

**LOCAL LAND USE DEVELOPMENT AND
MANAGEMENT AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory S. Bell

House Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill modifies county and municipal land use, development, and management provisions.

Highlighted Provisions:

This bill:

- ▶ reorganizes and modifies county and municipal land use, development, and management provisions;
- ▶ includes the protection of access to sunlight for solar energy devices in the statement of the purposes of county and municipal land use provisions;
- ▶ modifies provisions giving counties and municipalities general authority over land use matters;
- ▶ modifies existing and adds new definitions;
- ▶ modifies notice provisions related to land use applications, the preparation of a general plan and amendments, land use ordinances, and subdivisions;
- ▶ modifies provisions related to planning commission appointment and powers;
- ▶ modifies provisions related to the preparation, adoption, content, and effect of a general plan;
- ▶ modifies provisions related to the preparation, adoption, and content of land use ordinances;
- ▶ enacts a provision relating to the imposition of exactions;
- ▶ enacts provisions related to land use approval standards and the rights that vest with

approval;

- ▶ modifies provisions related to the preparation, enactment, and content of subdivision ordinances;

- ▶ modifies provisions related to subdivision plats;
- ▶ provides that a transfer of land by a void plat is voidable;
- ▶ modifies a provision relating to exemptions from plat requirements;
- ▶ authorizes counties and municipalities to designate a land use authority to decide

certain land use matters;

- ▶ requires counties and municipalities to designate an appeal authority to handle appeals of certain land use matters;

- ▶ enacts provisions relating to procedures and standards applicable to appeals before the appeal authority;

- ▶ modifies provisions relating to appeals to the district court;
- ▶ repeals provisions relating to a board of adjustment;
- ▶ repeals provisions relating to vacating a street or alley;
- ▶ repeals a provision relating to planning commission organization and procedures; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

9-4-1204, as last amended by Chapter 65, Laws of Utah 2002

10-8-2, as last amended by Chapter 99, Laws of Utah 2004

10-8-8, as last amended by Chapter 1, Laws of Utah 1966, Second Special Session

11-36-201, as last amended by Chapter 99, Laws of Utah 2004

11-36-202, as last amended by Chapter 211, Laws of Utah 2000

- 11-36-401**, as last amended by Chapter 211, Laws of Utah 2000
- 17-34-6**, as enacted by Chapter 107, Laws of Utah 2001
- 17-50-302**, as last amended by Chapters 99 and 166, Laws of Utah 2004
- 17B-4-402**, as last amended by Chapter 205, Laws of Utah 2002
- 57-3-101**, as last amended by Chapter 291, Laws of Utah 2002
- 57-8-35**, as last amended by Chapter 265, Laws of Utah 2003
- 58-56-4**, as last amended by Chapters 75 and 110, Laws of Utah 2004
- 59-2-301.2**, as enacted by Chapter 134, Laws of Utah 2002
- 59-2-502**, as last amended by Chapter 208, Laws of Utah 2003
- 59-2-511**, as last amended by Chapter 208, Laws of Utah 2003
- 62A-6-101**, as last amended by Chapter 108, Laws of Utah 1997
- 63A-5-206**, as last amended by Chapters 216 and 231, Laws of Utah 2000
- 72-5-401**, as enacted by Chapter 34, Laws of Utah 2000
- 72-7-502**, as last amended by Chapter 166, Laws of Utah 2003

ENACTS:

- 10-9a-201**, Utah Code Annotated 1953
- 10-9a-202**, Utah Code Annotated 1953
- 10-9a-204**, Utah Code Annotated 1953
- 10-9a-205**, Utah Code Annotated 1953
- 10-9a-206**, Utah Code Annotated 1953
- 10-9a-207**, Utah Code Annotated 1953
- 10-9a-208**, Utah Code Annotated 1953
- 10-9a-209**, Utah Code Annotated 1953
- 10-9a-405**, Utah Code Annotated 1953
- 10-9a-508**, Utah Code Annotated 1953
- 10-9a-509**, Utah Code Annotated 1953
- 10-9a-513**, Utah Code Annotated 1953
- 10-9a-701**, Utah Code Annotated 1953

- 10-9a-703**, Utah Code Annotated 1953
- 10-9a-704**, Utah Code Annotated 1953
- 10-9a-705**, Utah Code Annotated 1953
- 10-9a-706**, Utah Code Annotated 1953
- 10-9a-707**, Utah Code Annotated 1953
- 10-9a-708**, Utah Code Annotated 1953
- 17-27a-201**, Utah Code Annotated 1953
- 17-27a-202**, Utah Code Annotated 1953
- 17-27a-204**, Utah Code Annotated 1953
- 17-27a-205**, Utah Code Annotated 1953
- 17-27a-206**, Utah Code Annotated 1953
- 17-27a-207**, Utah Code Annotated 1953
- 17-27a-208**, Utah Code Annotated 1953
- 17-27a-209**, Utah Code Annotated 1953
- 17-27a-405**, Utah Code Annotated 1953
- 17-27a-507**, Utah Code Annotated 1953
- 17-27a-508**, Utah Code Annotated 1953
- 17-27a-512**, Utah Code Annotated 1953
- 17-27a-701**, Utah Code Annotated 1953
- 17-27a-703**, Utah Code Annotated 1953
- 17-27a-704**, Utah Code Annotated 1953
- 17-27a-705**, Utah Code Annotated 1953
- 17-27a-706**, Utah Code Annotated 1953
- 17-27a-707**, Utah Code Annotated 1953
- 17-27a-708**, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 10-9a-101**, (Renumbered from 10-9-101, as enacted by Chapter 235, Laws of Utah 1991)
- 10-9a-102**, (Renumbered from 10-9-102, as last amended by Chapter 93, Laws of Utah)

1992)

10-9a-103, (Renumbered from 10-9-103, as last amended by Chapters 34 and 209, Laws of Utah 2000)

10-9a-104, (Renumbered from 10-9-104, as last amended by Chapter 73, Laws of Utah 2001)

10-9a-203, (Renumbered from 10-9-301.5, as enacted by Chapter 99, Laws of Utah 2004)

10-9a-301, (Renumbered from 10-9-201, as enacted by Chapter 235, Laws of Utah 1991)

10-9a-302, (Renumbered from 10-9-204, as enacted by Chapter 235, Laws of Utah 1991)

10-9a-303, (Renumbered from 10-9-205, as last amended by Chapter 23, Laws of Utah

1992)

10-9a-304, (Renumbered from 10-9-105, as last amended by Chapter 23, Laws of Utah

1992)

10-9a-305, (Renumbered from 10-9-106, as last amended by Chapter 149, Laws of Utah

1999)

10-9a-401, (Renumbered from 10-9-301, as last amended by Chapter 99, Laws of Utah

2004)

10-9a-402, (Renumbered from 10-9-203, as enacted by Chapter 235, Laws of Utah 1991)

10-9a-403, (Renumbered from 10-9-302, as last amended by Chapter 99, Laws of Utah

2004)

10-9a-404, (Renumbered from 10-9-303, as last amended by Chapter 23, Laws of Utah

1992)

10-9a-406, (Renumbered from 10-9-305, as last amended by Chapter 124, Laws of Utah

2003)

10-9a-407, (Renumbered from 10-9-306, as last amended by Chapter 34, Laws of Utah

2000)

10-9a-408, (Renumbered from 10-9-307, as last amended by Chapter 202, Laws of Utah

2004)

10-9a-501, (Renumbered from 10-9-401, as enacted by Chapter 235, Laws of Utah 1991)

- 10-9a-502**, (Renumbered from 10-9-402, as last amended by Chapter 79, Laws of Utah 1995)
- 10-9a-503**, (Renumbered from 10-9-403, as enacted by Chapter 235, Laws of Utah 1991)
- 10-9a-504**, (Renumbered from 10-9-404, as last amended by Chapter 270, Laws of Utah 1998)
- 10-9a-505**, (Renumbered from 10-9-405, as enacted by Chapter 235, Laws of Utah 1991)
- 10-9a-506**, (Renumbered from 10-9-406, as enacted by Chapter 235, Laws of Utah 1991)
- 10-9a-507**, (Renumbered from 10-9-407, as last amended by Chapter 179, Laws of Utah 1995)
- 10-9a-510**, (Renumbered from 10-9-107, as enacted by Chapter 169, Laws of Utah 1999)
- 10-9a-511**, (Renumbered from 10-9-408, as last amended by Chapter 138, Laws of Utah 2004)
- 10-9a-512**, (Renumbered from 10-9-409, as enacted by Chapter 263, Laws of Utah 1997)
- 10-9a-514**, (Renumbered from 10-9-106.5, as last amended by Chapter 253, Laws of Utah 2001)
- 10-9a-515**, (Renumbered from 10-9-108, as enacted by Chapter 111, Laws of Utah 2003)
- 10-9a-516**, (Renumbered from 10-9-501, as last amended by Chapter 23, Laws of Utah 1992)
- 10-9a-517**, (Renumbered from 10-9-502, as last amended by Chapter 140, Laws of Utah 1999)
- 10-9a-518**, (Renumbered from 10-9-503, as enacted by Chapter 235, Laws of Utah 1991)
- 10-9a-519**, (Renumbered from 10-9-504, as last amended by Chapter 108, Laws of Utah 1997)
- 10-9a-520**, (Renumbered from 10-9-605, as last amended by Chapter 283, Laws of Utah 2003)
- 10-9a-601**, (Renumbered from 10-9-801, as last amended by Chapter 23, Laws of Utah 1992)
- 10-9a-602**, (Renumbered from 10-9-802, as last amended by Chapter 23, Laws of Utah

1992)

10-9a-603, (Renumbered from 10-9-804, as last amended by Chapter 211, Laws of Utah

2003)

10-9a-604, (Renumbered from 10-9-805, as last amended by Chapter 241, Laws of Utah

2001)

10-9a-605, (Renumbered from 10-9-806, as last amended by Chapter 291, Laws of Utah

2002)

10-9a-606, (Renumbered from 10-9-806.5, as enacted by Chapter 241, Laws of Utah

2001)

10-9a-607, (Renumbered from 10-9-807, as last amended by Chapter 209, Laws of Utah

2000)

10-9a-608, (Renumbered from 10-9-808, as last amended by Chapter 211, Laws of Utah

2003)

10-9a-609, (Renumbered from 10-9-810, as last amended by Chapter 179, Laws of Utah

1995)

10-9a-610, (Renumbered from 10-9-901, as enacted by Chapter 235, Laws of Utah 1991)

10-9a-611, (Renumbered from 10-9-811, as last amended by Chapter 241, Laws of Utah

2001)

10-9a-702, (Renumbered from 10-9-707, as last amended by Chapter 23, Laws of Utah

1992)

10-9a-801, (Renumbered from 10-9-1001, as last amended by Chapter 223, Laws of Utah

2004)

10-9a-802, (Renumbered from 10-9-1002, as enacted by Chapter 235, Laws of Utah

1991)

10-9a-803, (Renumbered from 10-9-1003, as last amended by Chapter 23, Laws of Utah

1992)

17-27a-101, (Renumbered from 17-27-101, as enacted by Chapter 235, Laws of Utah

1991)

17-27a-102, (Renumbered from 17-27-102, as last amended by Chapter 107, Laws of Utah 2001)

17-27a-103, (Renumbered from 17-27-103, as last amended by Chapters 66 and 241, Laws of Utah 2001)

17-27a-104, (Renumbered from 17-27-104, as last amended by Chapter 73, Laws of Utah 2001)

17-27a-203, (Renumbered from 17-27-301.5, as enacted by Chapter 99, Laws of Utah 2004)

17-27a-301, (Renumbered from 17-27-201, as last amended by Chapter 13, Laws of Utah 1998)

17-27a-302, (Renumbered from 17-27-204, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session)

17-27a-303, (Renumbered from 17-27-205, as last amended by Chapter 225, Laws of Utah 1995)

17-27a-304, (Renumbered from 17-27-104.5, as enacted by Chapter 179, Laws of Utah 1995)

17-27a-305, (Renumbered from 17-27-105, as last amended by Chapter 149, Laws of Utah 1999)

17-27a-306, (Renumbered from 17-27-200.5, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session)

17-27a-307, (Renumbered from 17-27-206, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session)

17-27a-401, (Renumbered from 17-27-301, as last amended by Chapter 99, Laws of Utah 2004)

17-27a-402, (Renumbered from 17-27-203, as last amended by Chapter 225, Laws of Utah 1995)

17-27a-403, (Renumbered from 17-27-302, as last amended by Chapter 99, Laws of Utah 2004)

17-27a-404, (Renumbered from 17-27-303, as last amended by Chapter 16, Laws of Utah 2003)

17-27a-406, (Renumbered from 17-27-305, as last amended by Chapter 124, Laws of Utah 2003)

17-27a-407, (Renumbered from 17-27-306, as last amended by Chapter 34, Laws of Utah 2000)

17-27a-408, (Renumbered from 17-27-307, as last amended by Chapter 202, Laws of Utah 2004)

17-27a-409, (Renumbered from 17-27-308, as enacted by Chapter 107, Laws of Utah 2001)

17-27a-501, (Renumbered from 17-27-401, as enacted by Chapter 235, Laws of Utah 1991)

17-27a-502, (Renumbered from 17-27-402, as last amended by Chapter 23, Laws of Utah 1992)

17-27a-503, (Renumbered from 17-27-403, as enacted by Chapter 235, Laws of Utah 1991)

17-27a-504, (Renumbered from 17-27-404, as last amended by Chapter 270, Laws of Utah 1998)

17-27a-505, (Renumbered from 17-27-405, as enacted by Chapter 235, Laws of Utah 1991)

17-27a-506, (Renumbered from 17-27-406, as last amended by Chapter 241, Laws of Utah 2001)

17-27a-509, (Renumbered from 17-27-106, as last amended by Chapter 131, Laws of Utah 2003)

17-27a-510, (Renumbered from 17-27-407, as last amended by Chapter 138, Laws of Utah 2004)

17-27a-511, (Renumbered from 17-27-408, as enacted by Chapter 263, Laws of Utah 1997)

17-27a-513, (Renumbered from 17-27-105.5, as last amended by Chapter 253, Laws of Utah 2001)

17-27a-514, (Renumbered from 17-27-107, as enacted by Chapter 111, Laws of Utah 2003)

17-27a-515, (Renumbered from 17-27-501, as last amended by Chapter 23, Laws of Utah 1992)

17-27a-516, (Renumbered from 17-27-502, as last amended by Chapter 140, Laws of Utah 1999)

17-27a-517, (Renumbered from 17-27-503, as enacted by Chapter 235, Laws of Utah 1991)

17-27a-518, (Renumbered from 17-27-504, as last amended by Chapter 108, Laws of Utah 1997)

17-27a-519, (Renumbered from 17-27-605, as last amended by Chapter 283, Laws of Utah 2003)

17-27a-601, (Renumbered from 17-27-801, as enacted by Chapter 235, Laws of Utah 1991)

17-27a-602, (Renumbered from 17-27-802, as last amended by Chapter 23, Laws of Utah 1992)

17-27a-603, (Renumbered from 17-27-804, as last amended by Chapter 211, Laws of Utah 2003)

17-27a-604, (Renumbered from 17-27-805, as last amended by Chapter 241, Laws of Utah 2001)

17-27a-605, (Renumbered from 17-27-806, as last amended by Chapter 211, Laws of Utah 2003)

17-27a-606, (Renumbered from 17-27-806.5, as enacted by Chapter 241, Laws of Utah 2001)

17-27a-607, (Renumbered from 17-27-807, as last amended by Chapter 209, Laws of Utah 2000)

17-27a-608, (Renumbered from 17-27-808, as last amended by Chapter 211, Laws of Utah 2003)

17-27a-609, (Renumbered from 17-27-810, as last amended by Chapter 241, Laws of Utah 2001)

17-27a-610, (Renumbered from 17-27-901, as last amended by Chapter 241, Laws of Utah 2001)

17-27a-611, (Renumbered from 17-27-811, as last amended by Chapter 291, Laws of Utah 2002)

17-27a-702, (Renumbered from 17-27-707, as last amended by Chapter 179, Laws of Utah 1995)

17-27a-801, (Renumbered from 17-27-1001, as last amended by Chapter 223, Laws of Utah 2004)

17-27a-802, (Renumbered from 17-27-1002, as enacted by Chapter 235, Laws of Utah 1991)

17-27a-803, (Renumbered from 17-27-1003, as last amended by Chapter 23, Laws of Utah 1992)

REPEALS:

10-8-8.1, as last amended by Chapter 180, Laws of Utah 1995

10-8-8.2, as last amended by Chapter 180, Laws of Utah 1995

10-8-8.3, as enacted by Chapter 14, Laws of Utah 1955

10-8-8.4, as last amended by Chapter 84, Laws of Utah 1997

10-9-103.5, as enacted by Chapter 339, Laws of Utah 1999

10-9-202, as enacted by Chapter 235, Laws of Utah 1991

10-9-304, as enacted by Chapter 235, Laws of Utah 1991

10-9-701, as last amended by Chapter 23, Laws of Utah 1992

10-9-702, as last amended by Chapter 23, Laws of Utah 1992

10-9-703, as last amended by Chapter 23, Laws of Utah 1992

10-9-704, as last amended by Chapter 179, Laws of Utah 1995

- 10-9-705, as last amended by Chapter 23, Laws of Utah 1992
- 10-9-706, as enacted by Chapter 235, Laws of Utah 1991
- 10-9-708, as last amended by Chapter 223, Laws of Utah 2004
- 10-9-803, as enacted by Chapter 235, Laws of Utah 1991
- 10-9-809, as last amended by Chapter 69, Laws of Utah 1997
- 17-27-103.5, as enacted by Chapter 339, Laws of Utah 1999
- 17-27-202, as last amended by Chapters 179 and 225, Laws of Utah 1995
- 17-27-304, as enacted by Chapter 235, Laws of Utah 1991
- 17-27-701, as last amended by Chapter 179, Laws of Utah 1995
- 17-27-702, as last amended by Chapter 241, Laws of Utah 2001
- 17-27-703, as last amended by Chapter 241, Laws of Utah 2001
- 17-27-704, as last amended by Chapter 241, Laws of Utah 2001
- 17-27-705, as last amended by Chapter 23, Laws of Utah 1992
- 17-27-706, as enacted by Chapter 235, Laws of Utah 1991
- 17-27-708, as last amended by Chapter 223, Laws of Utah 2004
- 17-27-803, as enacted by Chapter 235, Laws of Utah 1991
- 17-27-809, as last amended by Chapter 241, Laws of Utah 2001

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

Section 1. Section **9-4-1204** is amended to read:

9-4-1204. Technical assistance to political subdivisions for housing plan.

(1) Within appropriations from the Legislature, the division shall establish a program to assist municipalities to meet the requirements of Section [~~10-9-307~~] 10-9a-408 and counties to meet the requirements of Section [~~17-27-307~~] 17-27a-408. Assistance under this section may include:

- (a) financial assistance for the cost of developing a plan for low and moderate income housing;
- (b) information on how to meet present and prospective needs for low and moderate

income housing; and

(c) technical advice and consultation on how to facilitate the creation of low and moderate income housing.

(2) The division shall annually report to the Workforce Services and Community and Economic Development Interim Committee, and to the Health and Human Services Interim Committee regarding the scope, amount, and type of assistance provided to municipalities and counties under this section, including the number of low and moderate income housing units constructed or rehabilitated within the state.

Section 2. Section **10-8-2** is amended to read:

10-8-2. Appropriations -- Acquisition and disposal of property -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.

(1) A municipal legislative body may:

(a) appropriate money for corporate purposes only;

(b) provide for payment of debts and expenses of the corporation;

(c) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and dispose of real and personal property for the benefit of the municipality, whether the property is within or without the municipality's corporate boundaries;

(d) improve, protect, and do any other thing in relation to this property that an individual could do; and

(e) subject to Subsection (2) and after first holding a public hearing, authorize municipal services or other nonmonetary assistance to be provided to or waive fees required to be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

(2) Services or assistance provided pursuant to Subsection (1)(e) is not subject to the provisions of Subsection (3). The total amount of services or other nonmonetary assistance provided or fees waived under Subsection (1)(e) in any given fiscal year may not exceed 1% of the municipality's budget for that fiscal year.

(3) It is considered a corporate purpose to appropriate money for any purpose that, in the judgment of the municipal legislative body, provides for the safety, health, prosperity, moral

well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject to the following:

(a) The net value received for any money appropriated shall be measured on a project-by-project basis over the life of the project.

(b) The criteria for a determination under this Subsection (3) shall be established by the municipality's legislative body. A determination of value received, made by the municipality's legislative body, shall be presumed valid unless it can be shown that the determination was arbitrary, capricious, or illegal.

(c) The municipality may consider intangible benefits received by the municipality in determining net value received.

(d) Prior to the municipal legislative body making any decision to appropriate any funds for a corporate purpose under this section, a public hearing shall be held. Notice of the hearing shall be published in a newspaper of general circulation at least 14 days prior to the date of the hearing, or, if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the municipality for the same time period.

(e) A study shall be performed before notice of the public hearing is given and shall be made available at the municipality for review by interested parties at least 14 days immediately prior to the public hearing, setting forth an analysis and demonstrating the purpose for the appropriation. In making the study, the following factors shall be considered:

(i) what identified benefit the municipality will receive in return for any money or resources appropriated;

(ii) the municipality's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality; and

(iii) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the municipality in the area of economic development, job creation, affordable housing, blight elimination, job preservation, the preservation of historic structures and property, and any other public purpose.

(f) An appeal may be taken from a final decision of the municipal legislative body, to make an appropriation. The appeal shall be filed within 30 days after the date of that decision, to the district court. Any appeal shall be based on the record of the proceedings before the legislative body. A decision of the municipal legislative body shall be presumed to be valid unless the appealing party shows that the decision was arbitrary, capricious, or illegal.

(g) The provisions of this Subsection (3) apply only to those appropriations made after May 6, 2002.

(h) This section shall only apply to appropriations not otherwise approved pursuant to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

(4) (a) Before a municipality may dispose of a significant parcel of real property, the municipality shall:

(i) provide reasonable notice of the proposed disposition at least 14 days before the opportunity for public comment under Subsection (4)(a)(ii); and

(ii) allow an opportunity for public comment on the proposed disposition.

(b) Each municipality shall, by ordinance, define what constitutes:

(i) a significant parcel of real property for purposes of Subsection (4)(a); and

(ii) reasonable notice for purposes of Subsection (4)(a)(i).

(5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire real property for the purpose of expanding the municipality's infrastructure or other facilities used for providing services that the municipality offers or intends to offer shall provide written notice, as provided in this Subsection (5), of its intent to acquire the property if:

(i) the property is located:

(A) outside the boundaries of the municipality; and

(B) in a county of the first or second class; and

(ii) the intended use of the property is contrary to:

(A) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or

(B) the property's current zoning designation.

(b) Each notice under Subsection (5)(a) shall:

(i) indicate that the municipality intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (5) is a protected record as provided in Subsection 63-2-304(7).

(d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality previously provided notice under Section ~~[10-9-301.5]~~ 10-9a-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a municipality is not required to comply with the notice requirement of Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real property.

Section 3. Section **10-8-8** is amended to read:

10-8-8. Streets, parks, airports, parking facilities, public grounds, and pedestrian malls.

~~[They]~~ A municipal legislative body may lay out, establish, open, alter, widen, narrow, extend, grade, pave, or otherwise improve streets, alleys, avenues, boulevards, sidewalks, parks, airports, parking lots, or other facilities for the parking of vehicles off streets, public grounds, and pedestrian malls and may vacate the same or parts thereof, ~~[by ordinance]~~ as provided in this title.

Section 4. Section **10-9a-101**, which is renumbered from Section 10-9-101 is renumbered and amended to read:

CHAPTER 9a. MUNICIPAL LAND USE, DEVELOPMENT, AND MANAGEMENT

ACT

Part 1. General Provisions

~~[10-9-101].~~ **10-9a-101. Title.**

This chapter ~~[shall be]~~ is known as [~~The~~] the "Municipal Land Use, Development, and Management Act."

Section 5. Section **10-9a-102**, which is renumbered from Section 10-9-102 is renumbered and amended to read:

~~[10-9-102].~~ **10-9a-102. Purposes -- General land use authority.**

~~[To accomplish the purpose]~~

(1) The purposes of this chapter~~[, and in order]~~ are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of [~~the~~] each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, and to protect property values~~[;]~~.

(2) To accomplish the purposes of this chapter, municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, [~~and~~] rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, and height and location of vegetation, [~~and~~] trees, and landscaping, unless [~~those ordinances, resolutions, or rules are~~] expressly prohibited by law.

Section 6. Section **10-9a-103**, which is renumbered from Section 10-9-103 is renumbered and amended to read:

~~[10-9-103].~~ **10-9a-103. Definitions.**

~~[The]~~ As used in this chapter:

(1) "Affected entity" means a county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, 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's boundaries or facilities are within one mile of land which is the subject of a general plan amendment or land use ordinance change.

(2) "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.

~~[(a)]~~ (3) "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.

~~[(b)]~~ (4) "Chief executive officer" means the:

~~[(i) the]~~ (a) mayor in municipalities operating under all forms of municipal government except the council-manager form; or

~~[(ii) the]~~ (b) city manager in municipalities operating under the council-manager form of municipal government.

~~[(c)]~~ (5) "Conditional use" means a land use that, because of its unique characteristics or potential impact 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.

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

~~[(e) "County" means the unincorporated area of the county.]~~

(6) "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.

(7) "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.

(8) (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.

~~[(f)]~~ (9) "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

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

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

~~[(h) "Legislative body" means the city council or city commission.]~~

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

~~[(j) "Municipality" means a city or town.]~~

~~[(k) "Nonconforming"]~~

(11) "Identical plans" means building plans submitted to a municipality that are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality and describe a building that is:

(a) located on land zoned the same as the land on which the building described in the previously approved plans is located; and

(b) subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans.

(12) "Land use application" means an application required by a municipality's land use ordinance.

(13) "Land use authority" means a person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.

(14) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.

(15) "Legislative body" means the municipal council.

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

(17) "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.

(18) "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.

(19) "Noncomplying structure" means a structure that:

[(i)] (a) legally existed before its current [~~zoning~~] land use designation; and

[(ii)] (b) because of one or more subsequent [~~zoning~~] land use ordinance changes, does not conform [~~with~~] to the [~~zoning regulation's~~] setback, height restrictions, or other regulations [~~that~~], excluding those regulations, which govern the [~~structure~~] use of land.

[(+)] (20) "Nonconforming use" means a use of land that:

[(i)] (a) legally existed before its current [~~zoning~~] land use designation;

[(ii)] (b) has been maintained continuously since the time the [~~zoning regulation~~] land use ordinance governing the land changed; and

~~[(iii)]~~ (c) because of one or more subsequent ~~[zoning]~~ land use ordinance changes, does not conform ~~[with]~~ to the ~~[zoning]~~ regulations that now govern the use of the land.

