

1 **LOCAL LAND USE DEVELOPMENT AND**
2 **MANAGEMENT AMENDMENTS**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Gregory S. Bell**

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ reorganizes and modifies county and municipal land use, development, and
14 management provisions;
- 15 ▶ includes the protection of access to sunlight for solar energy devices in the
16 statement of the purposes of county and municipal land use provisions;
- 17 ▶ modifies provisions giving counties and municipalities general authority over land
18 use matters;
- 19 ▶ modifies existing and adds new definitions;
- 20 ▶ modifies notice provisions related to land use applications, the preparation of a
21 general plan and amendments, land use ordinances, and subdivisions;
- 22 ▶ modifies provisions related to planning commission appointment and powers;
- 23 ▶ modifies provisions related to the preparation, adoption, content, and effect of a
24 general plan;
- 25 ▶ modifies provisions related to the preparation, adoption, and content of land use
26 ordinances;
- 27 ▶ enacts a provision relating to the imposition of exactions;



- 28 ▶ enacts provisions related to land use approval standards and the rights that vest with
- 29 approval;
- 30 ▶ modifies provisions related to the preparation, enactment, and content of
- 31 subdivision ordinances;
- 32 ▶ modifies provisions related to subdivision plats;
- 33 ▶ provides that a transfer of land by a void plat is voidable;
- 34 ▶ modifies a provision relating to exemptions from plat requirements;
- 35 ▶ authorizes counties and municipalities to designate a land use authority to decide
- 36 certain land use matters;
- 37 ▶ requires counties and municipalities to designate an appeal authority to handle
- 38 appeals of certain land use matters;
- 39 ▶ enacts provisions relating to procedures and standards applicable to appeals before
- 40 the appeal authority;
- 41 ▶ modifies provisions relating to appeals to the district court;
- 42 ▶ repeals provisions relating to a board of adjustment;
- 43 ▶ repeals provisions relating to vacating a street or alley;
- 44 ▶ repeals a provision relating to planning commission organization and procedures;
- 45 and
- 46 ▶ makes technical changes.

47 Monies Appropriated in this Bill:

48 None

49 Other Special Clauses:

50 None

51 Utah Code Sections Affected:

52 AMENDS:

- 53 **9-4-1204**, as last amended by Chapter 65, Laws of Utah 2002
- 54 **10-8-2**, as last amended by Chapter 99, Laws of Utah 2004
- 55 **10-8-8**, as last amended by Chapter 1, Laws of Utah 1966, Second Special Session
- 56 **11-36-201**, as last amended by Chapter 99, Laws of Utah 2004
- 57 **11-36-202**, as last amended by Chapter 211, Laws of Utah 2000
- 58 **11-36-401**, as last amended by Chapter 211, Laws of Utah 2000

- 59 **17-34-6**, as enacted by Chapter 107, Laws of Utah 2001
- 60 **17-50-302**, as last amended by Chapters 99 and 166, Laws of Utah 2004
- 61 **17B-4-402**, as last amended by Chapter 205, Laws of Utah 2002
- 62 **57-3-101**, as last amended by Chapter 291, Laws of Utah 2002
- 63 **57-8-35**, as last amended by Chapter 265, Laws of Utah 2003
- 64 **58-56-4**, as last amended by Chapters 75 and 110, Laws of Utah 2004
- 65 **59-2-301.2**, as enacted by Chapter 134, Laws of Utah 2002
- 66 **59-2-502**, as last amended by Chapter 208, Laws of Utah 2003
- 67 **59-2-511**, as last amended by Chapter 208, Laws of Utah 2003
- 68 **62A-6-101**, as last amended by Chapter 108, Laws of Utah 1997
- 69 **63A-5-206**, as last amended by Chapters 216 and 231, Laws of Utah 2000
- 70 **72-5-401**, as enacted by Chapter 34, Laws of Utah 2000
- 71 **72-7-502**, as last amended by Chapter 166, Laws of Utah 2003

72 ENACTS:

- 73 **10-9a-201**, Utah Code Annotated 1953
- 74 **10-9a-202**, Utah Code Annotated 1953
- 75 **10-9a-204**, Utah Code Annotated 1953
- 76 **10-9a-205**, Utah Code Annotated 1953
- 77 **10-9a-206**, Utah Code Annotated 1953
- 78 **10-9a-207**, Utah Code Annotated 1953
- 79 **10-9a-208**, Utah Code Annotated 1953
- 80 **10-9a-209**, Utah Code Annotated 1953
- 81 **10-9a-405**, Utah Code Annotated 1953
- 82 **10-9a-508**, Utah Code Annotated 1953
- 83 **10-9a-509**, Utah Code Annotated 1953
- 84 **10-9a-513**, Utah Code Annotated 1953
- 85 **10-9a-701**, Utah Code Annotated 1953
- 86 **10-9a-703**, Utah Code Annotated 1953
- 87 **10-9a-704**, Utah Code Annotated 1953
- 88 **10-9a-705**, Utah Code Annotated 1953
- 89 **10-9a-706**, Utah Code Annotated 1953

- 90 **10-9a-707**, Utah Code Annotated 1953
- 91 **10-9a-708**, Utah Code Annotated 1953
- 92 **17-27a-201**, Utah Code Annotated 1953
- 93 **17-27a-202**, Utah Code Annotated 1953
- 94 **17-27a-204**, Utah Code Annotated 1953
- 95 **17-27a-205**, Utah Code Annotated 1953
- 96 **17-27a-206**, Utah Code Annotated 1953
- 97 **17-27a-207**, Utah Code Annotated 1953
- 98 **17-27a-208**, Utah Code Annotated 1953
- 99 **17-27a-209**, Utah Code Annotated 1953
- 100 **17-27a-405**, Utah Code Annotated 1953
- 101 **17-27a-507**, Utah Code Annotated 1953
- 102 **17-27a-508**, Utah Code Annotated 1953
- 103 **17-27a-512**, Utah Code Annotated 1953
- 104 **17-27a-701**, Utah Code Annotated 1953
- 105 **17-27a-703**, Utah Code Annotated 1953
- 106 **17-27a-704**, Utah Code Annotated 1953
- 107 **17-27a-705**, Utah Code Annotated 1953
- 108 **17-27a-706**, Utah Code Annotated 1953
- 109 **17-27a-707**, Utah Code Annotated 1953
- 110 **17-27a-708**, Utah Code Annotated 1953

