divorce.

712 (ii) The court may not modify alimony or issue a new order for alimony to address needs
713 of the recipient that did not exist at the time the decree was entered, unless the court finds
714 extenuating circumstances that justify that action.

715 (iii) In determining alimony, the income of any subsequent spouse of the payor may not
716 be considered, except as provided in this Subsection (7).

717 (A) The court may consider the subsequent spouse's financial ability to share living
718 expenses.

719 (B) The court may consider the income of a subsequent spouse if the court finds that the
720 payor's improper conduct justifies that consideration.

721 (h) Alimony may not be ordered for a duration longer than the number of years that the
722 marriage existed unless, at any time prior to termination of alimony, the court finds extenuating
723 circumstances that justify the payment of alimony for a longer period of time.

724 (8) Unless a decree of divorce specifically provides otherwise, any order of the court that
725 a party pay alimony to a former spouse automatically terminates upon the remarriage or death of
726 that former spouse. However, if the remarriage is annulled and found to be void ab initio, payment
727 of alimony shall resume if the party paying alimony is made a party to the action of annulment and
728 his rights are determined.

729 (9) Any order of the court that a party pay alimony to a former spouse terminates upon
730 establishment by the party paying alimony that the former spouse is cohabitating with another
731 person.

732 Section 18. Section **57-1-45** is enacted to read:

733 **57-1-45. Notice required for metes and bounds document -- Remedy.**

734 (1) (a) Except as provided in Subsection (1)(b), each document that conveys property by
735 metes and bounds but does not contain the certificate or written approval required under
736 Subsection 10-9-806(1) or 17-27-806(1) shall state in conspicuous, boldface type and in capital
737 letters on the signature page of the document the following: "NOTICE: COMPLIANCE WITH
738 LOCAL ORDINANCES IS NECESSARY IN ORDER FOR THE PROPERTY DESCRIBED IN

739 THIS DOCUMENT TO BE DEVELOPED OR BUILT UPON."

740 (b) Subsection (1)(a) does not apply if the lot or parcel being conveyed is the same lot or
741 parcel conveyed previously by a recorded conveyance that contains the certificate or written
742 approval required by Subsection 10-9-806(1) or 17-27-806(1).

743 (2) The absence of the notice required under Subsection (1) does not affect the validity of
744 the document or prevent it from being recorded.

745 (3) The grantee named in a document that does not comply with Subsection (1) may bring
746 an action against the grantor for damages resulting from the failure to comply or for other
747 appropriate relief.

748 (4) Except as otherwise expressly provided in this section, the presence or absence of the
749 notice required under Subsection (1) does not affect:

750 (a) rights and duties that a grantor would otherwise have under the law; or

751 (b) rights and duties that a grantee would otherwise have under the law.

752 Section 19. Section **75-3-917** is enacted to read:

753 **75-3-917. Conveyance of real property.**

754 Each owner who prepares or causes to be prepared a document that conveys title to real
755 property shall comply with Section 57-1-45.