~~[(m)]~~ "Official map" has the same meaning as provided in ~~Section 72-5-401.~~

(21) "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.

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

(23) "Plan for moderate income housing" means a written document adopted by a city legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the city;

(b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;

(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 city's program to encourage an adequate supply of moderate income housing.

~~[(n)]~~ (24) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with ~~[Section 10-9-804]~~ Section 10-9a-603, 17-23-17, or 57-8-13.

(25) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(26) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings.

~~[(t)]~~ (27) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

~~[(p)-(i)]~~ (28) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Part [5 and any ordinance adopted under authority of that part. (ii) "Residential facility for elderly persons"] 4, General Plan, but does not include a health care facility as defined by Section 26-21-2.

(29) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(30) "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.

~~[(q)]~~ (31) "Special district" means [all entities] an entity established under the authority of Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

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

(32) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(33) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

~~[(s)-(i)]~~ (34) (a) "Subdivision" means any land that is divided, resubdivided or proposed

to be divided into two or more lots, parcels, sites, units, plots, 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.

~~[(iv)]~~ (b) "Subdivision" includes:

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

~~[(B)]~~ (ii) except as provided in Subsection ~~[(1)(s)(iii)]~~ (34)(c), divisions of land for ~~[all]~~ residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

~~[(iii)]~~ (c) "Subdivision" does not include:

~~[(A)]~~ (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 ~~[zoning]~~ land use ordinance;

~~[(B)]~~ (ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:

~~[(F)]~~ (A) no new lot is created; and

~~[(H)]~~ (B) the adjustment does not ~~[result in a violation of]~~ violate applicable ~~[zoning]~~ land use ordinances; or

~~[(E)]~~ (iii) a recorded document, executed by the owner of record~~[-];~~

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property~~[-]; or~~

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances.

~~[(iv)]~~ (d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a ^["]subdivision^["] under this Subsection ~~[(1)(s)]~~ (34) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

~~[(t)]~~ (35) "Unincorporated" means the area outside of the incorporated ~~[boundaries of cities and towns]~~ area of a city or town.

~~[(2) (a) A municipality meets the requirements of reasonable notice required by this chapter if it:]~~

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

~~[(ii) gives actual notice of the hearing or meeting.]~~

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

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

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

(36) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 7. Section **10-9a-104**, which is renumbered from Section 10-9-104 is renumbered and amended to read:

~~**[10-9-104].**~~ **10-9a-104.** **Stricter requirements.**

(1) Except as provided in Subsection (2), ~~[municipalities]~~ a municipality may enact ~~[ordinances]~~ an ordinance imposing stricter requirements or higher standards than are required by this chapter.

(2) A municipality may not impose stricter requirements or higher standards than are required by:

(a) Section ~~[10-9-106]~~ 10-9a-305;

~~[(b) Section 10-9-106.5;]~~

~~[(c) Part 5, Residential Facilities for Elderly; and]~~

~~[(d) Part 6, Residential Facilities for Persons with a Disability.]~~

~~(b) Section 10-9a-514;~~

~~(c) Section 10-9a-516; and~~

~~(d) Section 10-9a-520.~~

Section 8. Section **10-9a-201** is enacted to read:

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.

Section 9. Section **10-9a-202** is enacted to read:

10-9a-202. Applicant notice.

For each land use application, the municipality shall notify the applicant of the date, time, and place of each public hearing and public meeting to consider the application and of any final action on a pending application.

Section 10. Section **10-9a-203**, which is renumbered from Section 10-9-301.5 is renumbered and amended to read:

~~[**10-9-301.5**].~~ **10-9a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain municipalities.**

~~[(1) As used in this section:]~~

~~[(a) (i) "Affected entity" means each county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:]~~

~~[(A) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or]~~

~~[(B) that has filed with the municipality a copy of the entity's general or long-range plan.]~~

~~[(ii) "Affected entity" does not include the municipality that is required under this section]~~

to provide notice.]

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

~~[(2)]~~ (1) Before preparing a proposed general plan or ~~[amendments to an existing]~~ a comprehensive general plan amendment, each municipality within a county of the first or second class shall provide ~~[written]~~ ten calendar days notice~~[, as provided in this section,]~~ of its intent to prepare a proposed general plan or ~~[amendments to]~~ a comprehensive general plan~~[-]~~ amendment to:

(a) each affected entity;

(b) the Automated Geographic Reference Center created in Section 63A-6-202;

(c) 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) the state planning coordinator appointed under Section 63-38d-202.

~~[(3)]~~ (2) Each notice under Subsection ~~[(2)]~~ (1) shall:

(a) indicate that the municipality intends to prepare a general plan or ~~[amendments to]~~ 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 ~~[amendments to a general plan]~~ amendment;

(c) be sent ~~[to:]~~ by mail, e-mail, or other effective means;

~~[(i) each affected entity;]~~

~~[(ii) the Automated Geographic Reference Center created in Section 63A-6-202;]~~

~~[(iii) 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]~~

~~[(iv) the state planning coordinator appointed under Section 63-38d-202;]~~

(d) ~~[with respect to the notice to affected entities,]~~ invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or ~~[amendments to a general plan]~~ amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or [~~amendments to a general plan~~] amendment may have [~~on the affected entity~~]; and

(ii) uses of land within the municipality that the affected entity is [~~planning or~~] considering that may conflict with the proposed general plan or [~~amendments to the general plan~~] amendment; and

(e) include the address of an Internet website, if the municipality has one, and the name and telephone number of a person where more information can be obtained concerning the municipality's proposed general plan or [~~amendments to a general plan~~] amendment.

Section 11. Section **10-9a-204** is enacted to read:

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 ten calendar days before the public hearing and shall be:

(a) published in a newspaper of general circulation in the area;

(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) submitted to a newspaper of general circulation in the area; and

(b) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website.

Section 12. Section **10-9a-205** is enacted to read:

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

(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 ordinance; 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 ten 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) published in a newspaper of general circulation in the area at least ten calendar days before the public hearing; or

(ii) mailed at least three 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) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be posted:

(a) in at least three public locations within the municipality; or

(b) on the municipality's official website.

Section 13. Section **10-9a-206** is enacted to read:

10-9a-206. Third party notice.

(1) If a municipality requires notice to adjacent property owners, the municipality shall:

(a) mail notice to the record owner of each parcel within parameters specified by municipal ordinance; or

(b) 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.

(2) If a municipality mails notice to third party property owners under Subsection (1), it shall mail equivalent notice to property owners within an adjacent jurisdiction.

Section 14. Section **10-9a-207** is enacted to read:

10-9a-207. Notice for a proposed subdivision or amendment or a multiple-unit residential or commercial or industrial development.

(1) For a proposed subdivision or an amendment to a subdivision, each municipality shall provide notice of the date, time, and place of a public hearing that is:

(a) mailed not less than three calendar days before the public hearing and addressed to the record owner of each parcel within specified parameters of that property; or

(b) posted not less than three calendar days before the public hearing, 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 mail notice to each affected entity of a public hearing to consider a preliminary plat describing a multiple-unit residential development or a commercial or industrial development.

(3) 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.

Section 15. Section **10-9a-208** is enacted to read:

10-9a-208. Hearing and notice for proposal to vacate, alter, or amend a plat.

For any proposal to vacate, alter, or amend a platted street, the land use authority shall hold a public hearing and shall give notice of the date, place, and time of the hearing by:

(1) mailing notice as required in Section 10-9a-207;

(2) mailing notice to each affected entity; and

(3) (a) publishing notice once a week for four consecutive weeks before the hearing in a newspaper of general circulation in the municipality in which the land subject to the petition is located; or

(b) if there is no newspaper of general circulation in the municipality, posting the property and posting notice in three public places for four consecutive weeks before the hearing.

Section 16. Section **10-9a-209** is enacted to read:

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.

Section 17. Section **10-9a-301**, which is renumbered from Section 10-9-201 is renumbered and amended to read:

Part 3. Planning Commission

[10-9-201]. 10-9a-301. Ordinance establishing planning commission required -- Ordinance requirements -- Compensation.

(1) (a) Each municipality [~~may~~] 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; [~~and~~]

(iv) the authority of the planning commission; and

[(iv)] (v) other details relating to the organization and procedures of the planning commission.

(2) The legislative body may fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended.

Section 18. Section **10-9a-302**, which is renumbered from Section 10-9-204 is renumbered and amended to read:

[10-9-204]. 10-9a-302. Planning commission powers and duties.

The planning commission shall [~~:(1) prepare and recommend~~] make a recommendation

to the legislative body for:

~~(1) a general plan and amendments to the general plan [to the legislative body as provided in this chapter];~~

~~[(2) recommend zoning ordinances and maps, and amendments to zoning ordinances and maps, to the legislative body as provided in this chapter;]~~

~~[(3) administer provisions of the zoning ordinance, where specifically provided for in the zoning ordinance adopted by the legislative body;]~~

~~[(4) recommend subdivision regulations and amendments to those regulations to the legislative body as provided in this chapter;]~~

~~[(5) recommend approval or denial of subdivision applications as provided in this chapter;]~~

~~[(6) advise the legislative body on matters as the legislative body directs;]~~

~~[(7) hear or decide any matters that the legislative body designates, including the approval or denial of, or recommendations to approve or deny, conditional use permits;]~~

~~[(8) exercise any other powers;]~~

~~[(a) that are necessary to enable it to perform its function; or]~~

~~[(b) delegated to it by the legislative body;]~~

(2) land use ordinances, zoning maps, official maps, and amendments;

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

(4) 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

(5) application processes that:

(a) 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

(b) shall protect the right of each:

(i) applicant and third party to require formal consideration of any application by a land

use authority;

(ii) applicant, adversely affected party, or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and

(iii) participant to be heard in each public hearing on a contested application.

Section 19. Section **10-9a-303**, which is renumbered from Section 10-9-205 is renumbered and amended to read:

~~[10-9-205].~~ 10-9a-303. Entrance upon land.

The ~~[planning commission or its authorized agents]~~ 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.

Section 20. Section **10-9a-304**, which is renumbered from Section 10-9-105 is renumbered and amended to read:

~~[10-9-105].~~ 10-9a-304. State and federal property.

Unless otherwise provided by law, nothing contained in ~~[Parts 4 and 8 of]~~ this chapter may be construed as giving ~~[the planning commission or the legislative body]~~ a municipality jurisdiction over ~~[properties]~~ property owned by the state ~~[of Utah]~~ or the United States ~~[government]~~.

Section 21. Section **10-9a-305**, which is renumbered from Section 10-9-106 is renumbered and amended to read:

~~[10-9-106].~~ 10-9a-305. Property owned by other government units -- Effect of land use and development ordinances.

(1) (a) Each county, municipality, school district, special district, and political subdivision of ~~[Utah]~~ the state shall conform to ~~[the]~~ any applicable land use ~~[and development ordinances]~~ ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality ~~[only in a manner or for a purpose that conforms to that municipality's ordinances]~~.

(b) In addition to any other remedies provided by law, when a municipality's land use

[~~and development ordinances are being~~] 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 school district is subject to a municipality's land use [~~regulations under this chapter~~] ordinances, except that a municipality may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) require a school district to participate in the cost of any roadway or sidewalk 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 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 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 to pay any impact fee for an improvement project that is not reasonably related to the impact of the project upon the need that the improvement is to address;
or

(f) impose regulations upon the location of a project except as necessary to avoid unreasonable risks to health or safety.

(3) Subject to Section 53A-20-108, a school district shall coordinate the siting of a new school with the municipality in which the school is to be located, to avoid or mitigate existing and potential traffic hazards to maximize school safety.

Section 22. Section **10-9a-401**, which is renumbered from Section 10-9-301 is renumbered and amended to read:

Part 4. General Plan

~~[10-9-301].~~ 10-9a-401. General plan required -- Content.

(1) In order to accomplish the purposes ~~[set forth in]~~ 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 ~~[or any part of the municipality]~~.

(2) The 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) the protection or promotion of moderate income housing;

~~[(f)]~~ (g) the protection and promotion of air quality;

~~[(g)]~~ (h) historic preservation;

~~[(h)]~~ (i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by ~~[affected entities and specified public utilities, as those terms are defined in Section 10-9-301.5]~~ each affected entity; and

~~[(i)]~~ (j) an official map~~[-pursuant to Title 72, Chapter 5, Part 4, Transportation Corridor Preservation]~~.

(3) ~~[The]~~ Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Section 23. Section **10-9a-402**, which is renumbered from Section 10-9-203 is

renumbered and amended to read:

~~[10-9-203].~~ **10-9a-402. Information and technical assistance from the state.**

~~[(1) The planning commission may obtain access to and use any data and information held by the state or any of its agencies:]~~

~~[(a) that is classified "public"; and]~~

~~[(b) that is classified "protected" if the planning commission's use of the data is lawfully authorized or if the data will be used for a purpose similar to the purpose for which it was gathered:]~~

~~[(2)]~~ Each state official, department, and agency shall:

~~[(a) make]~~ (1) promptly deliver any data and information requested by ~~[the planning commissions available if authorized under the requirements of this section]~~ a municipality unless the disclosure is prohibited by Title 63, Chapter 2, Government Records Access and Management Act; and

~~[(b)]~~ (2) furnish any other technical assistance and advice that they have available to [planning commissions] the municipality without additional cost to the municipality.

Section 24. Section **10-9a-403**, which is renumbered from Section 10-9-302 is renumbered and amended to read:

~~[10-9-302].~~ **10-9a-403. Plan preparation.**

~~[(1) (a) Subject to Section 10-9-301.5, the]~~

(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.

~~[(b)]~~ (c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, [they] those areas are related to the planning of the municipality's territory.

~~[(e)]~~ (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) ~~[(The)]~~ (a) At a minimum, the proposed general plan, with the accompanying maps, [plats,] charts, and descriptive and explanatory matter, shall [show] include the planning commission's recommendations for the [development of the territory covered by the plan, and may include, among other things] following plan elements:

~~[(a)]~~ (i) a land use element that:

~~[(i)]~~ (A) designates the long-term goals and the proposed extent, general distribution, and location ~~[and extent of uses]~~ of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

~~[(ii)]~~ (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;

~~[(b)]~~ (ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that ~~[are]~~ the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan; and

(iii) for cities, an estimate of the need for the development of additional moderate income housing within the city, and a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that cities should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people desiring to live there; and

(B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) may include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation to:

(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) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider general fund subsidies to waive construction related fees that are otherwise generally imposed by the city;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(G) consider utilization of affordable housing programs administered by the Department of Community and Economic Development.

(3) The proposed general plan may include:

[(c)] (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;

~~[(d)]~~ (b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, ~~[local]~~ public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

~~[(e)]~~ (c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation; and

(ii) the diminution or elimination of blight; and ~~[for]~~

~~[(iii)]~~ redevelopment of land, including housing sites, business and industrial sites, and public building sites;

~~[(f)]~~ (d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan ~~[that]~~, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of ~~[base]~~ basic and ~~[residential]~~ secondary industry, primary and secondary market areas, employment, and retail sales activity;

~~[(g)]~~ (e) recommendations for implementing ~~[the]~~ all or any portion of the general plan, including the use of ~~[zoning]~~ land use ordinances, ~~[subdivision ordinances]~~, capital improvement plans, ~~[and]~~ community development and promotion, and any other appropriate ~~[actions]~~ action;

~~[(h)]~~ (f) provisions addressing any of the matters listed in Subsection ~~[10-9-301]~~ 10-9a-401(2); and

~~[(i)]~~ (g) any other ~~[elements]~~ element the municipality considers appropriate.

Section 25. Section **10-9a-404**, which is renumbered from Section 10-9-303 is renumbered and amended to read:

~~[10-9-303].~~ **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 ~~[for all or part of the area within the municipality]~~, 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 [~~reasonable~~] notice of the public hearing [at least 14 days before the date of the hearing], as required by Section 10-9a-204.

(c) After the public hearing, the planning commission may [~~make changes to~~] modify the proposed general plan or amendment.

(2) The planning commission shall [~~then~~] forward the proposed general plan or amendment to the legislative body.

~~[(3) (a) The legislative body shall hold a public hearing on the proposed general plan recommended to it by the planning commission.]~~

~~[(b) The legislative body shall provide reasonable notice of the public hearing at least 14 days before the date of the hearing.]~~

~~[(4) After the public hearing, the]~~

(3) The legislative body may make any [~~modifications~~] revisions to the proposed general plan or amendment that it considers appropriate.

~~[(5) (4) (a) The municipal legislative body may[:(a)] adopt or reject the proposed general plan [~~without~~] or amendment[:(b) amend the] either as proposed [~~general plan and adopt or reject it as amended; or (c) reject~~] by the planning commission or after making any revision that the municipal legislative body considers appropriate.~~

(b) If the municipal legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for its consideration.

~~[(6) (a) The general plan is an advisory guide for land use decisions.]~~

~~[(b) The legislative body may adopt an ordinance mandating compliance with the general plan.]~~

(5) 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 all cities, after considering the factors included in Subsection 10-9a-403(2)(b)(ii).

a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur.

Section 26. Section **10-9a-405** is enacted to read:

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.

Section 27. Section **10-9a-406**, which is renumbered from Section 10-9-305 is renumbered and amended to read:

[10-9-305]. 10-9a-406. Public uses to conform to general plan.

After the legislative body has adopted a general plan [~~or any amendments to the 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[~~;~~or].

[~~(2) it has been considered by the planning commission and, after receiving the advice of the planning commission, the legislative body approves it as an amendment to the general plan.~~]

Section 28. Section **10-9a-407**, which is renumbered from Section 10-9-306 is renumbered and amended to read:

[10-9-306]. 10-9a-407. Effect of official maps.

(1) Municipalities may adopt an official map [~~in accordance with the provisions of Title 72, Chapter 5, Part 4, Transportation Corridor Preservation~~].

(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) [~~requiring a landowner to take into account~~] 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.

~~[(3) An official map may not be used to unconstitutionally prohibit the development of property designated for eventual use as a public street.]~~

~~[(4) An adopted official map shall be available for public inspection upon request.]~~

Section 29. Section **10-9a-408**, which is renumbered from Section 10-9-307 is renumbered and amended to read:

~~[10-9-307].~~ **10-9a-408. Biennial review of moderate income housing element of general plan.**

~~[(1) The availability of moderate income housing is an issue of statewide concern. To this end:]~~

~~[(a) cities should afford a reasonable opportunity for a variety of housing, including moderate income housing, to meet the needs of people desiring to live there; and]~~

~~[(b) moderate income housing should be encouraged to allow persons with moderate incomes to benefit from and to fully participate in all aspects of neighborhood and community life.]~~

~~[(2) As used in this section:]~~

~~[(a) "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.]~~

~~[(b) "Plan for moderate income housing" or "plan" means a written document adopted by a city legislative body that includes:]~~

~~[(i) an estimate of the existing supply of moderate income housing located within the city;]~~

~~[(ii) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;]~~

~~[(iii) a survey of total residential zoning;]~~

~~[(iv) an evaluation of how existing zoning densities affect opportunities for moderate income housing; and]~~

~~[(v) a description of the city's program to encourage an adequate supply of moderate income housing.]]~~

~~[(3) The legislative body of each city shall, as part of its general plan, adopt a plan for moderate income housing within that city.]~~

~~[(4) A plan may provide moderate income housing by any means or combination of techniques which provide a realistic opportunity to meet estimated needs. The plan may include an analysis of why the means or techniques selected provide a realistic opportunity to meet the objectives of this section. Such techniques may include:]~~

~~[(a) rezoning for densities necessary to assure the economic viability of inclusionary developments, either through mandatory set asides or density bonuses;]~~

~~[(b) infrastructure expansion and rehabilitation that will facilitate the construction of moderate income housing;]~~

~~[(c) rehabilitation of existing uninhabitable housing stock;]~~

~~[(d) consideration of waiving construction related fees generally imposed by the city;]~~

~~[(e) utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;]~~

~~[(f) utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and]~~

~~[(g) utilization of affordable housing programs administered by the Department of Community and Economic Development.]~~

~~[(5) (a) After adoption of a plan for moderate income housing under Subsection (3), the]~~

~~(1) The legislative body of each city shall biennially:~~

~~[(1) (a) review the moderate income housing plan element of its general plan and its~~

implementation; and

[(ii)] (b) prepare a report setting forth the findings of the review.

[(b)] (2) Each report under Subsection [(5)(a)(ii)] (1) shall include a description of:

[(i)] (a) efforts made by the city to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;

[(ii)] (b) actions taken by the city to encourage preservation of existing moderate income housing and development of new moderate income housing;

[(iii)] (c) progress made within the city to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and

[(iv)] (d) efforts made by the city to coordinate moderate income housing plans and actions with neighboring municipalities.

[(e)] (3) The legislative body of each city shall send a copy of the report under Subsection [(5)(a)(ii)] (1) to the Department of Community and Economic Development and the association of governments in which the city is located.

[(6)] (4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief ~~[only]~~.

Section 30. Section **10-9a-501**, which is renumbered from Section 10-9-401 is renumbered and amended to read:

Part 5. Land Use Ordinances

~~[10-9-401].~~ **10-9a-501. Authority to enact land use ordinances and zoning map.**

The legislative body may enact [~~a zoning ordinance establishing regulations for land use and development that furthers the intent of this chapter~~] land use ordinances and a zoning map.

Section 31. Section **10-9a-502**, which is renumbered from Section 10-9-402 is renumbered and amended to read:

~~[10-9-402].~~ **10-9a-502. Preparation and adoption of land use ordinance or zoning map.**

(1) The planning commission shall:

(a) provide notice as required by Subsection 10-9a-205(1)(a);
(b) hold a public hearing on a proposed land use ordinance or zoning map; and
(c) prepare and recommend to the legislative body [a proposed zoning ordinance,
including both the full text of the zoning ordinance and maps, that represents the commission's
recommendations for zoning all or any part of the area within] a proposed land use ordinance or
ordinances and zoning map that represent the planning commission's recommendation for
regulating the use and development of land within all or any part of the area of the municipality.

(2) ~~[(a)]~~ The municipal legislative body shall ~~[hold a public hearing on the]~~ consider each
proposed ~~[zoning]~~ land use ordinance and zoning map recommended to it by the planning
commission~~[- (b) The legislative body shall provide reasonable notice of the public hearing at~~
least 14 days before the date of the hearing. ~~If a municipality mails notice of a proposed zoning~~
change to property owners within that municipality within a specified distance of the property on
which the zoning change is being proposed, it shall also mail equivalent notice to property
owners of an adjacent municipality within the same distance of the property on which the zoning
change is being proposed. ~~(3) After the public hearing, the legislative body may: (a)], and, 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 [zoning] ordinance or map either as proposed[- (b)
amend the zoning ordinance and adopt or reject the zoning ordinance as amended; or ~~(c) reject~~
the ordinance] by the planning commission or after making any revision the municipal legislative
body considers appropriate.

Section 32. Section **10-9a-503**, which is renumbered from Section 10-9-403 is
renumbered and amended to read:

~~[10-9-403].~~ **10-9a-503. Land use ordinance or zoning map amendments.**

(1) ~~[(a)]~~ The legislative body may amend:

~~[(i)]~~ (a) the number, shape, boundaries, or area of any zoning district;

~~[(ii)]~~ (b) any regulation of or within the zoning district; or

~~[(iii)]~~ (c) any other provision of ~~[the zoning]~~ a land use ordinance.

~~[(b)]~~ (2) The legislative body may not make any amendment authorized by this

subsection unless the amendment was proposed by the planning commission or [is] was first submitted to the planning commission for its [~~approval, disapproval, or recommendations~~] recommendation.

[~~(2)~~] (3) The legislative body shall comply with the procedure specified in Section [~~10-9-402~~] 10-9a-502 in preparing and adopting an amendment to [~~the zoning~~] a land use ordinance or [the] a zoning map.

Section 33. Section **10-9a-504**, which is renumbered from Section 10-9-404 is renumbered and amended to read:

~~[10-9-404].~~ **10-9a-504. Temporary land use regulations.**

(1) (a) A municipal legislative body may, without [~~a public hearing,~~] prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary [~~zoning~~] 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 [~~unzoned~~] unregulated.

(b) A temporary [~~zoning~~] 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 [~~zoning~~] 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 [~~a public hearing~~] prior planning commission consideration or recommendation, enact an ordinance establishing a temporary [~~zoning~~] 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 [~~zoning~~] regulation under Subsection (3)(a):

- (i) may not exceed six months in duration;

(ii) may be renewed, if requested by the [Utah] 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 [zoning] 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.

Section 34. Section **10-9a-505**, which is renumbered from Section 10-9-405 is renumbered and amended to read:

~~[10-9-405].~~ 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.

(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 ~~[district]~~ zone may differ from those in other ~~[districts]~~ 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.

Section 35. Section **10-9a-506**, which is renumbered from Section 10-9-406 is renumbered and amended to read:

~~[10-9-406].~~ 10-9a-506. Regulating annexed territory.

(1) The legislative body of [a] each municipality [~~may~~] shall assign a [~~zoning designation~~] land use zone or a variety thereof to territory annexed to the municipality at the time the territory is annexed.

~~[(2) If the annexing municipality's zoning ordinance does not designate a zone for the territory to be annexed to the municipality, or if the legislative body does not assign a zone to territory at the time it is annexed, the territory annexed to a municipality shall be zoned according to the zone of the annexing municipality with which it has the longest common boundary.]~~

(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.

Section 36. Section **10-9a-507**, which is renumbered from Section 10-9-407 is renumbered and amended to read:

~~[10-9-407].~~ **10-9a-507. Conditional uses.**

(1) A ~~[zoning]~~ land use ordinance may ~~[contain]~~ include conditional uses and provisions for conditional uses that ~~[may be allowed, allowed with conditions, or denied in designated zoning districts, based on]~~ require compliance with standards ~~[and criteria]~~ set forth in ~~[the zoning]~~ an applicable ordinance ~~[for those uses]~~.

~~[(2) The board of adjustments has jurisdiction to decide appeals of the approval or denial of conditional use permits unless the legislative body has enacted an ordinance designating the legislative body or another body as the appellate body for those appeals.]~~

(2) (a) A conditional use shall be approved 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.

(b) 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 conditional use may be denied.

Section 37. Section **10-9a-508** is enacted to read:

10-9a-508. Exactions.

A municipality may impose an exaction or exactions on development proposed in a land use application if:

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

and

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

Section 38. Section **10-9a-509** is enacted to read:

10-9a-509. When a land use applicant is entitled to approval -- Exception -- Municipality required to comply with land use ordinances.

(1) (a) An applicant is entitled to approval of a land use application if the application conforms to the requirements of an applicable land use ordinance in effect when a complete application is submitted and all fees have been paid, unless:

(i) the land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or

(ii) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings initiated to amend the municipality's ordinances if:

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

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

(c) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

(d) 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.