111 **RENUMBERS AND AMENDS:**

- 112 **10-9a-101**, (Renumbered from 10-9-101, as enacted by Chapter 235, Laws of Utah
- 113 1991)
- 114 **10-9a-102**, (Renumbered from 10-9-102, as last amended by Chapter 93, Laws of Utah
- 115 1992)
- 116 **10-9a-103**, (Renumbered from 10-9-103, as last amended by Chapters 34 and 209,
- 117 Laws of Utah 2000)
- 118 **10-9a-104**, (Renumbered from 10-9-104, as last amended by Chapter 73, Laws of Utah
- 119 2001)
- 120 **10-9a-203**, (Renumbered from 10-9-301.5, as enacted by Chapter 99, Laws of Utah

121 2004)
122 **10-9a-301**, (Renumbered from 10-9-201, as enacted by Chapter 235, Laws of Utah
123 1991)
124 **10-9a-302**, (Renumbered from 10-9-204, as enacted by Chapter 235, Laws of Utah
125 1991)
126 **10-9a-303**, (Renumbered from 10-9-205, as last amended by Chapter 23, Laws of Utah
127 1992)
128 **10-9a-304**, (Renumbered from 10-9-105, as last amended by Chapter 23, Laws of Utah
129 1992)
130 **10-9a-305**, (Renumbered from 10-9-106, as last amended by Chapter 149, Laws of
131 Utah 1999)
132 **10-9a-401**, (Renumbered from 10-9-301, as last amended by Chapter 99, Laws of Utah
133 2004)
134 **10-9a-402**, (Renumbered from 10-9-203, as enacted by Chapter 235, Laws of Utah
135 1991)
136 **10-9a-403**, (Renumbered from 10-9-302, as last amended by Chapter 99, Laws of Utah
137 2004)
138 **10-9a-404**, (Renumbered from 10-9-303, as last amended by Chapter 23, Laws of Utah
139 1992)
140 **10-9a-406**, (Renumbered from 10-9-305, as last amended by Chapter 124, Laws of
141 Utah 2003)
142 **10-9a-407**, (Renumbered from 10-9-306, as last amended by Chapter 34, Laws of Utah
143 2000)
144 **10-9a-408**, (Renumbered from 10-9-307, as last amended by Chapter 202, Laws of
145 Utah 2004)
146 **10-9a-501**, (Renumbered from 10-9-401, as enacted by Chapter 235, Laws of Utah
147 1991)
148 **10-9a-502**, (Renumbered from 10-9-402, as last amended by Chapter 79, Laws of Utah
149 1995)
150 **10-9a-503**, (Renumbered from 10-9-403, as enacted by Chapter 235, Laws of Utah
151 1991)

152 **10-9a-504**, (Renumbered from 10-9-404, as last amended by Chapter 270, Laws of
153 Utah 1998)

154 **10-9a-505**, (Renumbered from 10-9-405, as enacted by Chapter 235, Laws of Utah
155 1991)

156 **10-9a-506**, (Renumbered from 10-9-406, as enacted by Chapter 235, Laws of Utah
157 1991)

158 **10-9a-507**, (Renumbered from 10-9-407, as last amended by Chapter 179, Laws of
159 Utah 1995)

160 **10-9a-510**, (Renumbered from 10-9-107, as enacted by Chapter 169, Laws of Utah
161 1999)

162 **10-9a-511**, (Renumbered from 10-9-408, as last amended by Chapter 138, Laws of
163 Utah 2004)

164 **10-9a-512**, (Renumbered from 10-9-409, as enacted by Chapter 263, Laws of Utah
165 1997)

166 **10-9a-514**, (Renumbered from 10-9-106.5, as last amended by Chapter 253, Laws of
167 Utah 2001)

168 **10-9a-515**, (Renumbered from 10-9-108, as enacted by Chapter 111, Laws of Utah
169 2003)

170 **10-9a-516**, (Renumbered from 10-9-501, as last amended by Chapter 23, Laws of Utah
171 1992)

172 **10-9a-517**, (Renumbered from 10-9-502, as last amended by Chapter 140, Laws of
173 Utah 1999)

174 **10-9a-518**, (Renumbered from 10-9-503, as enacted by Chapter 235, Laws of Utah
175 1991)

176 **10-9a-519**, (Renumbered from 10-9-504, as last amended by Chapter 108, Laws of
177 Utah 1997)

178 **10-9a-520**, (Renumbered from 10-9-605, as last amended by Chapter 283, Laws of
179 Utah 2003)

180 **10-9a-601**, (Renumbered from 10-9-801, as last amended by Chapter 23, Laws of Utah
181 1992)

182 **10-9a-602**, (Renumbered from 10-9-802, as last amended by Chapter 23, Laws of Utah

183 1992)
184 **10-9a-603**, (Renumbered from 10-9-804, as last amended by Chapter 211, Laws of
185 Utah 2003)
186 **10-9a-604**, (Renumbered from 10-9-805, as last amended by Chapter 241, Laws of
187 Utah 2001)
188 **10-9a-605**, (Renumbered from 10-9-806, as last amended by Chapter 291, Laws of
189 Utah 2002)
190 **10-9a-606**, (Renumbered from 10-9-806.5, as enacted by Chapter 241, Laws of Utah
191 2001)
192 **10-9a-607**, (Renumbered from 10-9-807, as last amended by Chapter 209, Laws of
193 Utah 2000)
194 **10-9a-608**, (Renumbered from 10-9-808, as last amended by Chapter 211, Laws of
195 Utah 2003)
196 **10-9a-609**, (Renumbered from 10-9-810, as last amended by Chapter 179, Laws of
197 Utah 1995)
198 **10-9a-610**, (Renumbered from 10-9-901, as enacted by Chapter 235, Laws of Utah
199 1991)
200 **10-9a-611**, (Renumbered from 10-9-811, as last amended by Chapter 241, Laws of
201 Utah 2001)
202 **10-9a-702**, (Renumbered from 10-9-707, as last amended by Chapter 23, Laws of Utah
203 1992)
204 **10-9a-801**, (Renumbered from 10-9-1001, as last amended by Chapter 223, Laws of
205 Utah 2004)
206 **10-9a-802**, (Renumbered from 10-9-1002, as enacted by Chapter 235, Laws of Utah
207 1991)
208 **10-9a-803**, (Renumbered from 10-9-1003, as last amended by Chapter 23, Laws of
209 Utah 1992)
210 **17-27a-101**, (Renumbered from 17-27-101, as enacted by Chapter 235, Laws of Utah
211 1991)
212 **17-27a-102**, (Renumbered from 17-27-102, as last amended by Chapter 107, Laws of
213 Utah 2001)

214 **17-27a-103**, (Renumbered from 17-27-103, as last amended by Chapters 66 and 241,
215 Laws of Utah 2001)

216 **17-27a-104**, (Renumbered from 17-27-104, as last amended by Chapter 73, Laws of
217 Utah 2001)

218 **17-27a-203**, (Renumbered from 17-27-301.5, as enacted by Chapter 99, Laws of Utah
219 2004)

220 **17-27a-301**, (Renumbered from 17-27-201, as last amended by Chapter 13, Laws of
221 Utah 1998)

222 **17-27a-302**, (Renumbered from 17-27-204, as last amended by Chapter 3, Laws of
223 Utah 1997, Second Special Session)

224 **17-27a-303**, (Renumbered from 17-27-205, as last amended by Chapter 225, Laws of
225 Utah 1995)

226 **17-27a-304**, (Renumbered from 17-27-104.5, as enacted by Chapter 179, Laws of Utah
227 1995)

228 **17-27a-305**, (Renumbered from 17-27-105, as last amended by Chapter 149, Laws of
229 Utah 1999)

230 **17-27a-306**, (Renumbered from 17-27-200.5, as last amended by Chapter 3, Laws of
231 Utah 1997, Second Special Session)

232 **17-27a-307**, (Renumbered from 17-27-206, as last amended by Chapter 3, Laws of
233 Utah 1997, Second Special Session)

234 **17-27a-401**, (Renumbered from 17-27-301, as last amended by Chapter 99, Laws of
235 Utah 2004)

236 **17-27a-402**, (Renumbered from 17-27-203, as last amended by Chapter 225, Laws of
237 Utah 1995)

238 **17-27a-403**, (Renumbered from 17-27-302, as last amended by Chapter 99, Laws of
239 Utah 2004)

240 **17-27a-404**, (Renumbered from 17-27-303, as last amended by Chapter 16, Laws of
241 Utah 2003)

242 **17-27a-406**, (Renumbered from 17-27-305, as last amended by Chapter 124, Laws of
243 Utah 2003)

244 **17-27a-407**, (Renumbered from 17-27-306, as last amended by Chapter 34, Laws of

245 Utah 2000)
246 **17-27a-408**, (Renumbered from 17-27-307, as last amended by Chapter 202, Laws of
247 Utah 2004)
248 **17-27a-409**, (Renumbered from 17-27-308, as enacted by Chapter 107, Laws of Utah
249 2001)
250 **17-27a-501**, (Renumbered from 17-27-401, as enacted by Chapter 235, Laws of Utah
251 1991)
252 **17-27a-502**, (Renumbered from 17-27-402, as last amended by Chapter 23, Laws of
253 Utah 1992)
254 **17-27a-503**, (Renumbered from 17-27-403, as enacted by Chapter 235, Laws of Utah
255 1991)
256 **17-27a-504**, (Renumbered from 17-27-404, as last amended by Chapter 270, Laws of
257 Utah 1998)
258 **17-27a-505**, (Renumbered from 17-27-405, as enacted by Chapter 235, Laws of Utah
259 1991)
260 **17-27a-506**, (Renumbered from 17-27-406, as last amended by Chapter 241, Laws of
261 Utah 2001)
262 **17-27a-509**, (Renumbered from 17-27-106, as last amended by Chapter 131, Laws of
263 Utah 2003)
264 **17-27a-510**, (Renumbered from 17-27-407, as last amended by Chapter 138, Laws of
265 Utah 2004)
266 **17-27a-511**, (Renumbered from 17-27-408, as enacted by Chapter 263, Laws of Utah
267 1997)
268 **17-27a-513**, (Renumbered from 17-27-105.5, as last amended by Chapter 253, Laws of
269 Utah 2001)
270 **17-27a-514**, (Renumbered from 17-27-107, as enacted by Chapter 111, Laws of Utah
271 2003)
272 **17-27a-515**, (Renumbered from 17-27-501, as last amended by Chapter 23, Laws of
273 Utah 1992)
274 **17-27a-516**, (Renumbered from 17-27-502, as last amended by Chapter 140, Laws of
275 Utah 1999)

- 276 **17-27a-517**, (Renumbered from 17-27-503, as enacted by Chapter 235, Laws of Utah
- 277 1991)
- 278 **17-27a-518**, (Renumbered from 17-27-504, as last amended by Chapter 108, Laws of
- 279 Utah 1997)
- 280 **17-27a-519**, (Renumbered from 17-27-605, as last amended by Chapter 283, Laws of
- 281 Utah 2003)
- 282 **17-27a-601**, (Renumbered from 17-27-801, as enacted by Chapter 235, Laws of Utah
- 283 1991)
- 284 **17-27a-602**, (Renumbered from 17-27-802, as last amended by Chapter 23, Laws of
- 285 Utah 1992)
- 286 **17-27a-603**, (Renumbered from 17-27-804, as last amended by Chapter 211, Laws of
- 287 Utah 2003)
- 288 **17-27a-604**, (Renumbered from 17-27-805, as last amended by Chapter 241, Laws of
- 289 Utah 2001)
- 290 **17-27a-605**, (Renumbered from 17-27-806, as last amended by Chapter 211, Laws of
- 291 Utah 2003)
- 292 **17-27a-606**, (Renumbered from 17-27-806.5, as enacted by Chapter 241, Laws of Utah
- 293 2001)
- 294 **17-27a-607**, (Renumbered from 17-27-807, as last amended by Chapter 209, Laws of
- 295 Utah 2000)
- 296 **17-27a-608**, (Renumbered from 17-27-808, as last amended by Chapter 211, Laws of
- 297 Utah 2003)
- 298 **17-27a-609**, (Renumbered from 17-27-810, as last amended by Chapter 241, Laws of
- 299 Utah 2001)
- 300 **17-27a-610**, (Renumbered from 17-27-901, as last amended by Chapter 241, Laws of
- 301 Utah 2001)
- 302 **17-27a-611**, (Renumbered from 17-27-811, as last amended by Chapter 291, Laws of
- 303 Utah 2002)
- 304 **17-27a-702**, (Renumbered from 17-27-707, as last amended by Chapter 179, Laws of
- 305 Utah 1995)
- 306 **17-27a-801**, (Renumbered from 17-27-1001, as last amended by Chapter 223, Laws of