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

Section 39. Section **10-9a-510**, which is renumbered from Section 10-9-107 is renumbered and amended to read:

~~[10-9-107].~~ **10-9a-510. Limit on fees for review and approving building plans.**

(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)(a) For purposes of this Subsection (2):]~~

~~[(i) "Identical plans" means building plans submitted to a municipality that:]~~

~~[(A) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and]~~

~~[(B) describe a building that is:]~~

~~[(I) located on land zoned the same as the land on which the building described in the previously approved plans is located; and]~~

~~[(II) subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans.]~~

~~[(ii) "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 referred to in Subsection (2)(a)(i).]~~

~~[(b)]~~ (2) Subject to Subsection (1), a municipality may impose and collect only a nominal fee for reviewing and approving identical plans.

Section 40. Section **10-9a-511**, which is renumbered from Section 10-9-408 is renumbered and amended to read:

~~[10-9-408].~~ **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 [~~in any zoning ordinance or amendment~~] for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the [~~zoning~~] 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 billboard that is a nonconforming use by acquiring the billboard and associated property rights through:]~~

~~[(i) gift;]~~

~~[(ii) purchase;]~~

~~[(iii) agreement;]~~

~~[(iv) exchange; or]~~

~~[(v) eminent domain;]~~

~~[(3)(a) A municipality is considered to have initiated the acquisition of a billboard structure by eminent domain under Subsection (2)(c)(v) if the municipality prevents a billboard owner from:]~~

~~[(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism; or]~~

~~[(ii) except as provided in Subsection (3)(b), relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit.]~~

~~[(b) A municipality's denial of 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 does not constitute the initiation of acquisition by eminent domain under Subsection (3)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence 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.]~~

~~[(4) Notwithstanding Subsections (2) and (3), a municipality may remove a billboard without providing compensation 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 owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (4)(a)(i) and (ii);]~~

~~[(c) the owner fails to remedy the condition or conditions within:]~~

~~[(i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (4)(b); or]~~

~~[(ii) if the condition forming the basis of the municipality's intention to remove the billboard is that it is structurally unsafe, ten business days, or a longer period if necessary because of a natural disaster, following the billboard owner's receipt of written notice under Subsection (4)(b); and]~~

~~[(d) following the expiration of the applicable period under Subsection (4)(c) and after providing the 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.]~~

~~[(5) A municipality may not allow a nonconforming billboard to be rebuilt for a reason other than:]~~

~~[(a) those specified in Subsections (3) and (4);]~~

~~[(b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and]~~

~~[(c) those specified in the municipality's ordinance requiring or allowing a billboard owner to relocate and rebuild an existing nonconforming billboard to an area within the municipality where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.]~~

~~[(6) A municipality may terminate the nonconforming status of school district property when the property ceases to be used for school district purposes:]~~

~~(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 written notice 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.~~

~~(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.

(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 shall have the burden of establishing that any claimed abandonment under Subsection (4)(c) has not in fact 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.

Section 41. Section **10-9a-512**, which is renumbered from Section 10-9-409 is renumbered and amended to read:

[10-9-409]. 10-9a-512. Termination of a billboard and associated rights.

(1) A municipality may only require termination of a billboard and associated property 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.

Section 42. Section **10-9a-513** is enacted to read:

10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboards to be rebuilt.

(1) (a) A municipality is considered to have initiated the acquisition of a billboard structure by eminent domain if the municipality prevents a billboard owner from:

(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism; or

(ii) except as provided in Subsection (1)(b), relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit.

(b) A municipality's denial of 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 does not constitute the initiation of acquisition by eminent domain under Subsection (1)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence 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.

(2) Notwithstanding Subsection (1) and Section 10-9a-512, a municipality may remove a billboard without providing compensation 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 owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (2)(a)(i) and (ii);

(c) the owner fails to remedy the condition or conditions within:

(i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (2)(b); or

(ii) if the condition forming the basis of the municipality's intention to remove the billboard is that it is structurally unsafe, ten business days, or a longer period if necessary because of a natural disaster, following the billboard owner's receipt of written notice under Subsection (2)(b); and

(d) following the expiration of the applicable period under Subsection (2)(c) and after providing the 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.

(3) A municipality may not allow a nonconforming billboard to be rebuilt for a reason other than:

(a) those specified in Subsections (1) and (2);

(b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and

(c) those specified in the municipality's ordinance requiring or allowing a billboard owner to relocate and rebuild an existing nonconforming billboard to an area within the municipality where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

Section 43. Section **10-9a-514**, which is renumbered from Section 10-9-106.5 is renumbered and amended to read:

~~[10-9-106.5].~~ **10-9a-514. Manufactured homes.**

(1) For purposes of this section, a manufactured home is the same as defined in Section 58-56-3, except that the manufactured home must 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 must 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 ~~[zoning, building code, and subdivision requirements, including]~~ 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.

Section 44. Section **10-9a-515**, which is renumbered from Section 10-9-108 is renumbered and amended to read:

~~[10-9-108].~~ **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.

Section 45. Section **10-9a-516**, which is renumbered from Section 10-9-501 is renumbered and amended to read:

[10-9-501]. 10-9a-516. Residential facilities for elderly persons.

(1) ~~(a)~~ A residential facility for elderly persons may not operate as a business.

~~(b)~~ (2) A residential facility for elderly persons shall:

~~(i)~~ (a) be owned by one of the residents or by an immediate family member of one of the residents or be a facility for which the title has been placed in trust for a resident;

~~(ii)~~ (b) be consistent with ~~[existing zoning of]~~ any existing, applicable land use ordinance affecting the desired location; and

~~(iii)~~ (c) be occupied on a 24-hour-per-day basis by eight or fewer elderly persons in a family-type arrangement.

~~(2)~~ (3) A residential facility for elderly persons may not be considered a business because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility.

Section 46. Section **10-9a-517**, which is renumbered from Section 10-9-502 is renumbered and amended to read:

[10-9-502]. 10-9a-517. Municipal ordinances governing elderly residential facilities.

(1) Each municipality shall adopt ordinances that establish that a residential facility for elderly persons is a permitted use in any area where residential dwellings are allowed, except an area zoned to permit exclusively single-family dwellings.

(2) The ordinances shall establish a permit process that may require only that:

(a) the facility meet ~~[all applicable]~~ each building, safety, ~~[zoning]~~ land use, and health ~~[ordinances]~~ ordinance applicable to similar dwellings;

(b) adequate off-street parking space be provided;

(c) the facility be capable of use as a residential facility for elderly persons without

structural or landscaping alterations that would change the structure's residential character;

(d) residential facilities for elderly persons be reasonably dispersed throughout the municipality;

(e) no person being treated for alcoholism or drug abuse be placed in a residential facility for elderly persons; and

(f) placement in a residential facility for elderly persons be on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.

Section 47. Section **10-9a-518**, which is renumbered from Section 10-9-503 is renumbered and amended to read:

~~[10-9-503].~~ 10-9a-518. Municipal approval of elderly residential facilities.

(1) ~~[(a)]~~ Upon application for a permit to establish a residential facility for elderly persons in any area where residential dwellings are allowed, except an area zoned to permit exclusively single-family dwellings, the municipality ~~[may decide only whether or not the residential facility for elderly persons conforms to ordinances adopted by the municipality under this part. (b) If the municipality determines that the residential facility for elderly persons complies with the ordinances, it]~~ shall grant the requested permit to ~~[that facility.]~~ the facility if the facility is proposed outside of a zone regulated exclusively for single-family homes and shall otherwise comply with Section 10-9a-519 if the facility is proposed in a land use zone regulated exclusively for single-family homes.

(2) The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to a use other than a residential facility for elderly persons or if the structure fails to comply with the ordinances adopted under this ~~[part]~~ section.

(3) If a municipality has not adopted ordinances under this ~~[part]~~ section at the time an application for a permit to establish a residential facility for elderly persons is made, the municipality shall grant the permit if it is established that the criteria set forth in this part have been met by the facility.

Section 48. Section **10-9a-519**, which is renumbered from Section 10-9-504 is renumbered and amended to read:

~~[10-9-504].~~ **10-9a-519. Elderly residential facilities in areas zoned exclusively for single-family dwellings.**

(1) For purposes of this section:

(a) no person who is being treated for alcoholism or drug abuse may be placed in a residential facility for elderly persons; and

(b) placement in a residential facility for elderly persons shall be on a strictly voluntary basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution.

(2) Subject to the granting of a conditional use permit, a residential facility for elderly persons shall be allowed in any ~~[municipal zoning district]~~ zone that is ~~[zoned]~~ regulated to permit exclusively single-family dwelling use, if that facility:

(a) conforms to all applicable health, safety, ~~[zoning]~~ land use, and building codes;

(b) is capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character; and

(c) conforms to the municipality's criteria, adopted by ordinance, governing the location of residential facilities for elderly persons in areas zoned to permit exclusively single-family dwellings.

(3) A municipality may, by ordinance, provide that no residential facility for elderly persons be established within three-quarters mile of another existing residential facility for elderly persons or residential facility for persons with a disability~~[-as defined by Section 10-9-605].~~

(4) The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to a use other than as a residential facility for elderly persons or if the structure fails to comply with applicable health, safety, and building codes.

(5) (a) Municipal ordinances shall prohibit discrimination against elderly persons and against residential facilities for elderly persons.

(b) The decision of a municipality regarding the application for a permit by a residential facility for elderly persons must be based on legitimate land use criteria and may not be based on

the age of the facility's residents.

(6) The requirements of this section that a residential facility for elderly persons obtain a conditional use permit or other permit do not apply if the facility meets the requirements of existing [~~zoning~~] land use ordinances that allow a specified number of unrelated persons to live together.

Section 49. Section ~~10-9a-520~~, which is renumbered from Section 10-9-605 is renumbered and amended to read:

~~[10-9-605].~~ **10-9a-520. Residences for persons with a disability.**

~~[(1) As used in this section:]~~

~~[(a) "Disability" is defined in Section 57-21-2.]~~

~~[(b) "Residential facility for persons with a disability" means a residence:]~~

~~[(i) in which more than one person with a disability resides; and]~~

~~[(ii) (A) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or]~~

~~[(B) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.]~~

~~[(2)]~~ (1) Each municipality shall adopt an ordinance for residential facilities for persons with a disability.

~~[(3)]~~ (2) Each ordinance under Subsection ~~[(2)]~~ (1) shall:

(a) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and

(b) to the extent required by federal law, provide that a residential facility for persons with a disability is a permitted use in any [~~zoning area~~] zone where similar residential dwellings that are not residential facilities for persons with a disability are allowed.

~~[(4)]~~ (3) Subject to Subsection ~~[(3)]~~ (2), an ordinance under Subsection ~~[(2)]~~ (1) may:

(a) require residential facilities for persons with a disability:

(i) to be reasonably dispersed throughout the municipality;

(ii) to be limited by number of occupants;

(iii) for residential facilities for persons with a disability that are substance abuse facilities and are located within 500 feet of a school, to provide, in accordance with rules established by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities:

(A) a security plan satisfactory to local law enforcement authorities;

(B) 24-hour supervision for residents; and

(C) other 24-hour security measures; and

(iv) to obtain permits that verify compliance with the same building, safety, and health regulations as are applicable in the same ~~[zoning area]~~ zone to similar uses that are not residential facilities for persons with a disability; and

(b) provide that a residential facility for persons with a disability that would likely create a fundamental change in the character of a residential neighborhood may be excluded from a ~~[zoning area]~~ zone.

~~[(5)]~~ (4) 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:

(a) 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 to People with Disabilities; and

(b) 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.

Section 50. Section **10-9a-601**, which is renumbered from Section 10-9-801 is renumbered and amended to read:

Part 6. Subdivisions

~~[10-9-801].~~ **10-9a-601. Enactment of subdivision ordinance.**

(1) The legislative body of ~~[any]~~ a municipality may enact ~~[a subdivision ordinance]~~ ordinances requiring that a subdivision plat comply with the provisions of the ~~[subdivision]~~

ordinance and ~~[be approved as required by]~~ this part before:

~~[(1)]~~ (a) it may be filed or recorded in the county recorder's office; and

~~[(2)]~~ (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.

Section 51. Section **10-9a-602**, which is renumbered from Section 10-9-802 is renumbered and amended to read:

~~[10-9-802].~~ 10-9a-602. Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.

(1) The planning commission shall:

(a) prepare and recommend a proposed ~~[subdivision]~~ ordinance to the legislative body that regulates the subdivision of land ~~[in the municipality];~~

~~[(b) hold a public hearing on the proposed subdivision ordinance before making its final recommendation to the legislative body; and]~~

(b) prepare and recommend or consider and recommend a proposed ordinance that amends the regulation of the subdivision of the land in the municipality;

(c) provide ~~[reasonable]~~ notice ~~[of the public hearing at least 14 days before the date of the hearing;]~~ consistent with Section 10-9a-205; and

~~[(2) The legislative body shall:]~~

~~[(a) hold a public hearing on the proposed subdivision ordinance recommended to it by the planning commission; and]~~

~~[(b) provide reasonable notice of the public hearing at least 14 days before the date of the hearing;]~~

~~[(3) After the public hearing, the]~~

(d) hold a public hearing on the proposed ordinance before making its final recommendation to the legislative body.

(2) The municipal legislative body may~~[-(a)]~~ adopt or reject the ~~[subdivision]~~ ordinance either as proposed~~[-(b) amend the subdivision ordinance and adopt or reject it as amended; or~~

~~(c) reject the ordinance]~~ by the planning commission or after making any revision the legislative body considers appropriate.

Section 52. Section **10-9a-603**, which is renumbered from Section 10-9-804 is renumbered and amended to read:

~~[10-9-804].~~ **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Recording plat.**

(1) Unless exempt under Section ~~[10-9-806]~~ 10-9a-605 or ~~[not included in]~~ excluded from the definition of subdivision under Subsection ~~[10-9-103(1)]~~ 10-9a-103(34), whenever any ~~[lands are]~~ land is laid out and platted, the owner of ~~[those lands]~~ the land shall provide an accurate plat that describes or specifies:

(a) a name or designation of the subdivision that is distinct from any plat already recorded in the county recorder's office;

~~[(a)]~~ (b) the boundaries, course, and dimensions of [the parcels of ground;] 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;

~~[(b) whether the parcels of ground are intended to be used as streets or for other public uses, and whether any areas are reserved for public purposes;]~~

(c) the lot or unit reference, ~~[the]~~ block or building reference, ~~[the]~~ street or site address, ~~[the]~~ street name or coordinate address, ~~[the]~~ acreage or square footage for all parcels, units, or lots, and ~~[the]~~ length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement ~~[grants]~~ grant of record for underground facilities, as defined in Section 54-8a-2, and for other utility facilities.

(2) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority and the sanitary sewer authority, the municipality shall approve the plat.

(3) 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.

~~[(2)] (4)~~ (a) The owner of the land shall acknowledge the plat before an officer authorized by law to take the acknowledgement of conveyances of real estate and shall obtain the signature of each individual designated by the municipality.

(b) The surveyor making the plat shall certify ~~[it.]~~ that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) ~~[The]~~ As applicable, the owner or operator of the underground and utility facilities shall approve the ~~[plat of its property interest if it specifies]:~~

(i) ~~[the]~~ boundary, course, dimensions, and intended use of the right-of-way and easement grants of record;

(ii) ~~[the]~~ location of existing underground and utility facilities; and

(iii) ~~[any]~~ conditions or restrictions governing the location of the facilities within the right-of-way, and easement grants of records, and utility facilities within the subdivision.

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

~~[(3)] (5)~~ (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, ~~[subject to Subsection (3)(b), record it]~~ within the time period 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) An owner of land may not submit for recording a plat that gives the subdivision described in the plat the same name as a subdivision in a plat already recorded in the county recorder's office.]~~

(b) An owner's failure to record a plat within the time period designated by ordinance

renders the plat voidable.

Section 53. Section **10-9a-604**, which is renumbered from Section 10-9-805 is renumbered and amended to read:

[10-9-805]. 10-9a-604. Subdivision plat approval procedure -- Effect of not complying.

(1) A person may not submit a [~~plat of a~~] subdivision plat to the county recorder's office for recording unless a recommendation has been received from the planning commission and:

(a) the plat has been approved by:

(i) the [~~legislative body~~] land use authority of the municipality in which the [~~subdivision~~] land described in the plat is located; [~~or~~] and

(ii) other officers that the [~~municipal legislative body~~] municipality designates in [~~an~~] its ordinance; and

(b) [~~the approval is~~] all approvals are entered in writing on the plat by the [~~mayor or chairperson of the legislative body or by the other officers~~] designated [~~in the ordinance~~] officers.

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

~~[(3)]~~ (2) A subdivision plat recorded without the [~~approval~~] signatures required under this section is void.

(3) A transfer of land pursuant to a void plat is voidable.

Section 54. Section **10-9a-605**, which is renumbered from Section 10-9-806 is renumbered and amended to read:

[10-9-806]. 10-9a-605. Exemptions from plat requirement.

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

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

~~[(ii) the document contains a certificate or written approval from:]~~

~~[(A) the legislative body of the municipality in which the property is located; or]~~

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

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

~~[(i) the planning commission:]~~

~~[(A) has given its recommendation to the municipal legislative body; or]~~

~~[(B) is not required by municipal ordinance to give its recommendation;]~~

(1) Notwithstanding Sections 10-9a-603 and 10-9a-604, the land use authority may approve a subdivision of ten lots or less without a plat, by certifying in writing that:

(a) the municipality has provided notice as required by ordinance and Sections 10-9a-206 and 10-9a-207; and

~~[(ii)]~~ (b) the proposed subdivision;

(i) is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes; [and]

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

~~[(2) Municipalities under the council-mayor form of government shall comply with Section 10-3-1219.5:]~~

(ii) has been approved by the culinary water authority and the sanitary sewer authority;

(iii) is located in a zoned area; and

(iv) 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.

~~[(3)]~~ (2) (a) Subject to Subsection [(3)(b)] (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section [10-9-804] 10-9a-603 if the lot or parcel:

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

- (ii) meets the minimum size requirement of applicable ~~[zoning]~~ 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 ~~[(3)(a)]~~ (1) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under Section ~~[10-9-805]~~ 10-9a-604, shall be recorded with the county recorder.

(c) If a lot or parcel exempted under Subsection ~~[(3)(a)]~~ (2)(a) is used for a nonagricultural purpose, the municipality ~~[in which the lot or parcel is located]~~ may require the lot or parcel to comply with the requirements of Section ~~[10-9-804]~~ 10-9a-603.

~~[(4)]~~ (3) (a) Documents recorded in the county recorder's office that divide property by a metes and bounds description do not create ~~[a]~~ an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1)~~[(a)(ii)]~~ is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1)~~[(a)(ii)]~~ does not affect the validity of a recorded document.

(c) A document ~~[recorded under Subsection (1)(a)]~~ which does not meet the requirements of Subsection (1)~~[(a)(ii)]~~ may be corrected ~~[to comply with Subsection (1)(a)(ii)]~~ by the recording of an affidavit to which the required certificate or written approval is attached in accordance with Section 57-3-106.

Section 55. Section **10-9a-606**, which is renumbered from Section 10-9-806.5 is renumbered and amended to read:

~~[10-9-806.5]~~. **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) A parcel designated as common area on a plat recorded in compliance with this part may not be separately owned or conveyed independent of the other parcels created by the plat.

(2) The ownership interest in a parcel described in Subsection (1) shall:

(a) for purposes of assessment, be divided equally among all parcels created by the plat,

unless a different division of interest for assessment purposes is indicated on the plat or an accompanying recorded document; and

(b) be considered to be included in the description of each instrument describing a parcel on the plat by its identifying plat number, even if the common area interest is not explicitly stated in the instrument.

Section 56. Section **10-9a-607**, which is renumbered from Section 10-9-807 is renumbered and amended to read:

[10-9-807]. 10-9a-607. Dedication of streets and other public places.

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

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

Section 57. Section **10-9a-608**, which is renumbered from Section 10-9-808 is renumbered and amended to read:

[10-9-808]. 10-9a-608. Vacating or changing a subdivision plat.

(1) (a) Subject to [~~Subsection (2), the legislative body of a municipality or any other officer that the legislative body designates by ordinance~~] Section 10-9a-610, and provided that notice has been given pursuant to local ordinance and Section 10-9a-208, the land use authority may, with or without a petition, consider and resolve any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley contained in a subdivision plat [~~at a public hearing~~].

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

- (i) the plat change includes the vacation of a public street or alley;
- (ii) any owner within the plat notifies the municipality of their objection in writing within

ten days of mailed notification; or

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

(2) (a) [~~Before the legislative body or officer designated by the legislative body may consider~~] The planning commission shall consider and provide a recommendation for a proposed vacation, alteration, or amendment under Subsection (1)(a) or (6)[, the legislative body or officer shall refer the proposal to the planning commission for its recommendation] before the land use authority takes final action.

(b) The planning commission shall give its recommendation within 30 days after the proposed vacation, alteration, or amendment is referred to it, or as that time period is extended by agreement with the applicant.

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

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

- (a) the name and address of all owners of record of the land contained in the entire plat;
- (b) the name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended; and
- (c) the signature of each of these owners who consents to the petition.

(5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may not be scheduled for consideration at a public hearing before the [~~legislative body~~] planning commission until the notice required by [~~this part~~] Section 10-9a-207 or 10-9a-208, as applicable is given.

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

(6) Subject to Subsection (2), if the [~~responsible body or officer~~] applicant proposes to vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat,

[they] the planning commission shall consider the issue at a public hearing after giving the notice required by ~~[this part]~~ Section 10-9a-207 or 10-9a-208, as applicable.

(7) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the ~~[planning commission, or such other person or board as the municipal legislative body may designate,]~~ land use authority in accordance with Subsection (7)(b).

(b) The ~~[planning commission, or such other person or board as the municipal legislative body may designate,]~~ land use authority shall approve an exchange of title under Subsection (7)(a) if:

- (i) no new dwelling lot or housing unit will result from the exchange of title; and
- (ii) the exchange of title will not result in a violation of ~~[applicable zoning requirements]~~ any land use ordinance.

(c) If an exchange of title is approved under Subsection (7)(b), a notice of approval shall be recorded ~~[by the planning commission, or such other person or board as the municipal legislative body may designate,]~~ in the office of the county recorder which:

(i) is executed by each owner included in the exchange and by the ~~[planning commission, or such other person or board as the municipal legislative body may designate]~~ land use authority;

(ii) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(iii) recites the descriptions of both the original parcels and the parcels created by the exchange of title.

(d) A notice of approval recorded under this Subsection (7) does not act as a conveyance of title to real property and is not required for the recording of a document purporting to convey title to real property.

(8) (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 (8)(c).

(b) The surveyor ~~[making]~~ preparing the amended plat shall certify ~~[it.]~~ that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; 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 (8)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is ~~[void]~~ voidable.

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

Section 58. Section **10-9a-609**, which is renumbered from Section 10-9-810 is renumbered and amended to read:

~~[10-9-810].~~ 10-9a-609. Land use authority consideration of petition to vacate or change a plat -- Criteria for vacating or changing a plat -- Recording the vacation or change.

(1) ~~[(a)]~~ Within 30 days after the public hearing required by this part, ~~[the responsible body or officer]~~ or as that time period may be extended by agreement of the parties, the land use authority shall consider the petition to vacate or change a plat.

~~[(b)]~~ (2) If the ~~[responsible body or officer]~~ land use authority is satisfied that neither the public interest nor any person will be materially injured by the proposed vacation, alteration, or amendment, and that there is good cause for the vacation, alteration, or amendment, the ~~[legislative body, by ordinance,]~~ land use authority may vacate, alter, or amend the plat, any portion of the plat, or any street or lot.

~~[(c)]~~ (3) The ~~[responsible body or officer]~~ land use authority may approve the vacation, alteration, or amendment by ~~[ordinance]~~ resolution, amended plat, administrative order, or deed

containing a stamp or mark indicating approval by the ~~[responsible body or officer]~~ land use authority.

~~[(d)]~~ (4) The ~~[responsible body or officer]~~ land use authority shall ensure that the vacation, alteration, or amendment is recorded in the office of the county recorder in which the land is located.

~~[(2) An aggrieved party may appeal the responsible body's or officer's decision to district court as provided in Section 10-9-1001.]~~

~~[(3) Municipalities operating in a council-mayor form of government shall comply with Section 10-3-1219.5.]~~

(5) The action of the land use authority vacating or narrowing a street or alley that has been dedicated to public use shall operate to the extent to which it is vacated or narrowed, upon the effective date of the vacating ordinance, as a revocation of the acceptance thereof, and the relinquishment of the city's fee therein, but the right-of-way and easements therein, if any, of any lot owner and the franchise rights of any public utility may not be impaired thereby.

Section 59. Section **10-9a-610**, which is renumbered from Section 10-9-901 is renumbered and amended to read:

~~[10-9-901].~~ **10-9a-610. Restrictions for solar and other energy devices.**

~~[(1) The legislative body, in order to protect and ensure access to sunlight for solar energy devices, may adopt regulations governing legislative subdivision development plans that relate to the use of restrictive covenants or solar easements, height restrictions, side yard and setback requirements, street and building orientation and width requirements, height and location of vegetation with respect to property boundary lines, and other permissible forms of land use controls.]~~

~~[(2)]~~ The ~~[legislative body]~~ land use authority may refuse to approve or renew any plat ~~[or]~~, subdivision plan, or dedication of any street or other ground, if ~~[the]~~ 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.

Section 60. Section **10-9a-611**, which is renumbered from Section 10-9-811 is renumbered and amended to read:

~~[10-9-811].~~ **10-9a-611. Prohibited acts.**

(1) (a) An owner of any land located in a subdivision~~[, as defined in this chapter,]~~ 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.

(b) The description by metes and bounds in ~~[the]~~ 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, abatement, merger of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation.

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

Section 61. Section **10-9a-701** is enacted to read:

Part 7. Appeal Authority and Variances

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

Appeal authority duties.

(1) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:

(a) requests for variances from the terms of the land use ordinances; and

(b) appeals from decisions applying the land use ordinances.

(2) As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a land use authority's decision, in accordance with local ordinance.

(3) An appeal authority:

(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 it 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 it can raise in district court;

(d) not require an adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected 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 its members of any meeting or hearing of the board, body, or panel;

(b) provide each of its members with the same information and access to municipal

resources as any other member:

(c) convene only if a quorum of its members is present; and

(d) act only upon the vote of a majority of its convened members.

Section 62. Section **10-9a-702**, which is renumbered from Section 10-9-707 is renumbered and amended to read:

[10-9-707]. 10-9a-702. Variances.

(1) Any person or entity desiring a waiver or modification of the requirements of [~~the zoning~~] 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 [~~board of adjustment~~] applicable appeal authority for a variance from the terms of the [~~zoning~~] ordinance.

(2) (a) The [~~board of adjustment~~] appeal authority may grant a variance only if:

(i) literal enforcement of the [~~zoning~~] ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the [~~zoning ordinance~~] land use ordinances;

(ii) there are special circumstances attached to the property that do not generally apply to other properties in the same [~~district~~] zone;

(iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same [~~district~~] 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 [~~zoning~~] land use ordinance is observed and substantial justice done.