307 Utah 2004)
308 **17-27a-802**, (Renumbered from 17-27-1002, as enacted by Chapter 235, Laws of Utah
309 1991)
310 **17-27a-803**, (Renumbered from 17-27-1003, as last amended by Chapter 23, Laws of
311 Utah 1992)
312 REPEALS:
313 **10-8-8.1**, as last amended by Chapter 180, Laws of Utah 1995
314 **10-8-8.2**, as last amended by Chapter 180, Laws of Utah 1995
315 **10-8-8.3**, as enacted by Chapter 14, Laws of Utah 1955
316 **10-8-8.4**, as last amended by Chapter 84, Laws of Utah 1997
317 **10-9-103.5**, as enacted by Chapter 339, Laws of Utah 1999
318 **10-9-202**, as enacted by Chapter 235, Laws of Utah 1991
319 **10-9-304**, as enacted by Chapter 235, Laws of Utah 1991
320 **10-9-701**, as last amended by Chapter 23, Laws of Utah 1992
321 **10-9-702**, as last amended by Chapter 23, Laws of Utah 1992
322 **10-9-703**, as last amended by Chapter 23, Laws of Utah 1992
323 **10-9-704**, as last amended by Chapter 179, Laws of Utah 1995
324 **10-9-705**, as last amended by Chapter 23, Laws of Utah 1992
325 **10-9-706**, as enacted by Chapter 235, Laws of Utah 1991
326 **10-9-708**, as last amended by Chapter 223, Laws of Utah 2004
327 **10-9-803**, as enacted by Chapter 235, Laws of Utah 1991
328 **10-9-809**, as last amended by Chapter 69, Laws of Utah 1997
329 **17-27-103.5**, as enacted by Chapter 339, Laws of Utah 1999
330 **17-27-202**, as last amended by Chapters 179 and 225, Laws of Utah 1995
331 **17-27-304**, as enacted by Chapter 235, Laws of Utah 1991
332 **17-27-701**, as last amended by Chapter 179, Laws of Utah 1995
333 **17-27-702**, as last amended by Chapter 241, Laws of Utah 2001
334 **17-27-703**, as last amended by Chapter 241, Laws of Utah 2001
335 **17-27-704**, as last amended by Chapter 241, Laws of Utah 2001
336 **17-27-705**, as last amended by Chapter 23, Laws of Utah 1992
337 **17-27-706**, as enacted by Chapter 235, Laws of Utah 1991

338 17-27-708, as last amended by Chapter 223, Laws of Utah 2004
 339 17-27-803, as enacted by Chapter 235, Laws of Utah 1991
 340 17-27-809, as last amended by Chapter 241, Laws of Utah 2001



341
 342 *Be it enacted by the Legislature of the state of Utah:*

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

344 **9-4-1204. Technical assistance to political subdivisions for housing plan.**

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

- 349 (a) financial assistance for the cost of developing a plan for low and moderate income
- 350 housing;
- 351 (b) information on how to meet present and prospective needs for low and moderate
- 352 income housing; and
- 353 (c) technical advice and consultation on how to facilitate the creation of low and
- 354 moderate income housing.

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

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

361 **10-8-2. Appropriations -- Acquisition and disposal of property -- Corporate**
 362 **purpose -- Procedure -- Notice of intent to acquire real property.**

- 363 (1) A municipal legislative body may:
- 364 (a) appropriate money for corporate purposes only;
- 365 (b) provide for payment of debts and expenses of the corporation;
- 366 (c) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and
- 367 dispose of real and personal property for the benefit of the municipality, whether the property is
- 368 within or without the municipality's corporate boundaries;

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

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

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

378 (3) It is considered a corporate purpose to appropriate money for any purpose that, in
379 the judgment of the municipal legislative body, provides for the safety, health, prosperity,
380 moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality
381 subject to the following:

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

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

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

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

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

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

400 resources appropriated;

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

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

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

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

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

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

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

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

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

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

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

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

430 (i) the property is located:

- 431 (A) outside the boundaries of the municipality; and
- 432 (B) in a county of the first or second class; and
- 433 (ii) the intended use of the property is contrary to:
- 434 (A) the anticipated use of the property under the general plan of the county in whose
- 435 unincorporated area or the municipality in whose boundaries the property is located; or
- 436 (B) the property's current zoning designation.

- 437 (b) Each notice under Subsection (5)(a) shall:
- 438 (i) indicate that the municipality intends to acquire real property;
- 439 (ii) identify the real property; and
- 440 (iii) be sent to:

441 (A) each county in whose unincorporated area and each municipality in whose

442 boundaries the property is located; and

443 (B) each affected entity.

444 (c) A notice under this Subsection (5) is a protected record as provided in Subsection

445 63-2-304(7).

446 (d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality

447 previously provided notice under Section [~~10-9-301.5~~] 10-9a-203 identifying the general

448 location within the municipality or unincorporated part of the county where the property to be

449 acquired is located.

450 (ii) If a municipality is not required to comply with the notice requirement of

451 Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide

452 the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real

453 property.

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

455 **10-8-8. Streets, parks, airports, parking facilities, public grounds, and pedestrian**

456 **malls.**

457 [~~They~~] A municipal legislative body may lay out, establish, open, alter, widen, narrow,

458 extend, grade, pave, or otherwise improve streets, alleys, avenues, boulevards, sidewalks,

459 parks, airports, parking lots, or other facilities for the parking of vehicles off streets, public

460 grounds, and pedestrian malls and may vacate the same or parts thereof, [~~by ordinance~~] as

461 provided in this title.

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

464 **CHAPTER 9a. MUNICIPAL LAND USE, DEVELOPMENT, AND MANAGEMENT**
465 **ACT**

466 **Part 1. General Provisions**

467 ~~[10-9-101].~~ **10-9a-101. Title.**

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

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

472 ~~[10-9-102].~~ **10-9a-102. Purpose -- General land use authority.**

473 ~~[To accomplish the purpose]~~

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

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

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

492 ~~[10-9-103].~~ **10-9a-103. Definitions.**

493 ~~[(t)]~~ As used in this chapter:

494 (1) "Affected entity" means a county, municipality, independent special district under
 495 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
 496 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
 497 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of
 498 Transportation, if:

499 (a) the entity's services or facilities are likely to require expansion or significant
 500 modification because of an intended use of land;

501 (b) the entity has filed with the municipality a copy of the entity's general or long-range
 502 plan; or

503 (c) the entity's boundaries or facilities are within one mile of land which is the subject
 504 of a general plan amendment or land use ordinance change.

505 (2) "Appeal authority" means the person, board, commission, agency, or other body
 506 designated by ordinance to decide an appeal on a land use application or a variance.

507 ~~[(a)]~~ (3) "Billboard" means a freestanding ground sign located on industrial,
 508 commercial, or residential property if the sign is designed or intended to direct attention to a
 509 business, product, or service that is not sold, offered, or existing on the property where the sign
 510 is located.

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

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

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

516 ~~[(c)]~~ (5) "Conditional use" means a land use that, because of its unique characteristics
 517 or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not
 518 be compatible in some areas or may be compatible only if certain conditions are required that
 519 mitigate or eliminate the detrimental impacts.

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

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

522 (6) "Constitutional taking" means a governmental action that results in a taking of
 523 private property so that compensation to the owner of the property is required by the:

524 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

525 (b) Utah Constitution Article I, Section 22.

526 (7) "Culinary water authority" means the department, agency, or public entity with
527 responsibility to review and approve the feasibility of the culinary water system and sources for
528 the subject property.

529 (8) (a) "Disability" means a physical or mental impairment that substantially limits one
530 or more of a person's major life activities, including a person having a record of such an
531 impairment or being regarded as having such an impairment.

532 (b) "Disability" does not include current illegal use of, or addiction to, any federally
533 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
534 802.

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

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

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

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

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

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

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

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

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

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

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

555 ordinance.

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

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

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

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

563 (17) "Moderate income housing" means housing occupied or reserved for occupancy
564 by households with a gross household income equal to or less than 80% of the median gross
565 income for households of the same size in the county in which the city is located.

566 (18) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
567 spent and expenses incurred in:

568 (a) verifying that building plans are identical plans; and

569 (b) reviewing and approving those minor aspects of identical plans that differ from the
570 previously reviewed and approved building plans.

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

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

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

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

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

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

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

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

583 (21) "Official map" means a map drawn by municipal authorities and recorded in a
584 county recorder's office that:

585 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for

586 highways and other transportation facilities;

587 (b) provides a basis for restricting development in designated rights-of-way or between
588 designated setbacks to allow the government authorities time to purchase or otherwise reserve
589 the land; and

590 (c) has been adopted as an element of the municipality's general plan.

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

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

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

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

599 (c) a survey of total residential land use;

600 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
601 income housing; and

602 (e) a description of the city's program to encourage an adequate supply of moderate
603 income housing.

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

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

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

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

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

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

617 (a) in which more than one person with a disability resides; and
 618 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
 619 Chapter 2, Licensure of Programs and Facilities; or
 620 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
 621 Health Care Facility Licensing and Inspection Act.

622 (30) "Sanitary sewer authority" means the department, agency, or public entity with
 623 responsibility to review and approve the feasibility of sanitary sewer services or onsite
 624 wastewater systems.

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

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

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

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

636 ~~[(s)(i)]~~ (34) "Subdivision" means any land that is divided, resubdivided or proposed to
 637 be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
 638 purpose, whether immediate or future, for offer, sale, lease, or development either on the
 639 installment plan or upon any and all other plans, terms, and conditions.

640 ~~[(ii)]~~ (a) "Subdivision" includes:

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

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

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

647 ~~[(A)]~~ (i) a bona fide division or partition of agricultural land for the purpose of joining

648 one of the resulting separate parcels to a contiguous parcel of un~~subdivided~~ agricultural land, if
 649 neither the resulting unsubdivided combined parcel nor the parcel remaining from the division
 650 or partition violates an applicable [~~zoning~~] land use ordinance;

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

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

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

656 [~~(C)~~] (iii) a recorded document, executed by the owner of record[;]:

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

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

661 [~~(iv)~~] (c) The joining of a subdivided parcel of property to another parcel of property
 662 that has not been subdivided does not constitute a "subdivision" under this Subsection [~~(+)(s)~~]
 663 (34) as to the un~~subdivided~~ parcel of property or subject the un~~subdivided~~ parcel to the
 664 municipality's subdivision ordinance.

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

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

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

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

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

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

677 [(ii) If notice given under authority of this section is not challenged as provided in
 678 Section 10-9-1001 within 30 days from the date of the meeting for which the notice was given;

679 ~~the notice is considered adequate and proper.]~~

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

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

684 ~~[10-9-104].~~ **10-9a-104. Stricter requirements.**

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

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

- 690 (a) Section ~~[10-9-106]~~ 10-9a-305;
- 691 ~~[(b) Section 10-9-106.5;]~~
- 692 ~~[(c) Part 5, Residential Facilities for Elderly; and]~~
- 693 ~~[(d) Part 6, Residential Facilities for Persons with a Disability.]~~
- 694 (b) Section 10-9a-514;
- 695 (c) Section 10-9a-516; and
- 696 (d) Section 10-9a-520.

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

698 **Part 2. Notice**

699 **10-9a-201. Required notice.**

700 (1) At a minimum, each municipality shall provide actual notice or the notice required
701 by this part.

702 (2) A municipality may by ordinance require greater notice than required under this
703 part.