(b) (i) In determining whether or not enforcement of the [~~zoning~~] land use ordinance would cause unreasonable hardship under Subsection (2)(a), the [~~board of adjustment~~] 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 [~~zoning~~] land use ordinance would

cause unreasonable hardship under Subsection (2)(a), the ~~[board of adjustment]~~ 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 ~~[board of adjustment]~~ 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 ~~[district]~~ 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 ~~[board of adjustment and any other body]~~ appeal authority may not grant a use ~~[variances]~~ variance.

(6) In granting a variance, the ~~[board of adjustment]~~ 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.

Section 63. Section **10-9a-703** is enacted to read:

10-9a-703. Appealing a land use authority's decision.

The applicant, a board or officer of the municipality, or any person adversely affected by the land use authority's decision administering or interpreting a land use ordinance may, within the time period provided by ordinance, 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.

Section 64. Section **10-9a-704** is enacted to read:

10-9a-704. Time to appeal.

(1) The municipality shall enact an ordinance establishing a reasonable time to appeal a decision of a land use authority to an appeal authority.

(2) In the absence of such an ordinance and at a minimum, an adversely affected party shall have ten calendar days to appeal.

Section 65. Section **10-9a-705** is enacted to read:

10-9a-705. Burden of proof.

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

Section 66. Section **10-9a-706** is enacted to read:

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.

Section 67. Section **10-9a-707** is enacted to read:

10-9a-707. Standard of review for appeals.

(1) A municipality may, by ordinance, designate the standard of review for appeals of land use authority decisions.

(2) If the municipality fails to designate a standard of review of factual matters, the appeal authority shall review the matter de novo.

(3) The appeal authority shall determine the correctness of a decision of the land use authority in its interpretation and application of a land use ordinance.

(4) Only those decisions in which a land use authority has applied a land use ordinance to a particular application, person, or parcel may be appealed to an appeal authority.

Section 68. Section **10-9a-708** is enacted to read:

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-802(2)(a) or a final action under Subsection 10-9a-801(4).

Section 69. Section **10-9a-801**, which is renumbered from Section 10-9-1001 is renumbered and amended to read:

Part 8. District Court Review

~~[10-9-1001].~~ **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 municipality's land use ~~[decisions]~~ decision made under this chapter, or under ~~[the]~~ a regulation made under authority of this chapter, until that person has exhausted ~~[his]~~ the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) Any person adversely affected by ~~[any]~~ a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the district court within 30 days after the local land use decision is ~~[rendered]~~ 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 63-34-13 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 63-34-13(4)(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) The courts shall:

~~[(a)]~~ (i) presume that ~~[land use decisions and regulations are]~~ a decision, ordinance, or regulation made under the authority of this chapter is valid; and

~~[(b)]~~ (ii) determine only whether or not the decision, ordinance, or regulation is arbitrary, capricious, or illegal.

(b) A decision, ordinance, or regulation involving the exercise of legislative discretion is

valid if the decision, ordinance, or regulation is reasonably debatable and not illegal.

(c) A final decision of a land use authority or an appeal authority is valid if the decision is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.

(d) A determination of illegality requires a determination that the decision, ordinance, or regulation violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance or regulation adopted.

(4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes final action on a land use application for any adversely affected third party, if the municipality conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending decision.

(5) If the municipality has complied with Section 10-9a-205, a challenge to the enactment of a land use ordinance or general plan may not be filed with the district court more than 30 days after the enactment.

(6) The petition is barred unless it is filed within 30 days after the appeal authority's 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 its proceedings, including its minutes, findings, orders, and, if available, a true and correct transcript of its proceedings.

(b) If the proceeding was tape recorded, a transcript of that tape 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 it 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 decision of the land use authority or

authority 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 63-34-13, the aggrieved party may petition the appeal authority to stay its decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed pending district court review if the appeal authority finds it 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 63-34-13, the petitioner may seek an injunction staying the appeal authority's decision.

Section 70. Section **10-9a-802**, which is renumbered from Section 10-9-1002 is renumbered and amended to read:

~~[10-9-1002].~~ 10-9a-802. Enforcement.

(1) (a) A municipality or any adversely affected owner of real estate within the municipality in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur 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) The municipality may enforce the ordinance by withholding building permits.

(b) It is unlawful 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) The 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.

Section 71. Section **10-9a-803**, which is renumbered from Section 10-9-1003 is renumbered and amended to read:

~~[10-9-1003].~~ 10-9a-803. Penalties.

(1) The [~~municipal legislative body~~] 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 [~~are~~] 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.

Section 72. Section **11-36-201** is amended to read:

11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan -- Summary -- Exemptions.

(1) (a) Each local political subdivision and private entity shall comply with the requirements of this chapter before establishing or modifying any impact fee.

(b) A local political subdivision may not:

- (i) establish any new impact fees that are not authorized by this chapter; or
- (ii) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.

(c) Notwithstanding any other requirements of this chapter, each local political subdivision shall ensure that each existing impact fee that is charged for any public facility not authorized by Subsection 11-36-102(12) is repealed by July 1, 1995.

(d) (i) Existing impact fees for public facilities authorized in Subsection 11-36-102(12) that are charged by local political subdivisions need not comply with the requirements of this chapter until July 1, 1997.

(ii) By July 1, 1997, each local political subdivision shall:

(A) review any impact fees in existence as of the effective date of this act, and prepare and approve the analysis required by this section for each of those impact fees; and

(B) ensure that the impact fees comply with the requirements of this chapter.

(2) (a) Before imposing impact fees, each local political subdivision shall prepare a capital facilities plan.

(b) (i) As used in this Subsection (2)(b):

(A) (I) "Affected entity" means each county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(Aa) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed capital facilities plan; or

(Ab) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, independent special district, local district, school district, interlocal cooperation entity, or specified public utility.

(II) "Affected entity" does not include the local political subdivision or private entity that is required under this Subsection (2) to provide notice.

(B) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(ii) Before preparing a capital facilities plan for facilities proposed on land located within a county of the first or second class, each local political subdivision and each private entity shall provide written notice, as provided in this Subsection (2)(b), of its intent to prepare a capital facilities plan.

(iii) Each notice under Subsection (2)(b)(ii) shall:

(A) indicate that the local political subdivision or private entity intends to prepare a capital facilities plan;

(B) describe or provide a map of the geographic area where the proposed capital facilities will be located;

(C) be sent to:

(I) each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed facilities will be located;

(II) each affected entity;

(III) the Automated Geographic Reference Center created in Section 63A-6-202;

(IV) the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, in which the facilities are proposed to be located; and

(V) the state planning coordinator appointed under Section 63-38d-202; and

(D) with respect to the notice to affected entities, invite the affected entities to provide information for the local political subdivision or private entity to consider in the process of preparing, adopting, and implementing a capital facilities plan concerning:

(I) impacts that the facilities proposed in the capital facilities plan may have on the affected entity; and

(II) facilities or uses of land that the affected entity is planning or considering that may conflict with the facilities proposed in the capital facilities plan.

(c) The plan shall identify:

(i) demands placed upon existing public facilities by new development activity; and

(ii) the proposed means by which the local political subdivision will meet those demands.

(d) Municipalities and counties need not prepare a separate capital facilities plan if the general plan required by Sections 10-9-301 and 17-27-301 contains the elements required by Subsection (2)(c).

(e) (i) If a local political subdivision prepares an independent capital facilities plan rather than including a capital facilities element in the general plan, the local political subdivision shall, before adopting the capital facilities plan:

(A) give public notice of the plan according to this Subsection (2)(e);

(B) at least 14 days before the date of the public hearing:

(I) make a copy of the plan, together with a summary designed to be understood by a lay person, available to the public; and

(II) place a copy of the plan and summary in each public library within the local political subdivision; and

(C) hold a public hearing to hear public comment on the plan.

(ii) Municipalities shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36-401(4)(f), receive the protections of ~~[, Subsections 10-9-103(2) and 10-9-402(2)]~~ Sections 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2).

(iii) Counties shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36-401(4)(f), receive the protections of ~~[, Subsections 17-27-103(2) and 17-27-402(2)]~~ Sections 17-27a-205 and 17-27a-801 and Subsection 17-27a-502(2).

(iv) Special districts and private entities shall comply with the notice and hearing requirements of, and receive the protections of, Section 17A-1-203.

(v) Nothing contained in this Subsection (2)(e) or in the subsections referenced in Subsections (2)(e)(ii) and (iii) may be construed to require involvement by a planning commission in the capital facilities planning process.

(f) (i) Local political subdivisions with a population or serving a population of less than 5,000 as of the last federal census need not comply with the capital facilities plan requirements of this part, but shall ensure that the impact fees imposed by them are based upon a reasonable plan.

(ii) Subsection (2)(f)(i) does not apply to private entities.

(3) In preparing the plan, each local political subdivision shall generally consider all revenue sources, including impact fees, to finance the impacts on system improvements.

(4) A local political subdivision may only impose impact fees on development activities when its plan for financing system improvements establishes that impact fees are necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the future, in comparison to the benefits already received and yet to be received.

(5) (a) Each local political subdivision imposing impact fees shall prepare a written analysis of each impact fee that:

(i) identifies the impact on system improvements required by the development activity;

(ii) demonstrates how those impacts on system improvements are reasonably related to the development activity;

(iii) estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity; and

(iv) based upon those factors and the requirements of this chapter, identifies how the impact fee was calculated.

(b) In analyzing whether or not the proportionate share of the costs of public facilities are reasonably related to the new development activity, the local political subdivision shall identify, if applicable:

(i) the cost of existing public facilities;

(ii) the manner of financing existing public facilities, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;

(iii) the relative extent to which the newly developed properties and the other properties in the municipality have already contributed to the cost of existing public facilities, by such means as user charges, special assessments, or payment from the proceeds of general taxes;

(iv) the relative extent to which the newly developed properties and the other properties in the municipality will contribute to the cost of existing public facilities in the future;

(v) the extent to which the newly developed properties are entitled to a credit because the municipality is requiring their developers or owners, by contractual arrangement or otherwise, to provide common facilities, inside or outside the proposed development, that have been provided by the municipality and financed through general taxation or other means, apart from user charges, in other parts of the municipality;

(vi) extraordinary costs, if any, in servicing the newly developed properties; and

(vii) the time-price differential inherent in fair comparisons of amounts paid at different times.

(c) Each local political subdivision that prepares a written analysis under this Subsection (5) on or after July 1, 2000 shall also prepare a summary of the written analysis, designed to be understood by a lay person.

(6) Each local political subdivision that adopts an impact fee enactment under Section 11-36-202 on or after July 1, 2000 shall, at least 14 days before adopting the enactment, submit to each public library within the local political subdivision:

(a) a copy of the written analysis required by Subsection (5)(a); and

(b) a copy of the summary required by Subsection (5)(c).

(7) Nothing in this chapter may be construed to repeal or otherwise eliminate any impact fee in effect on the effective date of this act that is pledged as a source of revenues to pay bonded indebtedness that was incurred before the effective date of this act.

Section 73. Section **11-36-202** is amended to read:

11-36-202. Impact fees -- Enactment -- Required provisions.

(1) (a) Each local political subdivision wishing to impose impact fees shall pass an impact fee enactment.

(b) The impact fee imposed by that enactment may not exceed the highest fee justified by the impact fee analysis performed pursuant to Section 11-36-201.

(c) In calculating the impact fee, each local political subdivision may include:

- (i) the construction contract price;
- (ii) the cost of acquiring land, improvements, materials, and fixtures;
- (iii) the cost for planning, surveying, and engineering fees for services provided for and directly related to the construction of the system improvements; and
- (iv) debt service charges, if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements.

(d) In enacting an impact fee enactment:

- (i) municipalities shall:
 - (A) make a copy of the impact fee enactment available to the public at least 14 days before the date of the public hearing; and
 - (B) comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36-401(4)(f), receive the protections of [~~Subsections 10-9-103(2) and 10-9-802(2)~~] Sections 10-9a-207 and 10-9a-801;

(ii) counties shall:

- (A) make a copy of the impact fee enactment available to the public at least 14 days before the date of the public hearing; and

(B) comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36-401(4)(f), receive the protections of [~~Subsections 17-27-103(2) and 17-27-802(2)~~] Sections 17-27a-207 and 17-27a-801; and

(iii) special districts shall:

(A) make a copy of the impact fee enactment available to the public at least 14 days before the date of the public hearing; and

(B) comply with the notice and hearing requirements of, and receive the protections of, Section 17A-1-203.

(e) Nothing contained in Subsection (1)(d) or in the subsections referenced in Subsections (1)(d)(i)(B) and (ii)(B) may be construed to require involvement by a planning commission in the impact fee enactment process.

(2) The local political subdivision shall ensure that the impact fee enactment contains:

(a) a provision establishing one or more service areas within which it shall calculate and impose impact fees for various land use categories;

(b) either:

(i) a schedule of impact fees for each type of development activity that specifies the amount of the impact fee to be imposed for each type of system improvement; or

(ii) the formula that the local political subdivision will use to calculate each impact fee;

(c) a provision authorizing the local political subdivision to adjust the standard impact fee at the time the fee is charged to:

(i) respond to unusual circumstances in specific cases; and

(ii) ensure that the impact fees are imposed fairly; and

(d) a provision governing calculation of the amount of the impact fee to be imposed on a particular development that permits adjustment of the amount of the fee based upon studies and data submitted by the developer.

(3) The local political subdivision may include a provision in the impact fee enactment that:

(a) exempts low income housing and other development activities with broad public

purposes from impact fees and establishes one or more sources of funds other than impact fees to pay for that development activity;

(b) imposes an impact fee for public facility costs previously incurred by a local political subdivision to the extent that new growth and development will be served by the previously constructed improvement; and

(c) allows a credit against impact fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:

(i) are identified in the capital facilities plan; and

(ii) are required by the local political subdivision as a condition of approving the development activity.

(4) Except as provided in Subsection (3)(b), the local political subdivision may not impose an impact fee to cure deficiencies in public facilities serving existing development.

(5) Notwithstanding the requirements and prohibitions of this chapter, a local political subdivision may impose and assess an impact fee for environmental mitigation when:

(a) the local political subdivision has formally agreed to fund a Habitat Conservation Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec 1531, et seq. or other state or federal environmental law or regulation;

(b) the impact fee bears a reasonable relationship to the environmental mitigation required by the Habitat Conservation Plan; and

(c) the legislative body of the local political subdivision adopts an ordinance or resolution:

(i) declaring that an impact fee is required to finance the Habitat Conservation Plan;

(ii) establishing periodic sunset dates for the impact fee; and

(iii) requiring the legislative body to:

(A) review the impact fee on those sunset dates;

(B) determine whether or not the impact fee is still required to finance the Habitat Conservation Plan; and

(C) affirmatively reauthorize the impact fee if the legislative body finds that the impact

fee must remain in effect.

(6) Each political subdivision shall ensure that any existing impact fee for environmental mitigation meets the requirements of Subsection (5) by July 1, 1995.

(7) Notwithstanding any other provision of this chapter, municipalities imposing impact fees to fund fire trucks as of the effective date of this act may impose impact fees for fire trucks until July 1, 1997.

(8) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 53A-20-100.5.

Section 74. Section **11-36-401** is amended to read:

11-36-401. Impact fees -- Challenges -- Appeals.

(1) Any person or entity residing in or owning property within a service area, and any organization, association, or corporation representing the interests of persons or entities owning property within a service area, may file a declaratory judgment action challenging the validity of the fee.

(2) (a) Any person or entity required to pay an impact fee who believes the fee does not meet the requirements of law may file a written request for information with the local political subdivision who established the fee.

(b) Within two weeks of the receipt of the request for information, the local political subdivision shall provide the person or entity with the written analysis required by Section 11-36-201, the capital facilities plan, and with any other relevant information relating to the impact fee.

(3) (a) Any local political subdivision may establish, by ordinance, an administrative appeals procedure to consider and decide challenges to impact fees.

(b) If the local political subdivision establishes an administrative appeals procedure, the local political subdivision shall ensure that the procedure includes a requirement that the local political subdivision make its decision no later than 30 days after the date the challenge to the impact fee is filed.

(4) (a) In addition to the method of challenging an impact fee under Subsection (1), a person or entity that has paid an impact fee that was imposed by a local political subdivision may challenge:

(i) if the impact fee enactment was adopted on or after July 1, 2000:

(A) whether the local political subdivision complied with the notice requirements of this chapter with respect to the imposition of the impact fee; and

(B) whether the local political subdivision complied with other procedural requirements of this chapter for imposing the impact fee; and

(ii) except as limited by Subsection (4)(a)(i), the impact fee.

(b) A challenge under Subsection (4)(a) may not be initiated unless it is initiated within:

(i) for a challenge under Subsection (4)(a)(i)(A), 30 days after the person or entity pays the impact fee;

(ii) for a challenge under Subsection (4)(a)(i)(B), 180 days after the person or entity pays the impact fee; or

(iii) for a challenge under Subsection (4)(a)(ii), one year after the person or entity pays the impact fee.

(c) A challenge under Subsection (4)(a) is initiated by filing:

(i) if the local political subdivision has established an administrative appeals procedure under Subsection (3), the necessary document, under the administrative appeals procedure, for initiating the administrative appeal;

(ii) a request for arbitration as provided in Subsection 11-36-402(1); or

(iii) an action in district court.

(d) (i) The sole remedy for a challenge under Subsection (4)(a)(i)(A) is the equitable remedy of requiring the local political subdivision to correct the defective notice and repeat the process.

(ii) The sole remedy for a challenge under Subsection (4)(a)(i)(B) is the equitable remedy of requiring the local political subdivision to correct the defective process.

(iii) The sole remedy for a challenge under Subsection (4)(a)(ii) is a refund of the

difference between what the person or entity paid as an impact fee and the amount the impact fee should have been if it had been correctly calculated.

(e) Nothing in this Subsection (4) may be construed as requiring a person or entity to exhaust administrative remedies with the local political subdivision before filing an action in district court under this Subsection (4).

(f) The protections given to a municipality under [~~Subsection 10-9-103(2)~~] Section 10-9a-801 and to a county under [~~Subsection 17-27-103(2)~~] Section 17-27a-801 do not apply in a challenge under Subsection (4)(a)(i)(A).

(5) The judge may award reasonable attorneys' fees and costs to the prevailing party in any action brought under this section.

(6) Nothing in this chapter may be construed as restricting or limiting any rights to challenge impact fees that were paid before the effective date of this chapter.

Section 75. Section **17-27a-101**, which is renumbered from Section 17-27-101 is renumbered and amended to read:

CHAPTER 27a. COUNTY LAND USE, DEVELOPMENT, AND MANAGEMENT ACT

Part 1. General Provisions

~~[17-27-101].~~ **17-27a-101. Title.**

This chapter [~~shall be~~] is known as the "County Land Use, Development, and Management Act."

Section 76. Section **17-27a-102**, which is renumbered from Section 17-27-102 is renumbered and amended to read:

~~[17-27-102].~~ **17-27a-102. Purposes -- General land use authority.**

~~[(1) To accomplish the purpose]~~

(1) (a) The purposes of this chapter [~~and in order~~] are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of [~~the~~] each county and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to

protect and ensure access to sunlight for solar energy devices, and to protect property values[-].

(b) To accomplish the purposes of this chapter, counties may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the unincorporated area of the county, including ordinances, resolutions, [~~and~~] rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy-efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, and height and location of vegetation, [~~and~~] trees, and landscaping, unless [~~those ordinances, resolutions, or rules are~~] expressly prohibited by law.

(2) [~~A~~] Each county shall comply with the mandatory provisions of this part before any agreement or contract to provide goods, services, or municipal-type services to any storage facility or transfer facility for high-level nuclear waste, or greater than class C radioactive waste, may be executed or implemented.

Section 77. Section **17-27a-103**, which is renumbered from Section 17-27-103 is renumbered and amended to read:

~~[17-27-103].~~ **17-27a-103. Definitions.**

[~~(+)~~] As used in this chapter:

(1) "Affected entity" means a county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, 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 county a copy of the entity's general or long-range plan;

or

(c) the entity's boundaries or facilities are within one mile of land that is the subject of a

general plan amendment or land use ordinance change.

(2) "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.

~~[(a)]~~ (3) "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.

~~[(b)]~~ (4) "Chief executive officer" means the person or body that exercises the executive powers of the county.

~~[(c)]~~ (5) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, 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.

~~[(d)]~~ (6) "Constitutional taking" ~~[has the meaning as defined in Section 63-34-13.]~~ 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:

~~[(e)] "County" means the unincorporated area of the county.]~~

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(7) "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.

(8) (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.

~~[(f)]~~ (9) "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living

independently.

~~[(g)]~~ (10) "Gas corporation" has the same meaning as defined in Section 54-2-1.

~~[(h)(i)]~~ (11) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of the unincorporated land within the county~~[, as set forth in Sections 17-27-301 and 17-27-302]~~.

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

(12) "Identical plans" means building plans submitted to a county that are substantially identical building plans that were previously submitted to and reviewed and approved by the county and describe a building that is:

(a) located on land zoned the same as the land on which the building described in the previously approved plans is located; and

(b) subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans.

~~[(i)]~~ (13) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~[(j)]~~ (14) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(15) "Land use application" means an application required by a county's land use ordinance.

(16) "Land use authority" means a person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.

(17) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the county, but does not include the general plan.

~~[(k)]~~ (18) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

~~[(l)]~~ (19) "Lot line adjustment" means the relocation of the property boundary line in a

subdivision between two adjoining lots with the consent of the owners of record.

~~[(m) "Municipality" means a city or town.]~~

~~[(n) "Nonconforming]~~

(20) "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 housing is located.

(21) "Nominal fee" means a fee that reasonably reimburses a county 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.

(22) "Noncomplying structure" means a structure that:

~~[(i)] (a) legally existed before its current [zoning] land use designation; and~~

~~[(ii)] (b) because of one or more subsequent [zoning] land use ordinance changes, does not conform [with] to the [zoning regulation's] setback, height restrictions, or other regulations [that] , excluding those regulations that govern the [structure] use of land.~~

~~[(o)] (23) "Nonconforming use" means a use of land that:~~

~~[(i)] (a) legally existed before its current [zoning] land use designation;~~

~~[(ii)] (b) has been maintained continuously since the time the [zoning] land use ordinance regulation governing the land changed; and~~

~~[(iii)] (c) because of one or more subsequent [zoning] land use ordinance changes, does not conform [with] to the [zoning] regulations that now govern the use of the land.~~

~~[(p) "Official map" has the same meaning as provided in Section 72-5-401.]~~

(24) "Official map" means a map drawn by county authorities and recorded in the 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 county's general plan.

~~[(t)]~~ (25) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(26) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;

(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 county's program to encourage an adequate supply of moderate income housing.

~~[(t)]~~ (27) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section ~~[17-27-804]~~ 17-27a-603, 17-23-17, or 57-8-13.

(28) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(29) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings.

~~[(s)]~~ (30) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

~~[(t)]~~ ~~(i)~~ (31) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Part ~~[5 and any ordinance adopted under authority of that part. (ii) "Residential facility for elderly persons"]~~ 4, General Plan, but does not include a health care facility as defined by Section 26-21-2.

(32) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(33) "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.

~~[(t)]~~ (34) "Special district" means [all entities] any entity established under the authority of Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

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

(35) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(36) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

~~[(w)-(t)]~~ (37) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, 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.

~~[(ti)]~~ (b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, [lease,] map, plat, or other recorded instrument[-]; and

(ii) except as provided in Subsection (37)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial

purposes.

~~[(iii)]~~ (c) "Subdivision" does not include:

~~[(A)]~~ (i) a bona fide division or partition of agricultural land for agricultural purposes;

~~[(B)]~~ (ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

~~[(F)]~~ (A) no new lot is created; and

~~[(H)]~~ (B) the adjustment does not ~~[result in a violation of]~~ violate applicable ~~[zoning]~~ land use ordinances;

~~[(E)]~~ (iii) a recorded document, executed by the owner of record[-];

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances; or

~~[(D)]~~ (iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

~~[(F)]~~ (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas corporation, interstate pipeline company, or intrastate pipeline company; or

~~[(H)]~~ (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility.

~~[(iv)]~~ (d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a ["subdivision"] under this Subsection ~~[(1)(w)]~~ (37) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

(38) "Township" means a contiguous, geographically defined portion of the unincorporated area of a county, established under this part or reconstituted or reinstated under Section 17-27a-307, with planning and zoning functions as exercised through the township planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority, except that "township" means a former township under

Chapter 308, Laws of Utah 1996 where the context so indicates.

~~[(x)] (39) "Unincorporated" means the area outside of the incorporated [boundaries of cities and towns] area of a municipality.~~

~~[(2) (a) A county meets the requirements of reasonable notice required by this chapter if it:]~~

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

~~[(ii) gives actual notice of the hearing or meeting.]~~

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

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

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

(40) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 78. Section **17-27a-104**, which is renumbered from Section 17-27-104 is renumbered and amended to read:

~~[17-27-104].~~ **17-27a-104. Stricter requirements.**

(1) Except as provided in Subsection (2), ~~[counties]~~ a county may enact ~~[ordinances]~~ an ordinance imposing stricter requirements or higher standards than are required by this chapter.

(2) A county may not impose stricter requirements or higher standards than are required by:

(a) Section ~~[17-27-105]~~ 17-27a-305;

(b) Section ~~[17-27-105.5]~~ 17-27a-513;

~~[(c) Part 5, Residential Facilities for Elderly, and]~~

~~[(d) Part 6, Residential Facilities for Persons with a Disability.]~~

~~(c) Section 17-27a-515; and~~

~~(d) Section 17-27a-519.~~

Section 79. Section **17-27a-201** is enacted to read:

Part 2. Notice

17-27a-201. Required notice.

(1) At a minimum, each county shall provide actual notice or the notice required by this part.

(2) A county may by ordinance require greater notice than required under this part.

Section 80. Section **17-27a-202** is enacted to read:

17-27a-202. Applicant notice.

For each land use application, the county shall notify the applicant of the date, time, and place of each public hearing and public meeting to consider the application and of any final action on a pending application.

Section 81. Section **17-27a-203**, which is renumbered from Section 17-27-301.5 is renumbered and amended to read:

~~[17-27-301.5].~~ **17-27a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain counties.**

~~[(1) As used in this section:]~~

~~[(a) (i) "Affected entity" means each county, municipality, independent special district under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:]~~

~~[(A) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or]~~

~~[(B) that has filed with the county a copy of the entity's general or long-range plan.]~~

~~[(ii) "Affected entity" does not include the county that is required under this section to provide notice.]~~

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

~~[(2)]~~ (1) Before preparing a proposed general plan or ~~[amendments to an existing]~~ a comprehensive general plan amendment, each county of the first or second class shall provide ~~[written]~~ ten calendar days notice~~[, as provided in this section,]~~ of its intent to prepare a proposed general plan or ~~[amendments to]~~ a comprehensive general plan~~[-]~~ amendment to:

(a) each affected entity;

(b) the Automated Geographic Reference Center created in Section 63A-6-202;

(c) the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and

(d) the state planning coordinator appointed under Section 63-38d-202.

~~[(3)]~~ (2) Each notice under Subsection ~~[(2)]~~ (1) shall:

(a) indicate that the county intends to prepare a general plan or ~~[amendments to]~~ 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 ~~[amendments to a general plan]~~ amendment;

(c) be sent ~~[to:]~~ by mail, e-mail, or other effective means;

~~[(i) each affected entity;]~~

~~[(ii) the Automated Geographic Reference Center created in Section 63A-6-202;]~~

~~[(iii) the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and]~~

~~[(iv) the state planning coordinator appointed under Section 63-38d-202;]~~

(d) ~~[with respect to the notice to affected entities,]~~ invite the affected entities to provide information for the county to consider in the process of preparing, adopting, and implementing a general plan or ~~[amendments to a general plan]~~ amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or ~~[amendments to a general plan]~~ amendment may have ~~[on the affected entity];~~ and

(ii) uses of land within the county that the affected entity is ~~[planning or]~~ considering that

may conflict with the proposed general plan or [~~amendments to the general plan~~] amendment;
and

(e) include the address of an Internet website, if the county has one, and the name and telephone number of a person where more information can be obtained concerning the county's proposed general plan or [~~amendments to a general plan~~] amendment.

Section 82. Section **17-27a-204** is enacted to read:

17-27a-204. Notice of public hearings and public meetings to consider general plan or modifications.

(1) A county 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 ten calendar days before the public hearing and shall be:

(a) published in a newspaper of general circulation in the area;

(b) mailed to each affected entity; and

(c) posted:

(i) in at least three public locations within the county; or

(ii) on the county'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) submitted to a newspaper of general circulation in the area; and

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website.

Section 83. Section **17-27a-205** is enacted to read:

17-27a-205. Notice of public hearings and public meetings on adoption or modification of land use ordinance.

(1) Each county shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use ordinance; 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 ten calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website; and

(c) (i) published in a newspaper of general circulation in the area at least ten calendar days before the public hearing; or

(ii) mailed at least three 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 county ordinance.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be posted:

(a) in at least three public locations within the county; or

(b) on the county's official website.

Section 84. Section **17-27a-206** is enacted to read:

17-27a-206. Third party notice.

(1) If a county requires notice to adjacent property owners, the county shall:

(a) mail notice to the record owner of each parcel within parameters specified by county ordinance; or

(b) 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.

(2) If a county mails notice to third party property owners under Subsection (1), it shall mail equivalent notice to property owners within an adjacent jurisdiction.

Section 85. Section **17-27a-207** is enacted to read:

17-27a-207. Notice for a proposed subdivision or amendment or a multiple-unit residential or commercial or industrial development.

(1) For a proposed subdivision or an amendment to a subdivision, each county shall provide notice of the date, time, and place of a public hearing that is:

(a) mailed not less than three calendar days before the public hearing and addressed to the record owner of each parcel within specified parameters of that property; or

(b) posted not less than three calendar days before the public hearing, 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 county shall mail notice to each affected entity of a public hearing to consider a preliminary plat describing a multiple-unit residential development or a commercial or industrial development.

(3) Each county shall provide notice as required by Section 17-27a-208 for a subdivision that involves a vacation, alteration, or amendment of a street.

Section 86. Section **17-27a-208** is enacted to read:

17-27a-208. Hearing and notice for proposal to vacate, alter, or amend a plat.

For any proposal to vacate, alter, or amend a platted street, the land use authority shall hold a public hearing and shall give notice of the date, place, and time of the hearing by:

(1) mailing notice as required in Section 17-27a-207;

(2) mailing notice to each affected entity; and

(3) (a) publishing notice once a week for four consecutive weeks before the hearing in a newspaper of general circulation in the county in which the land subject to the petition is located;

or

(b) if there is no newspaper of general circulation in the county, posting the property and posting notice in three public places for four consecutive weeks before the hearing.

Section 87. Section **17-27a-209** is enacted to read:

17-27a-209. Notice challenge.

If notice given under authority of this part is not challenged under Section 17-27a-801 within 30 days after the meeting or action for which notice is given, the notice is considered adequate and proper.

Section 88. Section **17-27a-301**, which is renumbered from Section 17-27-201 is renumbered and amended to read:

Part 3. Planning Commission

~~[17-27-201].~~ **17-27a-301. Ordinance establishing planning commission required -- Exception -- Ordinance requirements -- Township planning commission -- Compensation.**

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

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

(i) municipalities; and

(ii) townships with their own planning commissions.

(2) The ordinance [~~establishing a countywide planning commission~~] shall define:

(a) the number and terms of the members and, if the county chooses, alternate members;

(b) the mode of appointment;

(c) the procedures for filling vacancies and removal from office; [~~and~~]

(d) the authority of the planning commission; and

~~(e)~~ (e) other details relating to the organization and procedures of the planning commission.

(3) (a) If the county establishes a township planning [~~commissions~~] commission, the county legislative body shall enact an ordinance defining appointment procedures, procedures for filling vacancies and removing members from office, and other details relating to the organization and procedures of each township planning commission.

(b) The planning commission for each township shall consist of seven members who,

except as provided in Subsection (3)(e), shall be appointed by:

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

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

(c) (i) Members shall serve four-year terms and until their successors are appointed or, as provided in Subsection (3)(e), elected and qualified.

(ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in Subsection (3)(e), members of the first planning commissions shall be appointed so that, for each commission, the terms of at least one member and no more than two members expire each year.

(d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township planning commission shall be a registered voter residing within the township.

(ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission of a township reconstituted under Chapter 389, Laws of Utah 1997, or reinstated or established under Subsection [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) may be an appointed member who is a registered voter residing outside the township if that member:

(I) is an owner of real property located within the township; and

(II) resides within the county in which the township is located.

(B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township planning commission from a list of three persons submitted by the county legislative body.

(II) If the township planning commission has not notified the county legislative body of its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning commission's receipt of the list, the county legislative body may appoint one of the three persons on the list or a registered voter residing within the township as a member of the township planning commission.

(e) (i) The legislative body of each county in which a township reconstituted under Chapter 389, Laws of Utah 1997, or reinstated or established under Subsection [~~17-27-200.5(2)~~]

17-27a-306(1)(e)(i) is located shall enact an ordinance that provides for the election of at least three members of the planning commission of that township.

(ii) The election of planning commission members under Subsection (3)(e)(i) shall coincide with the election of other county officers during even-numbered years. Approximately half the elected planning commission members shall be elected every four years during elections held on even-numbered years, and the remaining elected members shall be elected every four years on alternating even-numbered years.

(f) (i) (A) The legislative body of each county in which a township reconstituted under Chapter 389, Laws of Utah 1997, or reinstated or established under Subsection [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) is located shall enact an ordinance appointing each elected member of the planning and zoning board of the former township, established under Chapter 308, Laws of Utah 1996, as a member of the planning commission of the reconstituted or reinstated township. Each member appointed under this subsection shall be considered an elected member.

(B) (I) Except as provided in Subsection (3)(f)(i)(B)(II), the term of each member appointed under Subsection (3)(f)(i)(A) shall continue until the time that the member's term as an elected member of the former township planning and zoning board would have expired.

(II) Notwithstanding Subsection (3)(f)(i)(B)(I), the county legislative body may adjust the terms of the members appointed under Subsection (3)(f)(i)(A) so that the terms of those members coincide with the schedule under Subsection (3)(e)(ii) for elected members.

(ii) Subject to Subsection (3)(f)(iii), the legislative body of a county in which a township reconstituted under Chapter 389, Laws of Utah 1997, or reinstated or established under Subsection [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) is located may enact an ordinance allowing each appointed member of the planning and zoning board of the former township, established under Chapter 308, Laws of Utah 1996, to continue to hold office as a member of the planning commission of the reconstituted or reinstated township until the time that the member's term as a member of the former township's planning and zoning board would have expired.

(iii) If a planning commission of a township reconstituted under Chapter 389, Laws of Utah 1997, or reinstated or established under Subsection [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i)

has more than one appointed member who resides outside the township, the legislative body of the county in which that township is located shall, within 15 days of the effective date of this Subsection (3)(f)(iii), dismiss all but one of the appointed members who reside outside the township, and a new member shall be appointed under Subsection (3)(b) no later than August 16, 1997, to fill the position of each dismissed member.

(g) (i) Except as provided in Subsection (3)(g)(ii), upon the appointment or election of all members of a township planning commission, each township planning commission under this section shall begin to exercise the powers and perform the duties provided in Section ~~[17-27-204]~~ 17-27a-302 with respect to all matters then pending that previously had been under the jurisdiction of the countywide planning commission or township planning and zoning board.

(ii) Notwithstanding Subsection (3)(g)(i), if the members of a former township planning and zoning board continue to hold office as members of the planning commission of the township planning district under an ordinance enacted under Subsection (3)(f), the township planning commission shall immediately begin to exercise the powers and perform the duties provided in Section ~~[17-27-204]~~ 17-27a-302 with respect to all matters then pending that had previously been under the jurisdiction of the township planning and zoning board.

(4) The legislative body may fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended.

Section 89. Section **17-27a-302**, which is renumbered from Section 17-27-204 is renumbered and amended to read:

~~[17-27-204].~~ **17-27a-302. Planning commission powers and duties.**

(1) Each countywide or township planning commission shall, with respect to the unincorporated area of the county, or the township, ~~[as the case may be: (a) prepare and recommend]~~ make a recommendation to the county legislative body for:

(a) a general plan and amendments to the general plan [to the county legislative body as provided in this chapter];

~~[(b) recommend zoning ordinances and maps, and amendments to zoning ordinances and maps, to the county legislative body as provided in this chapter;]~~

~~[(c) administer provisions of the zoning ordinance, if specifically provided for in the zoning ordinance adopted by the county legislative body;]~~

~~[(d) recommend subdivision regulations and amendments to those regulations to the county legislative body as provided in this chapter;]~~

~~[(e) recommend approval or denial of subdivision applications as provided in this chapter;]~~

~~[(f) advise the county legislative body on matters as the county legislative body directs;]~~

~~[(g) hear or decide any matters that the county legislative body designates, including the approval or denial of, or recommendations to approve or deny, conditional use permits;]~~

~~[(h) exercise any other powers delegated to it by the county legislative body; and]~~

~~[(i) exercise any other powers that are necessary to enable it to perform its functions.]~~

(b) land use ordinances, zoning maps, official maps, and amendments;

(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) applicant and third party to require formal consideration of any application by a land use authority;

(B) applicant, adversely affected party, or county officer or employee 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) The planning commission of a township under this part may recommend to the legislative body of the county in which the township is located:

(a) that the [county] legislative body support or oppose a proposed incorporation of an area located within the township, as provided in Subsection 10-2-105(4); or

(b) that the [county] legislative body file a protest to a proposed annexation of an area located within the township, as provided in Subsection 10-2-407(1)(b).

Section 90. Section **17-27a-303**, which is renumbered from Section 17-27-205 is renumbered and amended to read:

~~[17-27-205].~~ **17-27a-303. Entrance upon land.**

A ~~[planning commission or its authorized agents]~~ county 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.

Section 91. Section **17-27a-304**, which is renumbered from Section 17-27-104.5 is renumbered and amended to read:

~~[17-27-104.5].~~ **17-27a-304. State and federal property.**

Unless otherwise provided by law, nothing contained in ~~[Parts 4 and 8 of]~~ this chapter may be construed as giving ~~[the planning commission or the legislative body]~~ a county jurisdiction over ~~[properties]~~ property owned by the state or the United States ~~[government].~~

Section 92. Section **17-27a-305**, which is renumbered from Section 17-27-105 is renumbered and amended to read:

~~[17-27-105].~~ **17-27a-305. Property owned by other government units --
Effect of land use and development ordinances.**

(1) (a) Each county, municipality, school district, special district, and political subdivision of ~~[Utah]~~ the state shall conform to ~~[the]~~ any applicable land use ~~[and development ordinances]~~ ordinance of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within ~~[that county only in a manner or for a purpose that conforms to that county's ordinances]~~ the unincorporated portion of the county.

(b) In addition to any other remedies provided by law, when a county's land use ~~[and development ordinances are being]~~ ordinance is violated or about to be violated by another

political subdivision, that county 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 school district is subject to a county's land use [~~regulations under this chapter~~] ordinances, except that a county may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) require a school district to participate in the cost of any roadway or sidewalk 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 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 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 to pay any impact fee for an improvement project that is not reasonably related to the impact of the project upon the need that the improvement is to address;
or

(f) impose regulations upon the location of a project except as necessary to avoid unreasonable risks to health or safety.

(3) Subject to Section 53A-20-108, a school district shall coordinate the siting of a new school with the county in which the school is to be located, to avoid or mitigate existing and potential traffic hazards to maximize school safety.

Section 93. Section **17-27a-306**, which is renumbered from Section 17-27-200.5 is renumbered and amended to read:

~~[17-27-200.5].~~ **17-27a-306. Townships.**

~~[(1) As used in this part:]~~

~~[(a) "Township" means a contiguous, geographically defined portion of the unincorporated area of a county, established under this part or reconstituted or reinstated under Subsection 17-27-200.5(2)(c) of this part, with planning and zoning functions as exercised through the township planning commission, as provided in this part, but with no legal or political identity separate from the county and no taxing authority, except that "township" means a former township under Chapter 308, Laws of Utah 1996, where the context so indicates.]~~

~~[(b) "Unincorporated" means not within a municipality.]~~

~~[(2)]~~ (1) (a) (i) Subject to Subsection ~~[(2)]~~ (1)(a)(ii), a county legislative body may enact an ordinance establishing a township within the unincorporated county or dividing the unincorporated county into townships.

(ii) Before enacting an ordinance under Subsection ~~[(2)]~~ (1)(a)(i), the county legislative body shall, after providing reasonable advance notice, hold a public hearing on the proposal to establish a township or to divide the unincorporated county into townships.

(b) If 25% of the private real property owners in a contiguous area of the unincorporated county petition the county legislative body to establish a township for that area, the county legislative body shall:

(i) hold a public hearing to discuss the petition;

(ii) at least one week before the public hearing, publish notice of the petition and the time, date, and place of the public hearing at least once in a newspaper of general circulation in the county; and

(iii) at the public hearing, consider oral and written testimony from the public and vote on the question of whether or not to establish a township.

(c) If the county legislative body establishes a township pursuant to a petition, the members of the township planning commission shall be appointed as provided in Subsection ~~[17-27-201]~~ 17-27a-301(3)(b) to perform the duties established in this part for the township.

(d) Except as provided in Subsection ~~[(2)]~~ (1)(e), each township shall contain:

(i) in a county of the first, second, or third class:

(A) at least 20% but not more than 80% of:

(I) the total private land area in the unincorporated county; or

(II) the total value of locally assessed taxable property in the unincorporated county; or

(B) at least 5% of the total population of the unincorporated county; or

(ii) in a county of the fourth, fifth, or sixth class:

(A) at least 20% but not more than 80% of:

(I) the total private land area in the unincorporated county; or

(II) the total value of locally assessed taxable property in the unincorporated county; and

(B) at least 25% of the total population of the unincorporated county.

(e) (i) (A) A township that was dissolved under Chapter 389, Laws of Utah 1997, is reinstated as a township under this part with the same boundaries and name as before the dissolution, if the former township consisted of a single, contiguous land area.

(B) Notwithstanding Subsection ~~[(2)]~~ (1)(e)(i)(A), a county legislative body may enact an ordinance establishing as a township under this part a former township that was dissolved under Chapter 389, Laws of Utah 1997, even though the former township does not qualify to be reinstated under Subsection ~~[(2)]~~ (1)(e)(i)(A).

(C) A township reinstated under Subsection ~~[(2)]~~ (1)(e)(i)(A) or established under Subsection ~~[(2)]~~ (1)(e)(i)(B) shall be subject to the provisions of this part.

(ii) Each planning district established under Chapter 225, Laws of Utah 1995, and each township planning district established under Chapter 389, Laws of Utah 1997, shall continue in existence as a township, subject to the provisions of this part.

(f) (i) After May 1, 2002, the legislative body of each county in which a township that has been reconstituted under Chapter 389, Laws of Utah 1997, or reinstated under Subsection ~~[(2)]~~ (1)(e)(i) is located shall review the township and determine whether its continued existence is advisable.

(ii) In conducting the review required under Subsection ~~[(2)]~~ (1)(f)(i), the county legislative body shall hold a public hearing with reasonable, advance, published notice of the hearing and the purpose of the hearing.

(iii) Each township that has been reconstituted under Chapter 389, Laws of Utah 1997, or reinstated or established under Subsection ~~[(2)]~~ (1)(e)(i) and its planning commission shall continue in effect, unless, within 90 days after conducting the review and public hearing required under Subsections ~~[(2)]~~ (1)(f)(i) and (ii), the county legislative body by ordinance dissolves the township and its planning commission.

(g) A township established under this section on or after May 5, 1997, may use the word "township" in its name.

~~[(3)]~~ (2) (a) If the county legislative body establishes a township without having received a petition, the county legislative body may:

(i) assign to the countywide planning commission the duties established in this part that would have been assumed by a township planning commission designated under Subsection ~~[(3)]~~ (2)(a)(ii); or

(ii) designate a planning commission for the township.

(b) (i) If the county legislative body fails to designate a planning commission for a township, 40% of the private real property owners in the area proposed to be included in the township, as shown by the last county assessment roll, may petition the county legislative body to designate and appoint a planning commission for the township.

(ii) If the county legislative body determines that the petition is validly signed by 40% of the private real property owners in the township, as shown by the last county assessment roll, it shall designate and appoint a planning commission for the township.

~~[(4)]~~ (3) (a) Except as provided in Subsection ~~[(2)]~~ (1)(f)(iii), a county legislative body may dissolve township planning commissions created under the authority of this section only by following the procedures and requirements of this Subsection ~~[(4)]~~ (3).

(b) If 20% of the private real property owners in the county petition the county legislative body to dissolve township planning commissions and to appoint a countywide planning commission, the county legislative body shall:

(i) hold a public hearing to discuss the petition;

(ii) at least one week before the public hearing, publish notice of the petition and the

time, date, and place of the public hearing at least once in a newspaper of general circulation in the county; and

(iii) at the public hearing, consider oral and written testimony from the public and vote on the question of whether or not to dissolve township planning commissions and to appoint a countywide planning commission.

(c) (i) If the county legislative body fails to dissolve township planning commissions and to appoint a countywide planning commission when petitioned to do so by private real property owners under this subsection, 40% of private real property owners in the county, as shown by the last county assessment roll, may petition the county legislative body to dissolve the township planning commissions and to appoint a countywide planning commission.

(ii) If the county legislative body determines that the petition is validly signed by 40% of private real property owners in the township, as shown by the last county assessment roll, it shall dissolve the township planning commissions and appoint a countywide planning commission.

Section 94. Section **17-27a-307**, which is renumbered from Section 17-27-206 is renumbered and amended to read:

~~[17-27-206].~~ **17-27a-307. Certain township planning and zoning board dissolved.**

Except as provided in Subsection ~~[17-27-201(3)]~~ 17-27a-306(1)(f), the planning and zoning board of each township formed before May 5, 1997, under Chapter 308, Laws of Utah 1996, is dissolved.

Section 95. Section **17-27a-401**, which is renumbered from Section 17-27-301 is renumbered and amended to read:

Part 4. General Plan

~~[17-27-301].~~ **17-27a-401. General plan required -- Content -- Provisions related to radioactive waste facility.**

(1) In order to accomplish the purposes ~~[set forth in]~~ of this chapter, each county shall prepare and adopt a comprehensive, long-range general plan for:

(a) ~~[the]~~ present and future needs of the county; and

(b) ~~[the]~~ growth and development of all or any part of the land within the ~~[county or any part of the county, including uses of land for urbanization, trade, industry, residential, agricultural, wildlife habitat, and other purposes]~~ unincorporated portions of the county.

(2) The 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) the protection or promotion of moderate income housing;

~~[(f)]~~ (g) the protection and promotion of air quality;

~~[(g)]~~ (h) historic preservation;

~~[(h)]~~ (i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by ~~[affected entities and specified public utilities, as those terms are defined in Section 17-27-301.5; and]~~ each affected entity; and

~~[(i)]~~ (j) an official map~~[-pursuant to Title 72, Chapter 5, Part 4, Transportation Corridor Preservation].~~

(3) (a) The plan shall include specific provisions related to any areas within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303. The provisions shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

(i) the information identified in Section 19-3-305;

(ii) information supported by credible studies that demonstrates that the provisions of Subsection 19-3-307(2) have been satisfied; and

(iii) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (3)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (3)(b) at any time.

(d) The county shall send a certified copy of the ordinance under Subsection (3)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted pursuant to Subsection (3)(b) the county shall:

(i) comply with Subsection (3)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(4) The plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(5) ~~[The]~~ Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

Section 96. Section **17-27a-402**, which is renumbered from Section 17-27-203 is renumbered and amended to read:

~~[17-27-203].~~ **17-27a-402. Information and technical assistance from the state.**

~~[(1) A planning commission may obtain access to and use any data and information held by the state or any of its agencies:]~~

~~[(a) that is classified "public"; and]~~

~~[(b) that is classified "protected" if the planning commission's use of the data is lawfully authorized or if the data will be used for a purpose similar to the purpose for which it was gathered.]~~

~~[(2)]~~ Each state official, department, and agency shall:

~~[(a) make]~~ (1) promptly deliver any data and information requested by [the planning commission available if authorized under the requirements of this section; and] a county, unless the disclosure is prohibited by Title 63, Chapter 2, Government Records Access and Management Act; and

~~[(b)]~~ (2) furnish any other technical assistance and advice that they have available to [planning commissions] the county without additional cost to the county.

Section 97. Section **17-27a-403**, which is renumbered from Section 17-27-302 is renumbered and amended to read:

~~[17-27-302].~~ **17-27a-403. Plan preparation.**

~~[(1) (a) Subject to Section 17-27-301.5, the]~~

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county 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 unincorporated area within the county.

~~[(b)]~~ (c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is ~~[adopted]~~ recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) [The] (a) At a minimum, the proposed general plan, with the accompanying maps, [plats,] charts, and descriptive and explanatory matter, shall [show] include the planning

commission's recommendations for the ~~[development of the territory covered by the plan, and may include, among other things]~~ following plan elements:

~~[(a)]~~ (i) a land use element that:

~~[(i)]~~ (A) designates the long-term goals and the proposed extent, general distribution, and location ~~[and extent of uses]~~ of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

~~[(ii)]~~ (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;

~~[(b)]~~ (ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that ~~[are]~~ the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan; and

(iii) an estimate of the need for the development of additional moderate income housing within the unincorporated area of the county, and a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people desiring to live there; and

(B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) may include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation

to:

(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) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider general fund subsidies to waive construction related fees that are otherwise generally imposed by the county;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(G) consider utilization of affordable housing programs administered by the Department of Community and Economic Development.

(3) The proposed general plan may include:

~~[(e)]~~ (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;

~~[(d)]~~ (b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, ~~[local]~~ public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

~~[(e)]~~ (c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

- (i) historic preservation; and
- (ii) the diminution or elimination of blight; and ~~[for]~~
- ~~(iii)~~ redevelopment of land, including housing sites, business and industrial sites, and public building sites;

~~[(f)]~~ (d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan ~~[that]~~, which may include review of ~~[county]~~ existing and projected county revenue and expenditures, revenue sources, identification of ~~[base]~~ basic and ~~[residential]~~ secondary industry, primary and secondary market areas, employment, and retail sales activity;

~~[(g)]~~ (e) recommendations for implementing all or any portion of the general plan, including the use of ~~[zoning ordinances, subdivision]~~ land use ordinances, capital improvement plans, ~~[and]~~ community development and promotion, and any other appropriate [actions] action;

~~[(h)]~~ (f) provisions addressing any of the matters listed in Subsection ~~[17-27-301]~~ 17-27a-401(2); and

~~[(i)]~~ (g) any other ~~[elements that]~~ element the county considers appropriate.

Section 98. Section ~~17-27a-404~~, which is renumbered from Section 17-27-303 is renumbered and amended to read:

~~[17-27-303]~~. **17-27a-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 ~~[for all or part of the area within the county]~~, 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 ~~[reasonable]~~ notice of the public hearing ~~[at least 14 days before the date of the hearing]~~, as required by Section 17-27a-204.

(c) After the public hearing, the planning commission may ~~[make changes to]~~ modify the proposed general plan or amendment.

(2) The planning commission shall ~~[then]~~ forward the proposed general plan or

amendment to the legislative body.

~~[(3)(a) The legislative body shall hold a public hearing on the proposed general plan recommended to it by the planning commission.]~~

~~[(b) The]~~ (3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide [reasonable] notice of [the public hearing at least 14 days before the date of the hearing.] its intent to consider the general plan proposal.

~~[(4)(a)]~~ (b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection ~~[17-27-301]~~ 17-27a-401(3). The hearing procedure shall comply with this Subsection ~~[(4)]~~ (3)(b).

(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

~~[(b)]~~ (c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection ~~[(4)]~~ (3) when the proposed plan provisions required by Subsection ~~[17-27-301]~~ 17-27a-401(3) are complete.

(ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.

(iii) Public notice shall be given by publication in at least one major Utah newspaper having broad general circulation in the state, and also in at least one Utah newspaper having a general circulation focused mainly on the county where the proposed high-level nuclear waste or greater than class C radioactive waste site is to be located.

(iv) The notice in these newspapers shall be published not fewer than 180 days prior to the date of the hearing to be held under this Subsection ~~[(4)]~~ (3), to allow reasonable time for interested parties and the state to evaluate the information regarding the provisions of Subsection ~~[17-27-301]~~ 17-27a-401(3).

~~[(5)] (4)~~ (a) After ~~[a]~~ the public hearing required under this section, the legislative body may make any ~~[modifications]~~ revisions to the proposed general plan that it considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection ~~[(4)]~~ (3).

~~[(6)] (5)~~ (a) The county legislative body may~~[-(a)]~~ adopt or reject the proposed general plan ~~[without]~~ or amendment~~[-(b) amend the]~~ either as proposed ~~[general plan and adopt or reject it as amended; or (c) reject]~~ by the planning commission or after making any revision the county legislative body considers appropriate.

(b) If the county legislative body rejects the proposed general plan~~[-]~~ or amendment, it may provide suggestions to the planning commission for its consideration.

~~[(7) (a)]~~ The general plan is an advisory guide for land use decisions, except for the provision required by Subsection 17-27-301(3), which the legislative body shall adopt.]

~~[(b)]~~ The legislative body may adopt an ordinance mandating compliance with the general plan, and shall adopt an ordinance requiring compliance with all provisions of Subsection 17-27-301(3).]

(6) The legislative body shall adopt:

(a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii); and

(c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur.