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

705 **10-9a-202. Applicant notice.**

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

709 Section 10. Section **10-9a-203**, which is renumbered from Section 10-9-301.5 is

710 renumbered and amended to read:

711 ~~[10-9-301.5].~~ 10-9a-203. **Notice of intent to prepare a general plan or**
712 **comprehensive amendments to a general plan in certain municipalities.**

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

714 [~~(a) (i) "Affected entity" means each county, municipality, independent special district~~
715 ~~under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B,~~
716 ~~Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title~~
717 ~~11, Chapter 13, Interlocal Cooperation Act, and specified public utility:]~~

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

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

722 [~~(ii) "Affected entity" does not include the municipality that is required under this~~
723 ~~section to provide notice:]~~

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

726 [~~(2)~~] (1) Before preparing a proposed general plan or [~~amendments to an existing~~] a
727 comprehensive general plan amendment, each municipality within a county of the first or
728 second class shall provide [~~written~~] ten calendar days notice[~~, as provided in this section,~~] of its
729 intent to prepare a proposed general plan or [~~amendments to a~~] a comprehensive general plan[~~;~~]
730 amendment to:

731 (a) each affected entity;

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

733 (c) the association of governments, established pursuant to an interlocal agreement
734 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member;
735 and

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

737 [~~(3)~~] (2) Each notice under Subsection [~~(2)~~] (1) shall:

738 (a) indicate that the municipality intends to prepare a general plan or [~~amendments to~~]
739 a comprehensive general plan amendment, as the case may be;

740 (b) describe or provide a map of the geographic area that will be affected by the general

741 plan or ~~[amendments to a general plan]~~ amendment;

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

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

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

745 ~~[(iii) the association of governments, established pursuant to an interlocal agreement~~

746 ~~under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member;~~

747 ~~and]~~

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

749 (d) ~~[with respect to the notice to affected entities;]~~ invite the affected entities to provide

750 information for the municipality to consider in the process of preparing, adopting, and

751 implementing a general plan or ~~[amendments to a general plan]~~ amendment concerning:

752 (i) impacts that the use of land proposed in the proposed general plan or ~~[amendments~~

753 ~~to a general plan]~~ amendment may have ~~[on the affected entity];~~ and

754 (ii) uses of land within the municipality that the affected entity is ~~[planning or]~~

755 considering that may conflict with the proposed general plan or ~~[amendments to the general~~

756 ~~plan]~~ amendment; and

757 (e) include the address of an Internet website, if the municipality has one, and the name

758 and telephone number of a person where more information can be obtained concerning the

759 municipality's proposed general plan or ~~[amendments to a general plan]~~ amendment.

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

761 **10-9a-204. Notice of public hearings and public meetings to consider general plan.**

762 (1) Each municipality shall provide:

763 (a) notice of the date, time, and place of the first public hearing to consider the original

764 adoption of, or any modification to, all or any portion of a general plan; and

765 (b) notice of each public meeting on the subject.

766 (2) Each notice of a public hearing under Subsection (1)(a) shall be at least ten

767 calendar days prior to the public hearing and shall be:

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

769 (b) mailed to each affected entity; and

770 (c) posted:

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

772 (ii) on the municipality's official website.

773 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
774 prior to the meeting and shall be:

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

776 (b) posted:

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

778 (ii) on the municipality's official website.

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

780 **10-9a-205. Notice of public hearings and public meetings on adoption or**
781 **modification of land use ordinance.**

782 (1) Each municipality shall give:

783 (a) notice of the date, time, and place of the first public hearing to consider the
784 adoption of or any modification to a land use ordinance; and

785 (b) notice of each public meeting on the subject.

786 (2) Each notice of a public hearing under Subsection (1)(a) shall be:

787 (a) mailed to each affected entity at least ten calendar days prior to the public hearing;

788 (b) posted:

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

790 (ii) on the municipality's official website; and

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

793 (ii) mailed at least three days prior to the public hearing to:

794 (A) each property owner whose land is directly affected by the land use ordinance
795 change; and

796 (B) adjacent property owners within parameters specified by local ordinance.

797 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
798 prior to the meeting and shall be posted:

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

800 (b) on the municipality's official website.

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

802 **10-9a-206. Third party notice.**

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

804 (a) mail notice to the record owner of each parcel within parameters specified by

805 municipal ordinance; or

806 (b) post notice on the property with a sign of sufficient size, durability, print quality,

807 and location that is reasonably calculated to give notice to passers-by.

808 (2) If a municipality mails notice to third party property owners under Subsection (1), it

809 shall mail equivalent notice to property owners within an adjacent jurisdiction.

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

811 **10-9a-207. Notice for a proposed subdivision or amendment or a multiple unit**
812 **residential, commercial, or industrial development.**

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

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

817 (b) posted not less than ten calendar days prior to the public hearing, on the property
818 proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and
819 print quality that is reasonably calculated to give notice to passers-by.

820 (2) Each municipality shall mail notice to each affected entity of a public hearing to
821 consider a preliminary plat describing a multiple-unit residential development or a commercial
822 or industrial development.

823 (3) Each municipality shall provide notice as required by Section 10-9a-208 for a
824 subdivision that involves a vacation, alteration, or amendment of a street.

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

826 **10-9a-208. Hearing and notice for proposal to vacate, alter, or amend a plat.**

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

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

830 (2) mailing notice to any affected entity; and

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

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

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

838 **10-9a-209. Notice challenge.**

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

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

844 **Part 3. Planning Commission**

845 **~~[10-9-201].~~ 10-9a-301. Appointment, term, vacancy, and compensation.**

846 (1) (a) Each municipality [~~may~~] shall enact an ordinance establishing a planning
847 commission.

848 (b) The ordinance shall define:

849 (i) the number and terms of the members and, if the municipality chooses, alternate
850 members;

851 (ii) the mode of appointment;

852 (iii) the procedures for filling vacancies and removal from office; [~~and~~]

853 (iv) the authority of the planning commission; and

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

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

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

861 **~~[10-9-204].~~ 10-9a-302. Planning commission powers and duties.**

862 The planning commission shall [~~:(1) prepare and recommend~~] make a recommendation
863 to the legislative body for:

864 (1) a general plan and amendments [~~to the general plan to the legislative body as~~

865 provided in this chapter];

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

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

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

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

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

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

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

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

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

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

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

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

885 (5) application processes that:

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

889 (b) shall protect the right of each:

890 (i) applicant and third party to require formal consideration of any application by a land
891 use authority;

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

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

895 Section 19. Section **10-9a-303**, which is renumbered from Section 10-9-205 is

896 renumbered and amended to read:

897 **[10-9-205]. 10-9a-303. Entrance upon land.**

898 The ~~[planning commission or its authorized agents]~~ municipality may enter upon any
899 land at reasonable times to make examinations and surveys~~[-]~~ pertinent to the:

900 (1) preparation of its general plan; or

901 (2) preparation or enforcement of its land use ordinances.