Section 99. Section **17-27a-405** is enacted to read:

17-27a-405. Effect of general plan.

(1) Except for the mandatory provisions in Subsection 17-27a-401(3)(b) and Section 17-27a-406, the general plan is an advisory guide for land use decisions, the impact of which shall be determined by ordinance.

(2) The legislative body may adopt an ordinance mandating compliance with the general plan, and shall adopt an ordinance requiring compliance with all provisions of Subsection 17-27a-401(3)(b).

Section 100. Section **17-27a-406**, which is renumbered from Section 17-27-305 is renumbered and amended to read:

~~[17-27-305].~~ **17-27a-406. Public uses to conform to general plan.**

After the legislative body has adopted a [~~general plan or any amendments to the~~] 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~~[(1)]~~ it conforms to the current general plan~~[(1)]~~.

~~[(2) it has been considered by the planning commission and, after receiving the advice of the planning commission, the legislative body approves it as an amendment to the general plan.]~~

Section 101. Section **17-27a-407**, which is renumbered from Section 17-27-306 is renumbered and amended to read:

~~[17-27-306].~~ **17-27a-407. Effect of official maps.**

(1) Counties may adopt an official map [~~in accordance with the provisions of Title 72, Chapter 5, Part 4, Transportation Corridor Preservation~~].

(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 county to immediately acquire property it has designated for eventual use as a public street.

(b) This section does not prohibit a county from:

(i) [~~requiring a landowner to take into account~~] 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 17-27a-507;

(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 county because of a proposed development and if the dedication and improvement is consistent with Section 17-27a-507.

~~[(3) An official map may not be used to unconstitutionally prohibit the development of property designated for eventual use as a public street.]~~

~~[(4) An adopted official map shall be available for public inspection upon request.]~~

Section 102. Section **17-27a-408**, which is renumbered from Section 17-27-307 is renumbered and amended to read:

~~[17-27-307].~~ **17-27a-408. Biennial review of moderate income housing element of general plan.**

~~[(1) The availability of moderate income housing is an issue of statewide concern. To this end:]~~

~~[(a) counties should afford a reasonable opportunity for a variety of housing, including moderate income housing, to meet the needs of people desiring to live there; and]~~

~~[(b) moderate income housing should be located in all areas of a community to allow persons with moderate incomes to benefit from and to fully participate in all aspects of neighborhood and community life.]~~

~~[(2) As used in this section:]~~

~~[(a) "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 of the county statistical area for households of the same size.]~~

~~[(b) "Plan for moderate income housing" or "plan" means a written document adopted by a county legislative body that includes, but is not limited to:]~~

~~[(i) an estimate of the existing supply of moderate income housing located within the county;]~~

~~[(ii) an estimate of the need for moderate income housing in that county for the next five years as revised biennially;]~~

~~[(iii) a survey of total residential zoning;]~~

~~[(iv) an evaluation of how existing zoning densities affect opportunities for moderate income housing; and]~~

~~[(v) a description of the county's program to encourage an adequate supply of moderate income housing.]~~

~~[(3) Before December 31, 1998, each county legislative body shall, as part of its general plan, adopt a plan for moderate income housing within the unincorporated areas of that county.]~~

~~[(4) A plan may provide for moderate income housing by any means or combination of techniques which provide a realistic opportunity to meet estimated needs. The plan may include an analysis of why the means or techniques selected provide a realistic opportunity to meet the objectives of this section. Such techniques may include]:~~

~~[(a) rezoning for densities necessary to assure the economic viability of inclusionary developments, either through mandatory set asides or density bonuses;]~~

~~[(b) infrastructure expansion and rehabilitation that will facilitate the construction of moderate income housing;]~~

~~[(c) rehabilitation of existing uninhabitable housing stock;]~~

~~[(d) consideration of waiving construction related fees generally imposed by the county;]~~

~~[(e) utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;]~~

~~[(f) utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and]~~

~~[(g) utilization of affordable housing programs administered by the Department of Community and Economic Development.]~~

~~[(5) (a) After adoption of a plan for moderate income housing under Subsection (3), the]~~

~~(1) The legislative body of each county with a population over 25,000 shall biennially:~~

~~[(i)] (a) review the moderate income housing plan element of its general plan and its implementation; and~~

~~[(ii)] (b) prepare a report setting forth the findings of the review.~~

~~[(b)] (2) Each report under Subsection [(5)(a)(ii)] (1) shall include a description of:~~

~~[(i)]~~ (a) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;

~~[(ii)]~~ (b) actions taken by the county to encourage preservation of existing moderate income housing and development of new moderate income housing;

~~[(iii)]~~ (c) progress made within the county to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and

~~[(iv)]~~ (d) efforts made by the county to coordinate moderate income housing plans and actions with neighboring counties and municipalities.

~~[(e)]~~ (3) The legislative body of each county with a population over 25,000 shall send a copy of the report under Subsection ~~[(5)(a)(ii)]~~ (1) to the Department of Community and Economic Development and the association of governments in which the county is located.

~~[(6)]~~ (4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(6)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief ~~[only]~~.

Section 103. Section **17-27a-409**, which is renumbered from Section 17-27-308 is renumbered and amended to read:

~~[17-27-308]~~. **17-27a-409. State to indemnify county regarding refusal to site nuclear waste -- Terms and conditions.**

If a county is challenged in a court of law regarding its decision to deny siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste or its refusal to provide municipal-type services regarding the operation of the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless from any claims or damages, including court costs and attorney fees that are assessed as a result of the county's action, if:

(1) the county has complied with the provisions of Subsection ~~[17-27-301]~~ 17-27a-401(3)(b) by adopting an ordinance rejecting all proposals for the siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the boundaries of the county;

(2) the county has complied with Subsection 17-34-1(3) regarding refusal to provide municipal-type services; and

(3) the court challenge against the county addresses the county's actions in compliance with Subsection ~~[17-27-301]~~ 17-27a-401(3)(b) or ~~[Subsection]~~ 17-34-1(3).

Section 104. Section **17-27a-501**, which is renumbered from Section 17-27-401 is renumbered and amended to read:

Part 5. Land Use Ordinances

~~[17-27-401].~~ **17-27a-501. Authority to enact land use ordinances and zoning map.**

The legislative body may enact ~~[a zoning ordinance establishing regulations for land use and development that furthers the intent of this chapter]~~ land use ordinances and a zoning map.

Section 105. Section **17-27a-502**, which is renumbered from Section 17-27-402 is renumbered and amended to read:

~~[17-27-402].~~ **17-27a-502. Preparation and adoption of land use ordinance or zoning map.**

(1) The planning commission shall:

(a) provide notice as required by Subsection 17-27a-205(1)(a);

(b) hold a public hearing on a proposed land use ordinance or zoning map; and

(c) prepare and recommend to the legislative body a proposed [zoning ordinance, including both the full text of the zoning ordinance and maps, that represents the commission's recommendations for zoning] land use ordinance or ordinances and zoning map that represent the planning commission's recommendation for regulating the use and development of land within all or any part of the unincorporated area [within] of the county.

(2) ~~[(a)]~~ The county legislative body shall ~~[hold a public hearing on the]~~ consider each proposed ~~[zoning]~~ land use ordinance and zoning map recommended to it by the planning commission~~[- (b) The legislative body shall provide reasonable notice of the public hearing at least 14 days before the date of the hearing. (3) After the public hearing;], and, after providing notice as required by Subsection 17-27a-205(1)(b) and holding a public meeting,~~ the legislative

body may~~[-(a)]~~ adopt or reject the ~~[zoning]~~ proposed ordinance or map either as proposed~~[-(b)]~~ amend the zoning ordinance and adopt or reject the zoning ordinance as amended; or ~~(c)~~ reject the ordinance] by the planning commission or after making any revision the county legislative body considers appropriate.

Section 106. Section **17-27a-503**, which is renumbered from Section 17-27-403 is renumbered and amended to read:

~~[17-27-403].~~ **17-27a-503. Land use ordinance or zoning map amendments.**

(1) ~~[(a)]~~ The legislative body may amend:

~~[(i)]~~ (a) the number, shape, boundaries, or area of any zoning district;

~~[(ii)]~~ (b) any regulation of or within the zoning district; or

~~[(iii)]~~ (c) any other provision of ~~[the zoning]~~ a land use ordinance.

~~[(b)]~~ (2) The legislative body may not make any amendment authorized by this subsection unless the amendment was proposed by the planning commission or is first submitted to the planning commission for its ~~[approval, disapproval, or recommendations]~~ recommendation.

~~[(2)]~~ (3) The legislative body shall comply with the procedure specified in Section ~~[17-27-402]~~ 17-27a-502 in preparing and adopting an amendment to ~~[the zoning]~~ a land use ordinance or [the] a zoning map.

Section 107. Section **17-27a-504**, which is renumbered from Section 17-27-404 is renumbered and amended to read:

~~[17-27-404].~~ **17-27a-504. Temporary land use regulations.**

(1) (a) A county legislative body may, without ~~[a public hearing]~~ prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary ~~[zoning]~~ land use regulation for any part or all of the area within the county if:

(i) the legislative body makes a finding of compelling, countervailing public interest; or

(ii) the area is ~~[unzoned]~~ unregulated.

(b) A temporary ~~[zoning]~~ land use regulation under Subsection (1)(a) may prohibit~~[-~~ restrict,] or regulate the erection, construction, reconstruction, or alteration of any building or

structure or any subdivision approval.

(c) A temporary [~~zoning~~] land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.

(2) The [~~county~~] legislative body shall establish a period of limited effect for the [~~temporary~~] ordinance not to exceed six months.

(3) (a) A [~~county~~] legislative body may, without [~~a public hearing~~] prior planning commission consideration or recommendation, enact an ordinance establishing a temporary [~~zoning~~] 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 [~~zoning~~] regulation under Subsection (3)(a):

(i) may not exceed six months in duration;

(ii) may be renewed, if requested by the [~~Utah~~] 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 [~~zoning~~] 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.

Section 108. Section **17-27a-505**, which is renumbered from Section 17-27-405 is renumbered and amended to read:

~~[17-27-405].~~ **17-27a-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.

(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each [~~district~~] zone, but the regulations in one [~~district~~] zone may

differ from those in other ~~[districts]~~ 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 county decision.

Section 109. Section **17-27a-506**, which is renumbered from Section 17-27-406 is renumbered and amended to read:

~~[17-27-406].~~ **17-27a-506. Conditional uses.**

~~[(1) A zoning ordinance may contain provisions for administrative decisions relating to]~~

(1) A land use ordinance may include conditional uses [that may be allowed, allowed with conditions, or denied in designated zoning districts, based on] and provisions for conditional uses that require compliance with standards [and criteria] set forth in [the zoning ordinance for those uses] an applicable ordinance.

(2) (a) [Appeals of the approval or denial of a] A conditional use [permit shall be decided by the board of adjustment, unless the county legislative body by ordinance designates itself or another body to decide those appeals] shall be approved 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.

(b) 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 conditional use may be denied.

Section 110. Section **17-27a-507** is enacted to read:

17-27a-507. Exactions.

A county may impose an exaction or exactions on development proposed in a land use application provided that:

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

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

Section 111. Section **17-27a-508** is enacted to read:

17-27a-508. When a land use applicant is entitled to approval -- Exception --
County required to comply with land use ordinances.

(1) (a) An applicant is entitled to approval of a land use application if the application conforms to the requirements of an applicable land use ordinance in effect when a complete application is submitted and all fees have been paid, unless:

(i) the land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or

(ii) in the manner provided by local ordinance and before the application is submitted, the county has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings initiated to amend the county's ordinances if:

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

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

(c) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

(d) 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.

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

Section 112. Section **17-27a-509**, which is renumbered from Section 17-27-106 is renumbered and amended to read:

~~[17-27-106].~~ **17-27a-509. Limit on fee for review and approving building**

plans.

(1) A county 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 county charges for a building permit fee for that building.

~~[(2) (a) For purposes of this Subsection (2):]~~

~~[(i) "Identical plans" means building plans submitted to a county that:]~~

~~[(A) are substantially identical to building plans that were previously submitted to and reviewed and approved by the county; and]~~

~~[(B) describe a building that is:]~~

~~[(f) located on land zoned the same as the land on which the building described in the previously approved plans is located; and]~~

~~[(H) subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans.]~~

~~[(ii) "Nominal fee" means a fee that reasonably reimburses a county 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 referred to in Subsection (2)(a)(i).]~~

~~[(b)]~~ (2) Subject to Subsection (1), a county may impose and collect only a nominal fee for reviewing and approving identical plans.

Section 113. Section **17-27a-510**, which is renumbered from Section 17-27-407 is renumbered and amended to read:

~~[17-27-407].~~ **17-27a-510. Nonconforming uses and noncomplying structures.**

(1) (a) Except as provided in this section, a nonconforming use or a 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.

~~[(d) If any county acquires title to any property because of tax delinquency and the property is not redeemed as provided by law, the future use of the property shall conform with the existing provisions of the county ordinances equally applicable to other like properties within the district in which the property acquired by the county is located.]~~

(2) The legislative body may provide ~~[in any zoning ordinance or amendment]~~ for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the ~~[zoning]~~ 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 billboard that is a nonconforming use by acquiring the billboard and associated property rights through:]~~ a nonconforming use due to its abandonment.

~~[(i) gift;]~~

~~[(ii) purchase;]~~

~~[(iii) agreement;]~~

~~[(iv) exchange; or]~~

~~[(v) eminent domain.]~~

~~[(3) (a) A county is considered to have initiated the acquisition of a billboard structure by eminent domain under Subsection (2)(c)(v) if the county prevents a billboard owner from:]~~

~~[(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism; or]~~

~~[(ii) except as provided in Subsection (3)(b), relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or other~~

measure is consistent with the intent of that permit.]

~~[(b) A county's denial of 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 does not constitute the initiation of acquisition by eminent domain under Subsection (3)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence 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:]~~

~~[(4) Notwithstanding Subsections (2) and (3), a county may remove a billboard without providing compensation if:]~~

~~[(a) the county 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 county notifies the owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (4)(a)(i) and (ii);]~~

~~[(c) the owner fails to remedy the condition or conditions within:]~~

~~[(i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (4)(b); or]~~

~~[(ii) if the condition forming the basis of the county's intention to remove the billboard is that it is structurally unsafe, ten business days, or a longer period if necessary because of a natural disaster, following the billboard owner's receipt of written notice under Subsection (4)(b); and]~~

~~[(d) following the expiration of the applicable period under Subsection (4)(c) and after]~~

providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the county 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.]~~

~~[(5) A county may not allow a nonconforming billboard to be rebuilt for a reason other than:]~~

~~[(a) those specified in Subsections (3) and (4);]~~

~~[(b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and]~~

~~[(c) those specified in the county's ordinance requiring or allowing a billboard owner to relocate and rebuild an existing nonconforming billboard to an area within the county where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.]~~

(3) (a) A county 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 county 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 written notice 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.

(4) (a) Unless the county 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.

(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 county 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 shall have the burden of establishing that any claimed abandonment under Subsection (4)(c) has not in fact occurred.

~~[(6)]~~ (5) A county may terminate the nonconforming status of a school district [property] 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.

Section 114. Section **17-27a-511**, which is renumbered from Section 17-27-408 is renumbered and amended to read:

~~[17-27-408].~~ **17-27a-511. Termination of a billboard and associated rights.**

(1) A county may only require termination of a billboard and associated property 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.

Section 115. Section **17-27a-512** is enacted to read:

17-27a-512. County's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboard to be rebuilt.

(1) (a) A county is considered to have initiated the acquisition of a billboard structure by eminent domain if the county prevents a billboard owner from:

(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism; or

(ii) except as provided in Subsection (1)(b), relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit.

(b) A county's denial of 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 does not constitute the initiation of acquisition by eminent domain under Subsection (1)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence 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.

(2) Notwithstanding Subsection (1) and Section 17-27a-511, a county may remove a billboard without providing compensation if:

(a) the county 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 county notifies the owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (2)(a)(i) and (ii);
- (c) the owner fails to remedy the condition or conditions within:
 - (i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (2)(b); or
 - (ii) if the condition forming the basis of the county's intention to remove the billboard is that it is structurally unsafe, ten business days, or a longer period if necessary because of a natural disaster, following the billboard owner's receipt of written notice under Subsection (2)(b);
- and
- (d) following the expiration of the applicable period under Subsection (2)(c) and after providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the county 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.
- (3) A county may not allow a nonconforming billboard to be rebuilt for a reason other than:
 - (a) those specified in Subsections (1) and (2);
 - (b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and
 - (c) those specified in the county's ordinance requiring or allowing a billboard owner to relocate and rebuild an existing nonconforming billboard to an area within the county where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

Section 116. Section **17-27a-513**, which is renumbered from Section 17-27-105.5 is

renumbered and amended to read:

~~[17-27-105.5].~~ **17-27a-513. Manufactured homes.**

(1) For purposes of this section, a manufactured home is the same as defined in Section 58-56-3, except that the manufactured home must 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 must 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 ~~[zoning;]~~ land use ordinances, building ~~[code]~~ codes, and ~~[subdivision requirements; including]~~ any restrictive covenants, applicable to a single-family residence within that zone or area.

(3) A county 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.

Section 117. Section **17-27a-514**, which is renumbered from Section 17-27-107 is renumbered and amended to read:

~~[17-27-107].~~ **17-27a-514. Regulation of amateur radio antennas.**

(1) A county 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 county 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 county's purpose.

Section 118. Section **17-27a-515**, which is renumbered from Section 17-27-501 is renumbered and amended to read:

~~[17-27-501].~~ **17-27a-515. Residential facilities for elderly persons.**

(1) ~~[(a)]~~ A residential facility for elderly persons may not operate as a business.

~~[(b)]~~ (2) A residential facility for elderly persons shall:

~~[(i)]~~ (a) be owned by one of the residents or by an immediate family member of one of the residents or be a facility for which the title has been placed in trust for a resident;

~~[(ii)]~~ (b) be consistent with any existing ~~[zoning of]~~, applicable land use ordinance affecting the desired location; and

~~[(iii)]~~ (c) be occupied on a 24-hour-per-day basis by eight or fewer elderly persons in a family-type arrangement.

~~[(2)]~~ (3) A residential facility for elderly persons may not be considered a business because a fee is charged for food or for actual and necessary costs of operation and maintenance of the facility.

Section 119. Section **17-27a-516**, which is renumbered from Section 17-27-502 is renumbered and amended to read:

~~[17-27-502].~~ **17-27a-516. County ordinances governing elderly residential facilities.**

(1) Each county shall adopt ordinances that establish that a residential facility for elderly persons is a permitted use in any area where residential dwellings are allowed, except an area zoned to permit exclusively single-family dwellings.

(2) The ordinances shall establish a permit process that may require only that:

(a) the facility meet ~~[all applicable]~~ each building, safety, ~~[zoning,]~~ land use, and health ~~[ordinances]~~ ordinance applicable to similar dwellings;

(b) adequate off-street parking space be provided;

(c) the facility be capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character;

(d) residential facilities for elderly persons be reasonably dispersed throughout the

county;

(e) no person being treated for alcoholism or drug abuse be placed in a residential facility for elderly persons; and

(f) placement in a residential facility for elderly persons be on a strictly voluntary basis and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional facility.

Section 120. Section **17-27a-517**, which is renumbered from Section 17-27-503 is renumbered and amended to read:

~~[17-27-503].~~ **17-27a-517. County approval of elderly residential facilities.**

(1) ~~[(a)]~~ Upon application for a permit to establish a residential facility for elderly persons in any area where residential dwellings are allowed, except an area zoned to permit exclusively single-family dwellings, the county ~~[may decide only whether or not the residential facility for elderly persons conforms to ordinances adopted by the county under this part]~~ shall grant the requested permit to the facility if the facility is proposed outside of a zone regulated exclusively for single-family homes and shall otherwise comply with Section 17-27a-518 if the facility is proposed in a land use zone regulated exclusively for single-family homes.

~~[(b) If the county determines that the residential facility for elderly persons complies with the ordinances, it shall grant the requested permit to that facility.]~~

(2) The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to a use other than a residential facility for elderly persons or if the structure fails to comply with the ordinances adopted under this ~~[part]~~ section.

(3) If a county has not adopted ordinances under this ~~[part]~~ section at the time an application for a permit to establish a residential facility for elderly persons is made, the county shall grant the permit if it is established that the criteria set forth in this part have been met by the facility.

Section 121. Section **17-27a-518**, which is renumbered from Section 17-27-504 is renumbered and amended to read:

~~[17-27-504].~~ **17-27a-518. Elderly residential facilities in areas zoned exclusively for single-family dwellings.**

(1) For purposes of this section:

(a) no person who is being treated for alcoholism or drug abuse may be placed in a residential facility for elderly persons; and

(b) placement in a residential facility for elderly persons shall be on a strictly voluntary basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution.

(2) Subject to the granting of a conditional use permit, a residential facility for elderly persons shall be allowed in any [~~county zoning district~~] zone that is [~~zoned~~] regulated to permit exclusively single-family dwelling use, if that facility:

(a) conforms to all applicable health, safety, [~~zoning~~] land use, and building codes;

(b) is capable of use as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character; and

(c) conforms to the county's criteria, adopted by ordinance, governing the location of residential facilities for elderly persons in areas zoned to permit exclusively single-family dwellings.

(3) A county may, by ordinance, provide that no residential facility for elderly persons be established within three-quarters mile of another existing residential facility for elderly persons or residential facility for persons with a disability[~~, as defined by Section 17-27-605~~].

(4) The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to a use other than as a residential facility for elderly persons or if the structure fails to comply with applicable health, safety, and building codes.

(5) (a) County ordinances shall prohibit discrimination against elderly persons and against residential facilities for elderly persons.

(b) The decision of a county regarding the application for a permit by a residential facility for elderly persons must be based on legitimate land use criteria and may not be based on the age of the facility's residents.

(6) The requirements of this section that a residential facility for elderly persons obtain a conditional use permit or other permit do not apply if the facility meets the requirements of

existing [~~zoning~~] land use ordinances that allow a specified number of unrelated persons to live together.

Section 122. Section **17-27a-519**, which is renumbered from Section 17-27-605 is renumbered and amended to read:

~~[17-27-605].~~ **17-27a-519. Residences for persons with a disability.**

~~[(1) As used in this section:]~~

~~[(a) "Disability" is defined in Section 57-21-2.]~~

~~[(b) "Residential facility for persons with a disability" means a residence:]~~

~~[(i) in which more than one person with a disability resides; and]~~

~~[(ii) (A) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or]~~

~~[(B) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.]~~

~~[(2)]~~ (1) Each county shall adopt an ordinance for residential facilities for persons with a disability.

~~[(3)]~~ (2) Each ordinance under Subsection ~~[(2)]~~ (1) shall:

(a) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and

(b) to the extent required by federal law, provide that a residential facility for persons with a disability is a permitted use in any [~~zoning area~~] zone where similar residential dwellings that are not residential facilities for persons with a disability are allowed.

~~[(4)]~~ (3) Subject to Subsection ~~[(3)]~~ (2), an ordinance under Subsection ~~[(2)]~~ (1) may:

(a) require residential facilities for persons with a disability:

(i) to be reasonably dispersed throughout the county;

(ii) to be limited by number of occupants;

(iii) for residential facilities for persons with a disability that are substance abuse facilities and are located within 500 feet of a school, to provide, in accordance with rules established by the Department of Human Services under Title 62A, Chapter 2, Licensure of

Programs and Facilities:

- (A) a security plan satisfactory to local law enforcement authorities;
- (B) 24-hour supervision for residents; and
- (C) other 24-hour security measures; and

(iv) to obtain permits that verify compliance with the same building, safety, and health regulations as are applicable in the same ~~[zoning area]~~ zone to similar uses that are not residential facilities for persons with a disability; and

(b) provide that a residential facility for persons with a disability that would likely create a fundamental change in the character of a residential neighborhood may be excluded from a ~~[zoning area]~~ zone.

~~[(5)]~~ (4) 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:

(a) 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 to People with Disabilities; and

(b) 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.

Section 123. Section **17-27a-601**, which is renumbered from Section 17-27-801 is renumbered and amended to read:

Part 6. Subdivisions

~~[17-27-801].~~ **17-27a-601. Enactment of subdivision ordinance.**

(1) The legislative body of ~~[any]~~ a county may enact ~~[a subdivision ordinance]~~ ordinances requiring that a subdivision plat comply with the provisions of the ~~[subdivision]~~ ordinance and ~~[be approved as required by]~~ this part before:

- ~~[(1)]~~ (a) it may be filed or recorded in the county recorder's office; and
- ~~[(2)]~~ (b) lots may be sold.

(2) If the legislative body fails to enact a subdivision ordinance, the county may regulate subdivisions only as provided in this part.

Section 124. Section **17-27a-602**, which is renumbered from Section 17-27-802 is renumbered and amended to read:

~~[17-27-802].~~ **17-27a-602. Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.**

(1) The planning commission shall:

(a) prepare and recommend a proposed [~~subdivision~~] ordinance to the legislative body that regulates the subdivision of land;

(b) prepare and recommend or consider and recommend a proposed ordinance that amends the regulation of the subdivision of the unincorporated land in the county;

(c) provide notice consistent with Section 17-27a-205; and

~~[(b)]~~ (d) hold a public hearing on the proposed [~~subdivision~~] ordinance before making its final recommendation to the legislative body[; and].

~~[(c) provide reasonable notice of the public hearing at least 14 days before the date of the hearing.]~~

~~[(2) The legislative body shall:]~~

~~[(a) hold a public hearing on the proposed subdivision ordinance recommended to it by the planning commission; and]~~

~~[(b) provide reasonable notice of the public hearing at least 14 days before the date of the hearing.]~~

~~[(3) After the public hearing, the]~~

(2) The county legislative body may[; (a)] adopt or reject the [~~subdivision~~] ordinance either as proposed[; (b) amend the subdivision ordinance and adopt or reject it as amended; or (c) reject the ordinance] by the planning commission or after making any revision the county legislative body considers appropriate.

Section 125. Section **17-27a-603**, which is renumbered from Section 17-27-804 is renumbered and amended to read:

~~[17-27-804].~~ **17-27a-603.** Plat required when land is subdivided -- Approval of plat -- Recording plat.

(1) Unless exempt under Section ~~[17-27-806]~~ 17-27a-605 or ~~[not included in the]~~ excluded from the definition of ~~[a]~~ subdivision under Subsection ~~[17-27-103(1)]~~ 17-27a-103(37), whenever any ~~[lands are divided]~~ land is laid out and platted, the owner of ~~[those lands]~~ the land shall ~~[have]~~ provide an accurate plat ~~[made of them that sets forth and describes: (a) all]~~ that describes or specifies:

(a) a name or designation of the subdivision that is distinct from any plat already 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, [and] whether [they are intended for streets or] the owner proposes that any parcel of ground is intended to be used as a street or for any other public [uses, together with any areas that are reserved for public purposes; and] use, and whether any such area is reserved or proposed for dedication for a public purpose;

~~[(b)]~~ (c) the lot or unit reference, [the] block or building reference, [the] street or site address, [the] street name or coordinate address, [the] acreage or square footage for all parcels, units, or lots, and [the] length and width of the blocks and lots intended for sale[-]; and

(d) every existing right-of-way and easement grant of record for underground facilities, as defined in Section 54-8a-2, and for other utility facilities.