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

904 **[10-9-105]. 10-9a-304. State and federal property.**

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

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

911 **[10-9-106]. 10-9a-305. Property owned by other government units -- Effect of**
912 **land use and development ordinances.**

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

918 (b) In addition to any other remedies provided by law, when a municipality's land use
919 ~~[and development ordinances are being]~~ ordinance is violated or about to be violated by
920 another political subdivision, that municipality may institute an injunction, mandamus,
921 abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the
922 improper installation, improvement, or use.

923 (2) A school district is subject to a municipality's land use ~~[regulations under this~~
924 ~~chapter]~~ ordinances, except that a municipality may not:

925 (a) impose requirements for landscaping, fencing, aesthetic considerations,
926 construction methods or materials, building codes, building use for educational purposes, or the

927 placement or use of temporary classroom facilities on school property;

928 (b) require a school district to participate in the cost of any roadway or sidewalk not
929 reasonably necessary for the safety of school children and not located on or contiguous to
930 school property, unless the roadway or sidewalk is required to connect an otherwise isolated
931 school site to an existing roadway;

932 (c) require a district to pay fees not authorized by this section;

933 (d) provide for inspection of school construction or assess a fee or other charges for
934 inspection, unless the school district is unable to provide for inspection by an inspector, other
935 than the project architect or contractor, who is qualified under criteria established by the state
936 superintendent;

937 (e) require a school district to pay any impact fee for an improvement project that is
938 not reasonably related to the impact of the project upon the need that the improvement is to
939 address; or

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

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

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

947 **Part 4. General Plan**

948 **~~[10-9-301].~~ 10-9a-401. General plan required -- Content.**

949 (1) In order to accomplish the purposes ~~[set forth in]~~ of this chapter, each municipality
950 shall prepare and adopt a comprehensive, long-range general plan for:

951 (a) present and future needs of the municipality; and

952 (b) growth and development of all or any part of the land within the municipality or
953 ~~[any part]~~ within the annexation policy plan of the municipality.

954 (2) The plan may provide for:

955 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
956 activities, aesthetics, and recreational, educational, and cultural opportunities;

957 (b) the reduction of the waste of physical, financial, or human resources that result

- 958 from either excessive congestion or excessive scattering of population;
- 959 (c) the efficient and economical use, conservation, and production of the supply of:
- 960 (i) food and water; and
- 961 (ii) drainage, sanitary, and other facilities and resources;
- 962 (d) the use of energy conservation and solar and renewable energy resources;
- 963 (e) the protection of urban development;
- 964 (f) the protection or promotion of moderate income housing;
- 965 [~~(f)~~] (g) the protection and promotion of air quality;
- 966 [~~(g)~~] (h) historic preservation;
- 967 [~~(h)~~] (i) identifying future uses of land that are likely to require an expansion or
- 968 significant modification of services or facilities provided by [~~affected entities and specified~~
- 969 ~~public utilities, as those terms are defined in Section 10-9-301.5]~~ each affected entity; and
- 970 [~~(i) an official map, pursuant to Title 72, Chapter 5, Part 4, Transportation Corridor~~
- 971 ~~Preservation.;~~
- 972 (j) an official map.

973 (3) [~~The~~] Subject to Subsection 10-9a-403(2), the municipality may determine the

974 comprehensiveness, extent, and format of the general plan.

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

976 renumbered and amended to read:

977 **[10-9-203]. 10-9a-402. Information and technical assistance from the state.**

978 [~~(1) The planning commission may obtain access to and use any data and information~~

979 ~~held by the state or any of its agencies.;~~

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

981 [~~(b) that is classified "protected" if the planning commission's use of the data is~~

982 ~~lawfully authorized or if the data will be used for a purpose similar to the purpose for which it~~

983 ~~was gathered.;~~

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

985 [~~(a) make~~] (1) promptly deliver any data and information requested by [~~the planning~~

986 ~~commissions available if authorized under the requirements of this section]~~ a municipality

987 unless such disclosure is prohibited by Title 63, Chapter 2, Government Records Access and

988 Management Act; and

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

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

993 ~~[10-9-302].~~ **10-9a-403. Plan preparation.**

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

995 (1) (a) The planning commission shall provide notice, as provided in Section
996 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a
997 general plan or a comprehensive general plan amendment when the planning commission
998 initiates the process of preparing its recommendation.

999 (b) The planning commission shall make and recommend to the legislative body a
1000 proposed general plan for the area within the municipality.

1001 ~~[(b)]~~ (c) The plan may include areas outside the boundaries of the municipality if, in
1002 the planning commission's judgment, ~~[they are related to the planning of the]~~ such areas relate
1003 to the municipality's territory.

1004 ~~[(c) Except as otherwise provided by law, when the plan of a municipality involves~~
1005 ~~territory outside the boundaries of the municipality, the municipality may not take action~~
1006 ~~affecting that territory without the concurrence of the county or other municipalities affected.]~~

1007 (2) ~~[The]~~ (a) At a minimum, the proposed general plan, with the accompanying maps,
1008 ~~[plats,]~~ charts, and descriptive and explanatory matter, shall ~~[show]~~ include the planning
1009 commission's recommendations for the ~~[development of the territory covered by the plan, and~~
1010 ~~may include, among other things]~~ following plan elements:

1011 ~~[(a)]~~ (i) a land use element that:

1012 ~~[(i)]~~ (A) designates the long-term goals and the proposed extent, general distribution,
1013 and location ~~[and extent of uses]~~ of land for housing, business, industry, agriculture, recreation,
1014 education, public buildings and grounds, open space, and other categories of public and private
1015 uses of land as appropriate; and

1016 ~~[(i)]~~ (B) may include a statement of the projections for and standards of population
1017 density and building intensity recommended for the various land use categories covered by the
1018 plan;

1019 ~~[(b)]~~ (ii) a transportation and traffic circulation element consisting of the general

1020 location and extent of existing and proposed freeways, arterial and collector streets, mass
1021 transit, and any other modes of transportation that [are] the planning commission considers
1022 appropriate, all correlated with the population projections and the proposed land use element of
1023 the general plan; and

1024 (iii) for cities, an estimate of the need for the development of additional moderate
1025 income housing within the city, and a plan to provide a realistic opportunity to meet estimated
1026 needs for additional moderate income housing if long-term projections for land use and
1027 development occur.