(2) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority and the sanitary sewer authority, the county shall approve the plat.

(3) The county 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.

~~[(2)]~~ (4) (a) The owner of the land shall acknowledge the plat before an officer authorized by law to take the acknowledgment of conveyances of real estate and shall obtain the signature of each individual designated by the county.

(b) The surveyor making the plat shall certify [it:] that the surveyor:

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

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) As applicable, the owner or operator of the underground and utility facilities shall approve the:

(i) boundary, course, dimensions, and intended use of the right-of-way and easement grants of record;

(ii) location of existing underground and utility facilities; and

(iii) conditions or restrictions governing the location of the facilities within the right-of-way, and easement grants of records, and utility facilities within the subdivision.

~~[(3)]~~ (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, [subject to Subsection (3)(b)] within the time period designated by ordinance, record [it] the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

~~[(b) An owner of land may not submit for recording a plat that gives the subdivision described in the plat the same name as a subdivision in a plat already recorded in the county recorder's office.]~~

(b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

Section 126. Section **17-27a-604**, which is renumbered from Section 17-27-805 is renumbered and amended to read:

~~[17-27-805].~~ **17-27a-604.** Subdivision plat approval procedure -- Effect of not complying.

(1) A person may not submit a ~~[plat of a]~~ subdivision plat to the county recorder's office for recording unless a recommendation has been received from the planning commission and:

(a) the plat has been approved by:

(i) the ~~[executive]~~ land use authority of the county in whose unincorporated area the ~~[subdivision]~~ land described in the plat is located; ~~[or]~~ and

(ii) other officers that the county ~~[legislative body]~~ designates in ~~[an]~~ its ordinance; and

(b) ~~[the approval is]~~ all approvals are entered in writing on the plat by ~~[the county executive or by the other officers designated in the ordinance]~~ designated officers.

(2) A ~~[subdivision]~~ plat recorded without the ~~[approval]~~ signatures required under this section is void.

(3) A transfer of land pursuant to a void plat is voidable.

Section 127. Section **17-27a-605**, which is renumbered from Section 17-27-806 is renumbered and amended to read:

~~[17-27-806].~~ **17-27a-605.** Exemptions from plat requirement.

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

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

~~[(ii) the document contains a certificate or written approval from:]~~

~~[(A) the executive of the county in whose unincorporated area the property is located; or]~~

~~[(B) other officers that the county legislative body designates in an ordinance.]~~

~~[(b) By indicating its approval on a document under Subsection (1)(a), the county executive or other officer designated by the county legislative body certifies that:]~~

~~[(i) the planning commission:]~~

~~[(A) has given its recommendation to the county executive; or]~~

~~[(B) is not required by county ordinance to give its recommendation;]~~

~~[(ii) the subdivision]~~

(1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority may approve the subdivision of unincorporated land into ten lots or less without a plat, by certifying in writing that:

(a) the county has provided notice as required by ordinance and by Sections 17-27a-206 and 17-27a-207;

(b) the proposed subdivision:

(i) is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes; ~~and]~~

~~[(iii) if the subdivision]~~

(ii) has been approved by the culinary water authority and the sanitary sewer authority;

(iii) is located in a zoned area~~[, each lot in the subdivision meets the frontage, width, and area requirements of the zoning ordinance or has been granted]; and~~

(iv) conforms to all applicable land use ordinances or has properly received a variance from ~~[those requirements by the board of adjustment] the requirements of an otherwise conflicting and applicable land use ordinance.~~

(2) (a) Subject to Subsection ~~[(2)(b)]~~ (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section ~~[17-27-804]~~ 17-27a-603 if the lot or parcel:

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

(ii) meets the minimum size requirement of applicable ~~[zoning]~~ land use ordinances ~~[for agricultural uses]; and~~

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

(b) ~~[(i)]~~ The ~~[county legislative body may adopt an ordinance requiring the]~~ boundaries of each lot or parcel exempted under Subsection ~~[(2)(a) to]~~ (1) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under

Section ~~[17-27-805]~~ 17-27a-604, shall be recorded with the county recorder.

~~[(ii) As an alternative to enacting an ordinance under Subsection (2)(b)(i), a county legislative body may establish a procedure under which a notice, covenant, or other specified legal instrument containing a legal description of the subject property and identifying the agricultural purpose for the land division is recorded with the county recorder.]~~

(c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the county ~~[in whose unincorporated area the lot or parcel is located]~~ may require the lot or parcel to comply with the requirements of Section ~~[17-27-804]~~ 17-27a-603.

(3) (a) Documents recorded in the county recorder's office that divide property by a metes and bounds description do not create ~~[a]~~ an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1)(a)(ii) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1)~~[(a)(ii)]~~ does not affect the validity of a recorded document.

(c) A document ~~[recorded under Subsection (1)(a)]~~ which does not meet the requirements of Subsection (1)~~[(a)(ii)]~~ may be corrected ~~[to comply with Subsection (1)(a)(ii)]~~ by the recording of an affidavit to which the required certificate or written approval is attached in accordance with Section 57-3-106.

Section 128. Section **17-27a-606**, which is renumbered from Section 17-27-806.5 is renumbered and amended to read:

~~[17-27-806.5].~~ **17-27a-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) A parcel designated as common area on a plat recorded in compliance with this part may not be separately owned or conveyed independent of the other parcels created by the plat.

(2) The ownership interest in a parcel described in Subsection (1) shall:

(a) for purposes of assessment, be divided equally among all parcels created by the plat, unless a different division of interest for assessment purposes is indicated on the plat or an

accompanying recorded document; and

(b) be considered to be included in the description of each instrument describing a parcel on the plat by its identifying plat number, even if the common area interest is not explicitly stated in the instrument.

Section 129. Section **17-27a-607**, which is renumbered from Section 17-27-807 is renumbered and amended to read:

~~[17-27-807].~~ **17-27a-607. Dedication of streets and other public places.**

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

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

Section 130. Section **17-27a-608**, which is renumbered from Section 17-27-808 is renumbered and amended to read:

~~[17-27-808].~~ **17-27a-608. Vacating or changing a subdivision plat.**

(1) (a) Subject to ~~[Subsection (2), the county executive or any other officer that the county legislative body designates by ordinance]~~ Section 17-27a-610, and provided that notice has been given pursuant to local ordinance and Section 17-27a-208, the land use authority may, with or without a petition, consider and resolve any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley contained in a subdivision plat [at a public hearing].

(b) If a petition is filed, the ~~[responsible officer]~~ land use authority shall hold ~~[the]~~ a public hearing within 45 days after receipt of the planning commission's recommendation under Subsection (2) if:

- (i) the plat change includes the vacation of a public street or alley;
- (ii) any owner within the plat notifies the ~~[municipality]~~ county of their objection in writing within ten days of mailed notification; or
- (iii) a public hearing is required because all of the owners in the subdivision have not

signed the revised plat.

~~[(2) (a) Before the county legislative body or officer designated by the county legislative body may consider]~~

(2) (a) The planning commission shall consider and provide a recommendation for a proposed vacation, alteration, or amendment under Subsection (1)(a) or (6); the county legislative body or officer shall refer the proposal to the planning commission for its recommendation] before the land use authority takes final action.

(b) The planning commission shall give its recommendation within 30 days after the proposed vacation, alteration, or amendment is referred to it, or as that time period is extended by agreement with the applicant.

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

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

- (a) the name and address of all owners of record of the land contained in the entire plat;
- (b) the name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended; and
- (c) the signature of each of these owners who consents to the petition.

(5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may not be scheduled for consideration at a public hearing before the ~~[responsible officer]~~ planning commission until the notice required by ~~[this part]~~ Section 17-27a-207 or 17-27a-208, as applicable, is given.

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

(6) Subject to Subsection (2), if the ~~[responsible body or officer]~~ applicant proposes to vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat, ~~[they]~~ the planning commission shall consider the issue at a public hearing after giving the notice

required by ~~[this part]~~ Section 17-27a-207 or 17-27a-208, as applicable.

(7) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the ~~[planning commission, or such other person or board as the county legislative body may designate,]~~ land use authority in accordance with Subsection (7)(b).

(b) The ~~[planning commission, or such other person or board as the county legislative body may designate,]~~ land use authority shall approve an exchange of title under Subsection (7)(a) if:

(i) no new dwelling lot or housing unit will result from the exchange of title; and

(ii) the exchange of title will not result in a violation of ~~[applicable zoning requirements]~~ any land use ordinance.

(c) If an exchange of title is approved under Subsection (7)(b), a notice of approval shall be recorded ~~[by the planning commission, or such other person or board as the county legislative body may designate,]~~ in the office of the county recorder which:

(i) is executed by each owner included in the exchange and by the ~~[planning commission, or such other person or board as the county legislative body may designate]~~ land use authority;

(ii) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(iii) recites the descriptions of both the original parcels and the parcels created by the exchange of title.

(d) A notice of approval recorded under this Subsection (7) does not act as a conveyance of title to real property and is not required for the recording of a document purporting to convey title to real property.

(8) (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 (8)(c).

(b) The surveyor ~~[making]~~ preparing the amended plat shall certify ~~[it.]~~ that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; 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 (8)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is ~~[void]~~ voidable.

Section 131. Section **17-27a-609**, which is renumbered from Section 17-27-810 is renumbered and amended to read:

~~[17-27-810].~~ 17-27a-609. Land use authority consideration of petition to vacate or change a plat -- Criteria for vacating or changing a plat -- Recording the vacation or change.

(1) ~~[(a)]~~ Within 30 days after the public hearing required by this part, ~~[the responsible officer]~~ or as that time period may be extended by agreement of the parties, the land use authority shall consider the petition to vacate or change a plat.

~~[(b)]~~ (2) If the ~~[responsible officer]~~ land use authority is satisfied that the public will not be materially injured by the proposed vacation, alteration, or amendment, and that there is good cause for the vacation, alteration, or amendment, the ~~[county executive]~~ land use authority may vacate, alter, or amend the plat, any portion of the plat, or any street or lot.

~~[(c)]~~ (3) The ~~[responsible officer]~~ land use authority may approve the vacation, alteration, or amendment by resolution, amended plat, administrative order, or deed containing a stamp or mark indicating approval by the ~~[responsible officer]~~ land use authority.

~~[(d)]~~ (4) The ~~[responsible officer]~~ land use authority shall ensure that the vacation, alteration, or amendment is recorded in the office of the county recorder in which the land is located.

~~[(2) An aggrieved party may appeal the responsible officer's decision to the board of adjustment.]~~

(5) The action of the land use authority vacating or narrowing a street or alley that has been dedicated to public use shall operate to the extent to which it is vacated or narrowed, upon the effective date of the vacating ordinance, as a revocation of the acceptance thereof, and the relinquishment of the county's fee therein, but the right-of-way and easements therein, if any, of any lot owner and the franchise rights of any public utility may not be impaired thereby.

Section 132. Section **17-27a-610**, which is renumbered from Section 17-27-901 is renumbered and amended to read:

~~[17-27-901].~~ **17-27a-610. Restrictions for solar and other energy devices.**

~~[(1) The legislative body, in order to protect and ensure access to sunlight for solar energy devices, may adopt regulations governing legislative subdivision development plans that relate to the use of restrictive covenants or solar easements, height restrictions, side yard and setback requirements, street and building orientation and width requirements, height and location of vegetation with respect to property boundary lines, and other permissible forms of land use controls.]~~

~~[(2) The county executive]~~

The land use authority may refuse to approve or renew any plat [or], subdivision plan, or dedication of any street or other ground, if [the] 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.

Section 133. Section **17-27a-611**, which is renumbered from Section 17-27-811 is renumbered and amended to read:

~~[17-27-811].~~ **17-27a-611. Prohibited acts.**

(1) (a) An owner of any land located in a subdivision~~[, as defined in this chapter,]~~ who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded ~~[as required in this part]~~ violates this part for each lot or parcel transferred or sold.

(b) The description by metes and bounds in ~~[the]~~ 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 county ordinances on land use and development.

(2) (a) A county 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, abatement, merger of title, or any other appropriate action or [~~proceedings~~] proceeding to prevent, enjoin, or abate the violation.

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

Section 134. Section **17-27a-701** is enacted to read:

Part 7. Appeal Authority and Variances

17-27a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(1) Each county adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:

- (a) requests for variances from the terms of the land use ordinances; and
- (b) appeals from decisions applying the land use ordinances.

(2) As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a land use authority's decision, in accordance with local ordinance.

(3) An appeal authority:

(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 county may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority it 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 it can raise in district court;

(d) not require an adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected 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 county 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 its members of any meeting or hearing of the board, body, or panel;

(b) provide each of its members with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of its members is present; and

(d) act only upon the vote of a majority of its convened members.

Section 135. Section **17-27a-702**, which is renumbered from Section 17-27-707 is renumbered and amended to read:

[17-27-707]. **17-27a-702. Variances.**

(1) Any person or entity desiring a waiver or modification of the requirements of [the

~~zoning~~ 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 ~~[board of adjustment]~~ applicable appeal authority for a variance from the terms of the ~~[zoning]~~ ordinance.

(2) (a) The ~~[board of adjustment]~~ appeal authority may grant a variance only if:

(i) literal enforcement of the ~~[zoning]~~ ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the ~~[zoning ordinance]~~ land use ordinances;

(ii) there are special circumstances attached to the property that do not generally apply to other properties in the same ~~[district]~~ zone;

(iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same ~~[district]~~ 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 ~~[zoning]~~ land use ordinance is observed and substantial justice done.

(b) (i) In determining whether or not enforcement of the ~~[zoning]~~ land use ordinance would cause unreasonable hardship under Subsection (2)(a), the ~~[board of adjustment]~~ 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 ~~[zoning]~~ land use ordinance would cause unreasonable hardship under Subsection (2)(a), the ~~[board of adjustment]~~ 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 ~~[board of adjustment]~~ 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 ~~[district]~~

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 [~~board of adjustment and any other body~~] appeal authority may not grant a use [variances] variance.

(6) In granting a variance, the [~~board of adjustment~~] 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.

Section 136. Section **17-27a-703** is enacted to read:

17-27a-703. Appealing a land use authority's decision.

The applicant, a board or officer of the county, or any person adversely affected by the land use authority's decision administering or interpreting a land use ordinance may, within the time period provided by ordinance, 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.

Section 137. Section **17-27a-704** is enacted to read:

17-27a-704. Time to appeal.

(1) The county shall enact an ordinance establishing a reasonable time to appeal a decision of a land use authority to an appeal authority.

(2) In the absence of such an ordinance and at a minimum, an adversely affected party shall have ten calendar days to appeal.

Section 138. Section **17-27a-705** is enacted to read:

17-27a-705. Burden of proof.

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

Section 139. Section **17-27a-706** is enacted to read:

17-27a-706. Due process.

(1) Each appeal authority shall conduct each appeal and variance request as described by local ordinance.

(2) Each appeal authority shall respect the due process rights of each of the participants.

Section 140. Section **17-27a-707** is enacted to read:

17-27a-707. Standard of review for appeals.

(1) A county may, by ordinance, designate the standard of review for appeals of land use authority decisions.

(2) If the county fails to designate a standard of review of factual matters, the appeal authority shall review the matter de novo.

(3) The appeal authority shall determine the correctness of a decision of the land use authority in its interpretation and application of a land use ordinance.

(4) Only those decisions in which a land use authority has applied a land use ordinance to a particular application, person, or parcel may be appealed to an appeal authority.

Section 141. Section **17-27a-708** is enacted to read:

17-27a-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 local ordinance.

(2) A written decision, or other event as provided by ordinance, constitutes a final decision under Subsection 17-27a-802(2)(a) or a final action under Subsection 17-27a-801(4).

Section 142. Section **17-27a-801**, which is renumbered from Section 17-27-1001 is renumbered and amended to read:

Part 8. District Court Review

[17-27-1001]. 17-27a-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 county's land use ~~[decisions]~~ decision made under this chapter, or under ~~[the]~~ a regulation made under authority of this chapter, until that person has exhausted ~~[aH]~~ the person's administrative remedies as provided in Part 7, Appeal

Authority and Variances, if applicable.

(2) (a) Any person adversely affected by [~~any~~] a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the district court within 30 days after the local land use decision is [~~rendered~~] 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 63-34-13 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 63-34-13(4)(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) The courts shall:

(i) presume that [~~land use decisions and regulations are~~] a decision, ordinance, or regulation made under the authority of this chapter is valid; and

(ii) determine only whether or not the decision, ordinance, or regulation is arbitrary, capricious, or illegal.

(b) A decision, ordinance, or regulation involving the exercise of legislative discretion is valid if the decision, ordinance, or regulation is reasonably debatable and not illegal.

(c) A final decision of a land use authority or an appeal authority is valid if the decision is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.

~~[(b)]~~ (d) A determination of illegality requires a determination that the decision, ordinance, or regulation violates a law, statute, or ordinance [~~, or existing law~~] in effect at the time the decision was made or the ordinance or regulation adopted.

(4) The provisions of Subsection (2)(a) apply from the date on which the county takes

final action on a land use application for any adversely affected third party, if the county conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending decision.

(5) If the county has complied with Section 17-27a-205, a challenge to the enactment of a land use ordinance or general plan may not be filed with the district court more than 30 days after the enactment.

(6) The petition is barred unless it is filed within 30 days after land use authority or the appeal authority's 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 its proceedings, including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.

(b) If the proceeding was tape recorded, a transcript of that tape 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 it 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 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 63-34-13, the aggrieved party may petition the appeal authority to stay its decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed pending district court review if the appeal authority finds it to be in the best interest of the county.

(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 63-34-13, the petitioner may seek an injunction staying the appeal authority's decision.

Section 143. Section **17-27a-802**, which is renumbered from Section 17-27-1002 is renumbered and amended to read:

~~[17-27-1002].~~ 17-27a-802. Enforcement.

(1) (a) A county~~[-county attorney,]~~ or any adversely affected owner of real estate within the county in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur 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 county need only establish the violation to obtain the injunction.

(2) (a) The county may enforce the ordinance by withholding building permits.

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

(c) The county 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.

Section 144. Section **17-27a-803**, which is renumbered from Section 17-27-1003 is renumbered and amended to read:

~~[17-27-1003].~~ 17-27a-803. Penalties.

(1) The county [~~legislative body~~] 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 [~~are~~] 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.

Section 145. Section **17-34-6** is amended to read:

17-34-6. State to indemnify county regarding refusal to site nuclear waste -- Terms and conditions.

If a county is challenged in a court of law regarding its decision to deny siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste or its refusal to provide municipal-type services regarding the operation of the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless from any claims or damages, including court costs and attorney fees that are assessed as a result of the county's action, if:

(1) the county has complied with the provisions of Subsection [~~17-27-301~~] 17-27a-401(3)(b) by adopting an ordinance rejecting all proposals for the siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the boundaries of the county;

(2) the county has complied with Subsection 17-34-1(3) regarding refusal to provide municipal-type services; and

(3) the court challenge against the county addresses the county's actions in compliance with Subsection [~~17-27-301~~] 17-27a-401(3)(b) or [~~Subsection~~] 17-34-1(3).

Section 146. Section **17-50-302** is amended to read:

17-50-302. General county powers.

(1) A county may:

(a) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and collect special assessments for benefits conferred; and

(b) provide services, exercise powers, and perform functions that are reasonably related to the safety, health, morals, and welfare of their inhabitants, except as limited or prohibited by statute.

(2) (a) A county may:

(i) sue and be sued;

(ii) subject to Subsection (2)(c), acquire real property by tax sale, purchase, lease,

contract, or gift, and hold the real property as necessary and proper for county purposes;

(iii) (A) subject to Subsection (2)(b), acquire real property by condemnation, as provided in Title 78, Chapter 34, Eminent Domain; and

(B) hold the real property as necessary and proper for county purposes;

(iv) as may be necessary to the exercise of its powers, acquire personal property by purchase, lease, contract, or gift, and hold such personal property; and

(v) manage and dispose of its property as the interests of its inhabitants may require.

(b) (i) For purposes of Subsection (2)(a)(iii), water rights that are not appurtenant to land do not constitute real property that may be acquired by the county through condemnation.

(ii) Nothing in Subsection (2)(a)(iii) may be construed to authorize a county to acquire by condemnation the rights to water unless the land to which those water rights are appurtenant is acquired by condemnation.

(c) (i) Except as provided in Subsection (2)(c)(iv), each county intending to acquire real property for the purpose of expanding the county's infrastructure or other facilities used for providing services that the county offers or intends to offer shall provide written notice, as provided in this Subsection (2)(c), of its intent to acquire the property if:

(A) the property is located:

(I) outside the boundaries of the unincorporated area of the county; and

(II) in a county of the first or second class; and

(B) the intended use of the property is contrary to:

(I) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or

(II) the property's current zoning designation.

(ii) Each notice under Subsection (2)(c)(i) shall:

(A) indicate that the county intends to acquire real property;

(B) identify the real property; and

(C) be sent to:

(I) each county in whose unincorporated area and each municipality in whose boundaries

the property is located; and

(II) each affected entity.

(iii) A notice under this Subsection (2)(c) is a protected record as provided in Subsection 63-2-304(7).

(iv) (A) The notice requirement of Subsection (2)(c)(i) does not apply if the county previously provided notice under Section [~~17-27-301.5~~] 17-27a-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(B) If a county is not required to comply with the notice requirement of Subsection (2)(c)(i) because of application of Subsection (2)(c)(iv)(A), the county shall provide the notice specified in Subsection (2)(c)(i) as soon as practicable after its acquisition of the real property.

Section 147. Section **17B-4-402** is amended to read:

17B-4-402. Process for adopting project area plan -- Prerequisites -- Restrictions.

(1) In order to adopt a project area plan, after adopting a resolution under Subsection 17B-4-401(1) the agency shall:

(a) prepare a draft of a project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;

(b) request input on the draft project area plan from the planning commission of the community in which the proposed project area is located;

(c) make the draft project area plan available to the public at the agency's offices during normal business hours;

(d) provide notice of the plan hearing as provided in Sections 17B-4-702 and 17B-4-704;

(e) hold a public hearing on the draft project area plan and, at that public hearing:

(i) allow public comment on:

(A) the draft project area plan; and

(B) whether the draft project area plan should be revised, approved, or rejected; and

(ii) receive all written and hear all oral objections to the draft project area plan;

(f) before holding the plan hearing, provide an opportunity for the State Board of

Education and each taxing entity that levies a tax on property within the proposed project area to consult with the agency regarding the draft project area plan;

(g) if applicable, hold the election required under Subsection 17B-4-406(3);

(h) for a redevelopment project area plan:

(i) comply with the requirements of Part 6, Blight Determination in Redevelopment Project Areas;

(ii) before providing notice of the plan hearing, hold at least one public hearing to:

(A) inform the public about each area being considered for a redevelopment project area;

and

(B) allow public input into agency deliberations on proposing each redevelopment project area;

(iii) select one or more project areas comprising part or all of the survey area; and

(iv) before sending the first notice to assessment owners of property for a public input hearing, blight hearing, or combined public input and blight hearing, prepare and adopt guidelines setting forth and governing the reasonable opportunities of record property owners and tenants to participate in the redevelopment;

(i) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:

(i) the oral and written objections to the draft project area plan and evidence and testimony for or against adoption of the draft project area plan; and

(ii) whether to revise, approve, or reject the draft project area plan;

(j) approve the draft project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17B-4-407; and

(k) submit the project area plan to the community legislative body for adoption.

(2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a city or town, Title 10, Chapter [9] 9a, Part [3] 4, General Plan;
or

(ii) if the community is a county, Title 17, Chapter [27] 27a, Part [3] 4, General Plan.

(3) (a) Subject to Subsection (3)(b), an agency board may not approve a project area plan more than one year after:

(i) for a redevelopment project area plan involving the use of eminent domain, adoption of a resolution making a finding of blight under Subsection 17B-4-601(4)(b); or

(ii) for an economic development or education housing development project area plan, the date of the plan hearing.

(b) If a project area plan is submitted to an election under Subsection 17B-4-406(3), the time between the plan hearing and the date of the election does not count for purposes of calculating the year period under Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), a draft project area plan may not be modified to add real property to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Sections 17B-4-702 and 17B-4-704.

(b) The notice and hearing requirements under Subsection (4)(a) do not apply to a draft project area plan being modified to add real property to the proposed project area if:

(i) the property is contiguous to the property already included in the proposed project area under the draft project area plan;

(ii) the record owner of the property consents to adding the real property to the proposed project area; and

(iii) for a redevelopment project area, the property is located within the survey area.

Section 148. Section **57-3-101** is amended to read:

57-3-101. Certificate of acknowledgment, proof of execution, jurat, or other certificate required -- Notarial acts affecting real property -- Right to record documents unaffected by subdivision ordinances.

(1) A certificate of the acknowledgment of any document, or of the proof of the

execution of any document, or a jurat as defined in Section 46-1-2, or other notarial certificate containing the words "subscribed and sworn" or their substantial equivalent, that is signed and certified by the officer taking the acknowledgment, proof, or jurat, as provided in this title, entitles the document and the certificate to be recorded in the office of the recorder of the county where the real property is located.

(2) Notarial acts affecting real property in this state shall also be performed in conformance with Title 46, Chapter 1, Notaries Public Reform Act.

(3) Nothing in the provisions of Title 10, Chapter [9] 9a, Part [8] 6, Subdivisions, and Title 17, Chapter [27] 27a, Part [8] 6, Subdivisions, shall prohibit the recording of a document which is otherwise entitled to be recorded under the provisions of this chapter.

Section 149. Section **57-8-35** is amended to read:

57-8-35. Effect of other laws -- Compliance with ordinances and codes -- Approval of projects by municipality or county.

(1) The provisions of this chapter shall be in addition and supplemental to all other provisions of law, statutory or judicially declared, provided that wherever the application of the provisions of this chapter conflict with the application of such other provisions, this chapter shall prevail: provided further, for purposes of Sections [~~10-9-805, 10-9-811, and 17-27-804~~] 10-9a-604, 10-9a-611, and 17-27a-603 and provisions of similar import and any law or ordinance adopted pursuant thereto, a condominium project shall be considered to be a subdivision, and a condominium plat or supplement thereto prepared pursuant to this chapter shall be considered to be a subdivision map or plat, only with respect to:

(a) such real property or improvements, if any, as are intended to be dedicated to the use of the public in connection with the creation of the condominium project or portion thereof concerned; and

(b) those units, if any, included in the condominium project or portion thereof concerned which are not contained in existing or proposed buildings.

(2) Nothing in this chapter shall be interpreted to state or imply that a condominium project, unit, association or unit owners, or management committee is exempt by this chapter

from compliance with the zoning ordinance, building and sanitary codes, and similar development regulations which have been adopted by a municipality or county. No condominium project or any use within said project or any unit or parcel or parcel of land indicated as a separate unit or any structure within said project shall be permitted which is not in compliance with said ordinances and codes.

(3) From and after the time a municipality or county shall have established a planning commission, no condominium project or any condominium plat, declaration, or other material as required for recordation under this chapter shall be recorded in the office of the county recorder unless and until the following mentioned attributes of said condominium project shall have been approved by the municipality or county in which it is located. In order to more fully avail itself of this power, the legislative body of a municipality or county may provide by ordinance for the approval of condominium projects proposed within its limits. This ordinance may include and shall be limited to a procedure for approval of condominium projects, the standards and the criteria for the geographical layout of a condominium project, facilities for utility lines and roads which shall be constructed, the percentage of the project which must be devoted to common or recreational use, and the content of the declaration with respect to the standards which must be adhered to concerning maintenance, upkeep, and operation of any roads, utility facilities, recreational areas, and open spaces included in the project.

(4) Any ordinance adopted by the legislative body of a municipality or county which outlines the procedures for approval of a condominium project shall provide for:

(a) a preliminary approval, which, among other things, will then authorize the developer of the condominium project to proceed with the project; and

(b) a final approval which will certify that all of the requirements set forth in the preliminary approval either have been accomplished or have been assured of accomplishment by bond or other appropriate means. No declaration or condominium plat shall be recorded in the office of the county recorder until a final approval has been granted.

Section 150. Section **58-56-4** is amended to read:

58-56-4. Definitions -- Adoption of building codes -- Amendments -- Approval of

other codes -- Exemptions.

(1) As used in this section:

(a) "agricultural use" means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals;

(b) "not for human occupancy" means use of a structure for purposes other than protection or comfort of human beings, but allows people to enter the structure for:

(i) maintenance and repair; and

(ii) the care of livestock, crops, or equipment intended for agricultural use which are kept there; and

(c) "residential area" means land that is not used for an agricultural use and is:

(i) (A) within the boundaries of a city or town; and

(B) less than five contiguous acres;

(ii) (A) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter [27] 27a, Part [8] 6, Subdivisions; and

(B) less than two contiguous acres; or

(iii) not located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture Protection Area.

(2) (a) Subject to the provisions of Subsections (4) and (5), the following codes, each of which must be promulgated by a nationally recognized code authority, shall be adopted, in the manner described in Subsection (2)(b), as the construction codes which the state and each political subdivision of the state shall follow in the circumstances described in Subsection (3):

(i) a building code;

(ii) the National Electrical Code promulgated by the National Fire Protection Association;

(iii) a residential one and two family dwelling code;

(iv) a plumbing code;

(v) a mechanical code;

(vi) a fuel gas code;

- (vii) an energy conservation code; and
- (viii) a manufactured housing installation standard code.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the division, in collaboration with the commission, shall adopt by rule specific editions of the codes described in Subsection (2)(a), and may adopt by rule successor editions of any adopted code.

(c) The division, in collaboration with the commission, may, in accordance with Section 58-56-7, adopt amendments to the codes adopted under Subsection (2)(a), to be applicable to the entire state or within one or more political subdivisions.

(3) Subject to the provisions of Subsections (4) and (5), the codes and amendments adopted under Subsection (2) shall be followed when:

- (a) new construction is involved;
- (b) the owner of an existing building, or the owner's agent, is voluntarily engaged in:
 - (i) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or
 - (ii) changing the character or use of the building in a manner which increases the occupancy loads, other demands, or safety risks of the building.

(4) (a) The division, in collaboration with the commission, has discretion to approve, without adopting, certain codes in addition to those described in Subsection (2)(a), including specific editions of the codes, for use by a compliance agency.

(b) If the applicable code is one which the division has approved under Subsection (4)(a), a compliance agency has the discretion to:

- (i) adopt an ordinance requiring removal, demolition, or repair of a building, according to a code;
- (ii) adopt, by ordinance or rule, a dangerous building code; or
- (iii) adopt, by ordinance or rule, a building rehabilitation code.

(5) (a) Except in a residential area, a structure used solely in conjunction with agriculture use, and not for human occupancy, is exempted from the permit requirements of any code adopted by the division.

(b) Notwithstanding Subsection (5)(a), unless otherwise exempted, plumbing, electrical, and mechanical permits may be required when that work is included in the structure.

Section 151. Section **59-2-301.2** is amended to read:

59-2-301.2. Definitions -- Assessment of property subject to a minimum parcel size -- Other factors affecting fair market value.

(1) "Minimum parcel size" means the minimum size that a parcel of property may be divided into under a zoning ordinance adopted by a:

(a) county in accordance with Title 17, Chapter ~~[27]~~ 27a, Part ~~[4]~~ 5, [~~Zoning Ordinance~~]
Land Use Ordinances; or

(b) city or town in accordance with Title 10, Chapter ~~[9]~~ 9a, Part ~~[4]~~ 5, [~~Zoning~~] Land Use Ordinances.

(2) In assessing the fair market value of a parcel of property that is subject to a minimum parcel size of one acre or more, a county assessor shall include as part of the assessment:

(a) that the parcel of property may not be subdivided into parcels of property smaller than the minimum parcel size; and

(b) any effects Subsection (2)(a) may have on the fair market value of the parcel of property.

(3) This section does not prohibit a county assessor from including as part of an assessment of the fair market value of a parcel of property any other factor affecting the fair market value of the parcel of property.

Section 152. Section **59-2-502** is amended to read:

59-2-502. Definitions.

As used in this part:

(1) "Actively devoted to agricultural use" means that the land in agricultural use produces in excess of 50% of the average agricultural production per acre:

(a) as determined under Section 59-2-503; and

(b) for:

(i) the given type of land; and

(ii) the given county or area.

(2) "Conservation easement rollback tax" means the tax imposed under Section 59-2-506.5.

(3) "Identical legal ownership" means legal ownership held by:

(a) identical legal parties; or

(b) identical legal entities.

(4) "Land in agricultural use" means:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;

(ii) grains and feed crops;

(iii) livestock as defined in Section 59-2-102;

(iv) trees and fruits; or

(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

(5) "Other eligible acreage" means land that is:

(a) five or more contiguous acres;

(b) eligible for assessment under this part; and

(c) (i) located in the same county as land described in Subsection 59-2-503(1)(a); or

(ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as provided in Section 59-2-512.

(6) "Platted" means land in which:

(a) parcels of ground are laid out and mapped by their boundaries, course, and extent;

and

(b) the plat has been approved as provided in Section [~~10-9-805 or 17-27-805~~] 10-9a-604 or 17-27a-604.

(7) "Rollback tax" means the tax imposed under Section 59-2-506.

(8) "Withdrawn from this part" means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:

(a) an owner voluntarily requests that the land be withdrawn from this part;

(b) the land is no longer actively devoted to agricultural use;

(c) (i) the land has a change in ownership; and

(ii) (A) the new owner fails to apply for assessment under this part as required by Section 59-2-509; or

(B) (I) an owner applies for assessment under this part as required by Section 59-2-509;

and

(II) the land does not meet the requirements of this part to be assessed under this part;

(d) (i) the legal description of the land changes; and

(ii) (A) an owner fails to apply for assessment under this part as required by Section 59-2-509; or

(B) (I) an owner applies for assessment under this part as required by Section 59-2-509;

and

(II) the land does not meet the requirements of this part to be assessed under this part;

(e) if required by the county assessor, the owner of the land:

(i) fails to file a new application as provided in Subsection 59-2-508(4); or

(ii) fails to file a signed statement as provided in Subsection 59-2-508(4); or

(f) except as provided in Section 59-2-503, the land fails to meet a requirement of Section 59-2-503.

Section 153. Section **59-2-511** is amended to read:

59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

- (b) the state;
- (c) a political subdivision of the state, including:
 - (i) a county;
 - (ii) a city;
 - (iii) a town;
 - (iv) a school district; or
 - (v) a special district; or
- (d) an entity created by the state or the United States, including:
 - (i) an agency;
 - (ii) a board;
 - (iii) a bureau;
 - (iv) a commission;
 - (v) a committee;
 - (vi) a department;
 - (vii) a division;
 - (viii) an institution;
 - (ix) an instrumentality; or
 - (x) an office.

(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) prior to the governmental entity acquiring the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-503 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section [~~10-9-103~~] 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives:

- (A) money; or
- (B) other consideration.

(3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

- (i) the governmental entity acquires the land by eminent domain;
- (ii) (A) the land is under the threat or imminence of eminent domain proceedings; and
(B) the governmental entity provides written notice of the proceedings to the owner; or
- (iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

- (A) to the county treasurer of the county in which the land is located; and
- (B) in an amount equal to the amount of rollback tax calculated under Section 59-2-506.

(ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the governmental entity shall make a one-time in lieu fee payment:

- (A) to the county treasurer of the county in which the land is located; and

(B) (I) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-503, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity; or

(II) if the land remaining after the acquisition by the governmental entity is less than five acres, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the governmental entity" includes other eligible acreage that is used in conjunction with the land remaining after the acquisition by the governmental entity.

- (c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the

revenues generated by the payment:

- (i) to the taxing entities in which the land is located; and
- (ii) in the same proportion as the revenue from real property taxes is distributed.

(4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity is made subject to a conservation easement in accordance with Section 59-2-506.5:

- (a) the land is not subject to the rollback tax imposed by this part; and
- (b) the governmental entity acquiring the land is not required to make an in lieu fee

payment under Subsection (3)(b).

(5) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until the following are paid to the county treasurer:

- (a) any tax due under this part;
- (b) any one-time in lieu fee payment due under this part; and
- (c) any interest due under this part.

Section 154. Section **62A-6-101** is amended to read:

62A-6-101. Definitions.

As used in this chapter:

(1) "Informed consent" means consent that is voluntary and based on an understanding by the person to be sterilized of the nature and consequences of sterilization, the reasonably foreseeable risks and benefits of sterilization, and the available alternative methods of contraception.

(2) "Institutionalized" means residing in the Utah State Developmental Center, the Utah State Hospital, a residential facility for persons with a disability as defined in Sections [~~10-9-605 and 17-27-605~~] 10-9a-103 and 17-27a-103, a group home for disabled persons, a nursing home, or a foster care home or facility.

(3) "Sterilization" means any medical procedure, treatment, or operation rendering an individual permanently incapable of procreation.

Section 155. Section **63A-5-206** is amended to read:

63A-5-206. Construction, alteration, and repair of state facilities -- Powers of director -- Exceptions -- Expenditure of appropriations -- Notification to local governments for construction or modification of certain facilities.

(1) As used in this section:

(a) "Analysis" means an economic assessment of competing design and maintenance alternatives, the object of which is to reduce cost and conserve energy.

(b) "Capital developments" and "capital improvements" have the same meaning as provided in Section 63A-5-104.

(c) "Compliance agency" has the same meaning as provided in Subsection 58-56-3(4).

(d) (i) "Facility" means any building, structure, or other improvement that is constructed on property owned by the state, its departments, commissions, institutions, or agencies.

(ii) "Facility" does not mean an unoccupied structure that is a component of the state highway system.

(e) "Life cycle cost-effective" means the lowest cost of owning and operating a facility over a 25-year period, including the initial cost, energy costs, operation and maintenance costs, repair costs, and the costs of energy conservation and renewable energy systems.

(f) "Local government" means the county, municipality, or local school district that would have jurisdiction to act as the compliance agency if the property on which the project is being constructed were not owned by the state.

(g) "Renewable energy system" means a system designed to use solar, wind, geothermal power, wood, or other replenishable energy source to heat, cool, or provide electricity to a building.

(2) (a) Except as provided in Subsections (3) and (4), the director shall exercise direct supervision over the design and construction of all new facilities, and all alterations, repairs, and improvements to existing facilities if the total project construction cost, regardless of the funding source, is greater than \$100,000.

(b) The director shall prepare or have prepared by private firms or individuals designs, plans, and specifications for the projects administered by the division.

(c) Before proceeding with construction, the director and the officials charged with the administration of the affairs of the particular department, commission, institution, or agency shall approve the location, design, plans, and specifications.

(3) Projects for the construction of new facilities and alterations, repairs, and improvements to existing facilities are not subject to Subsection (2) if the project:

(a) occurs on property under the jurisdiction of the State Capitol Preservation Board;

(b) is within a designated research park at the University of Utah or Utah State University;

(c) occurs within the boundaries of This is the Place State Park and is administered by This is the Place Foundation except that This is the Place Foundation may request the director to administer the design and construction; or

(d) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah Percent-for-Art [~~Program~~] Act.

(4) (a) (i) The State Building Board may authorize the delegation of control over design, construction, and all other aspects of any project to entities of state government on a project-by-project basis or for projects within a particular dollar range and a particular project type.

(ii) The state entity to whom control is delegated shall assume fiduciary control over project finances, shall assume all responsibility for project budgets and expenditures, and shall receive all funds appropriated for the project, including any contingency funds contained in the appropriated project budget.

(iii) Delegation of project control does not exempt the state entity from complying with the codes and guidelines for design and construction adopted by the division and the State Building Board.

(iv) State entities that receive a delegated project may not access, for the delegated project, the division's statewide contingency reserve and project reserve authorized in Section 63A-5-209.

(b) For facilities that will be owned, operated, maintained, and repaired by an entity that

is not a state agency or institution and that are located on state property, the State Building Board may authorize the owner to administer the design and construction of the project instead of the division.

(5) Notwithstanding any other provision of this section, if a donor donates land to an eligible institution of higher education and commits to build a building or buildings on that land, and the institution agrees to provide funds for the operations and maintenance costs from sources other than state funds, and agrees that the building or buildings will not be eligible for state capital improvement funding, the higher education institution may:

(a) oversee and manage the construction without involvement, oversight, or management from the division; or

(b) arrange for management of the project by the division.

(6) (a) The role of compliance agency as provided in Title 58, Chapter 56, Utah Uniform Building Standards Act, shall be provided by:

(i) the director, for projects administered by the division;

(ii) the entity designated by the State Capitol Preservation Board, for projects under Subsection (3)(a);

(iii) the local government, for projects exempt from the division's administration under Subsection (3)(b) or administered by This is the Place Foundation under Subsection (3)(c);

(iv) the state entity or local government designated by the State Building Board, for projects under Subsection (4); or

(v) the institution, for projects exempt from the division's administration under Subsection (5)(a).

(b) For the installation of art under Subsection (3)(d), the role of compliance agency shall be provided by the entity that is acting in this capacity for the balance of the project as provided in Subsection (6)(a).

(c) The local government acting as the compliance agency under Subsection (6)(a)(iii) may:

(i) only review plans and inspect construction to enforce the building codes as adopted

by the Uniform Building Codes Commission; and

(ii) charge a building permit fee of no more than the amount it could have charged if the land upon which the improvements are located were not owned by the state.

(d) (i) The use of state property and any improvements constructed on state property, including improvements constructed by nonstate entities, is not subject to the zoning authority of local governments as provided in [~~Section 10-9-105~~] Sections 10-9a-304 and 17-27a-304.

(ii) The state entity controlling the use of the state property shall consider any input received from the local government in determining how the property shall be used.

(7) Before construction may begin, the director shall review the design of projects exempted from the division's administration under Subsection (4) to determine if the design:

- (a) complies with any restrictions placed on the project by the State Building Board; and
- (b) is appropriate for the purpose and setting of the project.

(8) (a) The director shall ensure that state-owned facilities, except for facilities under the control of the State Capitol Preservation Board, are life cycle cost-effective.

(b) The estimated cost of the analysis shall be included in each program budget document and in the project funding request submitted to the State Building Board, the governor, and the Legislature.

(c) The final cost estimate shall reflect the most life cycle cost-effective building.

(d) The State Building Board, in consultation with the director and the State Energy Manager, shall make rules to implement this Subsection (8) by following the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(e) The State Building Board may exempt a facility from being life cycle cost-effective pursuant to rules, after reviewing and concurring with a written request and justification from the director.

(9) The director may expend appropriations for statewide projects from funds provided by the Legislature for those specific purposes and within guidelines established by the State Building Board.

(10) (a) The director, with the approval of the Office of Legislative Fiscal Analyst, shall

develop standard forms to present capital development and capital improvement cost summary data.

(b) The director shall:

(i) within 30 days after the completion of each capital development project, submit cost summary data for the project on the standard form to the Office of Legislative Fiscal Analyst; and

(ii) upon request, submit cost summary data for a capital improvement project to the Office of Legislative Fiscal Analyst on the standard form.

(11) Notwithstanding the requirements of Title 63, Chapter 38, Budgetary Procedures Act, the director may:

(a) accelerate the design of projects funded by any appropriation act passed by the Legislature in its annual general session;

(b) use any unencumbered existing account balances to fund that design work; and

(c) reimburse those account balances from the amount funded for those projects when the appropriation act funding the project becomes effective.

(12) (a) The director, his designee, or the state entity to whom control has been designated under Subsection (4), shall notify in writing the elected representatives of local government entities directly and substantively affected by any diagnostic, treatment, parole, probation, or other secured facility project exceeding \$250,000, if:

(i) the nature of the project has been significantly altered since prior notification;

(ii) the project would significantly change the nature of the functions presently conducted at the location; or

(iii) the project is new construction.

(b) At the request of either the state entity or the local government entity, representatives from the state entity and the affected local entity shall conduct or participate in a local public hearing or hearings to discuss these issues.

Section 156. Section **72-5-401** is amended to read:

72-5-401. Definitions.

As used in this part:

(1) "Corridor" means the path or proposed path of a transportation facility that exists or that may exist in the future. A corridor may include the land occupied or to be occupied by a transportation facility, and any other land that may be needed for expanding a transportation facility or for controlling access to it.

(2) "Corridor preservation" means planning or acquisition processes intended to:

(a) protect or enhance the capacity of existing corridors; and

(b) protect the availability of proposed corridors in advance of the need for and the actual commencement of the transportation facility construction.

(3) "Development" means:

(a) the subdividing of land;

(b) the construction of improvements, expansions, or additions; or

(c) any other action that will appreciably increase the value of and the future acquisition cost of land.

(4) "Official map" means a map, drawn by government authorities and recorded in county recording offices 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) for counties and municipalities may be adopted as an element of the general plan, pursuant to Title 17, Chapter ~~[27]~~ 27a, Part ~~[3]~~ 4, General Plan, or Title 10, Chapter ~~[9]~~ 9a, Part ~~[3]~~ 4, General Plan.

(5) "Taking" means an act or regulation, either by exercise of eminent domain or other police power, whereby government puts private property to public use or restrains use of private property for public purposes, and that requires compensation to be paid to private property owners.

Section 157. Section **72-7-502** is amended to read:

72-7-502. Definitions.

As used in this part:

(1) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following are commercial or industrial activities:

(a) agricultural, forestry, grazing, farming, and related activities, including wayside fresh produce stands;

(b) transient or temporary activities;

(c) activities not visible from the main-traveled way;

(d) activities conducted in a building principally used as a residence; and

(e) railroad tracks and minor sidings.

(2) "Commercial or industrial zone" means only:

(a) those areas within the boundaries of cities or towns that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;

(b) those areas within the boundaries of urbanized counties that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;

(c) those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns that:

(i) are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under comprehensive local zoning ordinances or regulations or enabling state legislation; and

(ii) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way; or

(d) those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp, or turnoff as

measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way that are reserved for business, commerce, or trade under enabling state legislation or comprehensive local zoning ordinances or regulations, and are actually used for commercial or industrial purposes.

(3) "Commercial or industrial zone" does not mean areas zoned for the sole purpose of allowing outdoor advertising.

(4) "Comprehensive local zoning ordinances or regulations" means a municipality's comprehensive plan required by Section [~~10-9-301~~] 10-9a-401, the municipal zoning plan authorized by Section [~~10-9-401~~] 10-9a-501, and the county master plan authorized by Sections [~~17-27-301~~] 17-27a-401 and [~~17-27-401~~] 17-27a-501. Property that is rezoned by comprehensive local zoning ordinances or regulations is rebuttably presumed to have not been zoned for the sole purpose of allowing outdoor advertising.

(5) "Directional signs" means signs containing information about public places owned or operated by federal, state, or local governments or their agencies, publicly or privately owned natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, that the department considers to be in the interest of the traveling public.

(6) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being.

(b) "Erect" does not include any activities defined in Subsection (6)(a) if they are performed incident to the change of an advertising message or customary maintenance of a sign.

(7) "Highway service zone" means a highway service area where the primary use of the land is used or reserved for commercial and roadside services other than outdoor advertising to serve the traveling public.

(8) "Information center" means an area or site established and maintained at rest areas for the purpose of informing the public of:

(a) places of interest within the state; or

(b) any other information that the department considers desirable.

(9) "Interchange or intersection" means those areas and their approaches where traffic is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration lanes, or feeder systems, from or to another federal, state, county, city, or other route.

(10) "Maintain" means to allow to exist, subject to the provisions of this chapter.

(11) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an existing sign structure safe and in a state suitable for use, including signs destroyed by vandalism or an act of God.

(12) "Main-traveled way" means the through traffic lanes, including auxiliary lanes, acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads and ramps. For a divided highway, there is a separate main-traveled way for the traffic in each direction.

(13) "Official signs and notices" means signs and notices erected and maintained by public agencies within their territorial or zoning jurisdictions for the purpose of carrying out official duties or responsibilities in accordance with direction or authorization contained in federal, state, or local law.

(14) "Off-premise signs" means signs located in areas zoned industrial, commercial, or H-1 and in areas determined by the department to be unzoned industrial or commercial.

(15) "On-premise signs" means signs used to advertise the major activities conducted on the property where the sign is located.

(16) "Outdoor advertising" means any outdoor advertising structure or outdoor structure used in combination with an outdoor advertising sign or outdoor sign.

(17) "Outdoor advertising corridor" means a strip of land 350 feet wide, measured perpendicular from the edge of a controlled highway right-of-way.

(18) "Outdoor advertising structure" or "outdoor structure" means any sign structure, including any necessary devices, supports, appurtenances, and lighting that is part of or supports an outdoor sign.

(19) "Point of widening" means the point of the gore or the point where the intersecting lane begins to parallel the other lanes of traffic, but the point of widening may never be greater than 2,640 feet from the center line of the intersecting highway of the interchange or intersection

at grade.

(20) "Public assembly facility" means a convention facility as defined under Section 59-12-602 and that:

(a) is wholly or partially funded by public moneys; and

(b) requires a person attending an event at the public assembly facility to purchase a ticket or that otherwise charges for the use of the public assembly facility as part of its regular operation.

(21) "Relocation" includes the removal of a sign from one situs together with the erection of a new sign upon another situs in a commercial or industrial zoned area as a substitute.

(22) "Relocation and replacement" means allowing all outdoor advertising signs or permits the right to maintain outdoor advertising along the interstate, federal aid primary highway existing as of June 1, 1991, and national highway system highways to be maintained in a commercial or industrial zoned area to accommodate the displacement, remodeling, or widening of the highway systems.

(23) "Remodel" means the upgrading, changing, alteration, refurbishment, modification, or complete substitution of a new outdoor advertising structure for one permitted pursuant to this part and that is located in a commercial or industrial area.

(24) "Rest area" means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control for the convenience of the traveling public.

(25) "Scenic or natural area" means an area determined by the department to have aesthetic value.

(26) "Traveled way" means that portion of the roadway used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

(27) (a) "Unzoned commercial or industrial area" means:

(i) those areas not zoned by state law or local law, regulation, or ordinance that are occupied by one or more industrial or commercial activities other than outdoor advertising signs;

(ii) the lands along the highway for a distance of 600 feet immediately adjacent to those

activities; and

(iii) lands covering the same dimensions that are directly opposite those activities on the other side of the highway, if the department determines that those lands on the opposite side of the highway do not have scenic or aesthetic value.

(b) In measuring the scope of the unzoned commercial or industrial area, all measurements shall be made from the outer edge of the regularly used buildings, parking lots, storage, or processing areas of the activities and shall be along or parallel to the edge of pavement of the highway.

(c) All signs located within an unzoned commercial or industrial area become nonconforming if the commercial or industrial activity used in defining the area ceases for a continuous period of 12 months.

(28) "Urbanized county" means a county with a population of at least 125,000 persons.

Section 158. Repealer.

This bill repeals:

Section 10-8-8.1, Request for action to vacate, narrow, or change name of street or alley -- Hearing -- Ordinance.

Section 10-8-8.2, Action to vacate, narrow, or change name of alley or street without request from lot owner -- Ordinance.

Section 10-8-8.3, Notice required -- Exception.

Section 10-8-8.4, Notice -- How given.

Section 10-9-103.5, Notice to nearby entities.

Section 10-9-202, Organization and procedures.

Section 10-9-304, Amendment of plan.

Section 10-9-701, Board of adjustment -- Appointment -- Term -- Vacancy.

Section 10-9-702, Organization -- Procedures.

Section 10-9-703, Powers and duties.

Section 10-9-704, Appeals.

Section 10-9-705, Routine and uncontested matters.

Section **10-9-706, Special exceptions.**

Section **10-9-708, District court review of board of adjustment decision.**

Section **10-9-803, Amendments to subdivision ordinance.**

Section **10-9-809, Notice of hearing for plat change.**

Section **17-27-103.5, Notice to nearby entities.**

Section **17-27-202, Organization and procedures.**

Section **17-27-304, Amendment of plan.**

Section **17-27-701, Board of adjustment -- Appointment -- Term -- Vacancy.**

Section **17-27-702, Organization -- Procedures.**

Section **17-27-703, Powers and duties.**

Section **17-27-704, Appeals.**

Section **17-27-705, Routine and uncontested matters.**

Section **17-27-706, Special exceptions.**

Section **17-27-708, District court review of board of adjustment decision.**

Section **17-27-803, Amendments to subdivision ordinance.**

Section **17-27-809, Notice of hearing for plat change.**

Section 159. **Coordinating SB. 60 with S.B. 114.**

If this S.B. 60 and S.B. 114, County and Municipal Zoning Regarding Billboards, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the database for publication:

(1) modify Subsection 10-9a-513(3), as enacted in this bill, to read:

"(3) A municipality may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than its owner or the owner acting through its contractors.";

(2) renumber Subsection 10-9-408(6), as set forth in S.B. 114, as Subsection 10-9a-513(4);

(3) modify Subsection 17-27a-512(3), as enacted in this bill, to read:

"(3) A county may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than its owner or the owner acting through its contractors."; and

(4) renumber Subsection 17-27-407(6), as set forth in S.B. 114, as Subsection 17-27a-512(4).

Section 160. Coordinating SB. 60 with H.B. 109.

If this S.B. 60 and H.B. 109, Information Technology Governance Amendments, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the database for publication, change the reference in Subsections 10-9a-203(1)(b) and 17-27a-203(1)(b), as set forth in this bill, from Section 63A-6-202 to Section 63F-1-506.