1028 (b) In drafting the moderate income housing element, the planning commission:

1029 (i) shall consider the Legislature's determination that cities should facilitate a
1030 reasonable opportunity for a variety of housing, including moderate income housing:

1031 (A) to meet the needs of people desiring to live there; and

1032 (B) to allow persons with moderate incomes to benefit from and to fully participate in
1033 all aspects of neighborhood and community life; and

1034 (ii) may include an analysis of why the recommended means, techniques, or
1035 combination of means and techniques provide a realistic opportunity for the development of
1036 moderate income housing within the planning horizon, which means or techniques may include
1037 a recommendation to:

1038 (A) rezone for densities necessary to assure the production of moderate income
1039 housing;

1040 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the
1041 construction of moderate income housing;

1042 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
1043 income housing;

1044 (D) consider general fund subsidies to waive construction related fees that are
1045 otherwise generally imposed by the city;

1046 (E) consider utilization of state or federal funds or tax incentives to promote the
1047 construction of moderate income housing;

1048 (F) consider utilization of programs offered by the Utah Housing Corporation within
1049 that agency's funding capacity; and

1050 (G) consider utilization of affordable housing programs administered by the

1051 Department of Community and Economic Development.

1052 (3) The proposed general plan may include:

1053 ~~[(e)]~~ (a) an environmental element that addresses:

1054 (i) the protection, conservation, development, and use of natural resources, including
1055 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
1056 and other natural resources; and

1057 (ii) the reclamation of land, flood control, prevention and control of the pollution of
1058 streams and other waters, regulation of the use of land on hillsides, stream channels and other
1059 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
1060 protection of watersheds and wetlands, and the mapping of known geologic hazards;

1061 ~~[(d)]~~ (b) a public services and facilities element showing general plans for sewage,
1062 water, waste disposal, drainage, ~~[local]~~ public utilities, rights-of-way, easements, and facilities
1063 for them, police and fire protection, and other public services;

1064 ~~[(e)]~~ (c) a rehabilitation, redevelopment, and conservation element consisting of plans
1065 and programs for:

1066 (i) historic preservation; and

1067 (ii) the diminution or elimination of blight; and ~~[for]~~

1068 (iii) redevelopment of land, including housing sites, business and industrial sites, and
1069 public building sites;

1070 ~~[(f)]~~ (d) an economic element composed of appropriate studies and forecasts, as well as
1071 an economic development plan ~~[that], which~~ may include review of existing and projected
1072 municipal revenue and expenditures, revenue sources, identification of base and ~~[residential]~~
1073 residential, industry, primary and secondary market areas, employment, and retail sales activity;

1074 ~~[(g)]~~ (e) recommendations for implementing ~~[the]~~ all or any portion of the general plan,
1075 including the use of ~~[zoning]~~ land use ordinances, ~~[subdivision ordinances,]~~ capital
1076 improvement plans, ~~[and]~~ community development and promotion, and any other appropriate
1077 ~~[actions]~~ action;

1078 ~~[(h)]~~ (f) provisions addressing any of the matters listed in Subsection ~~[10-9-301]~~

1079 10-9a-401(2); and

1080 ~~[(i)]~~ (g) any other ~~[elements]~~ element the municipality considers appropriate.

1081 Section 25. Section **10-9a-404**, which is renumbered from Section 10-9-303 is

1082 renumbered and amended to read:

1083 ~~[10-9-303].~~ **10-9a-404. Public hearing by planning commission on proposed**
 1084 **general plan or amendment -- Notice -- Revisions to general plan or amendment --**
 1085 **Adoption or rejection by legislative body.**

1086 (1) (a) After completing its recommendation for a proposed general plan [~~for all or part~~
 1087 ~~of the area within the municipality~~], or proposal to amend the general plan, the planning
 1088 commission shall schedule and hold a public hearing on the proposed plan or amendment.

1089 (b) The planning commission shall provide [~~reasonable~~] notice of the public hearing [at
 1090 ~~least 14 days before the date of the hearing~~], as required by Section 10-9a-204.

1091 (c) After the public hearing, the planning commission may [~~make changes to~~] modify
 1092 the proposed general plan or amendment.

1093 (2) The planning commission shall [~~then~~] forward the proposed general plan or
 1094 amendment to the legislative body.

1095 [~~(3) (a) The legislative body shall hold a public hearing on the proposed general plan~~
 1096 ~~recommended to it by the planning commission.~~]

1097 [~~(b) The legislative body shall provide reasonable notice of the public hearing at least~~
 1098 ~~14 days before the date of the hearing.~~]

1099 [~~(4) After the public hearing, the~~]

1100 (3) The legislative body may make any [~~modifications~~] revisions to the proposed
 1101 general plan or amendment that it considers appropriate.

1102 [~~(5) (4) (a) The municipal legislative body may[:(a)] adopt or reject~~ the proposed
 1103 general plan [~~without~~] or amendment[:~~(b) amend the~~] either as proposed [~~general plan and~~
 1104 ~~adopt or reject it as amended; or (c) reject~~] by the planning commission or after making any
 1105 revision that the municipal legislative body considers appropriate.

1106 (b) If the municipal legislative body rejects the proposed general plan or amendment, it
 1107 may provide suggestions to the planning commission for its consideration.

1108 [~~(6) (a) The general plan is an advisory guide for land use decisions.~~]

1109 [~~(b) The legislative body may adopt an ordinance mandating compliance with the~~
 1110 ~~general plan.~~]

1111 (5) The legislative body shall adopt:

1112 (a) a land use element as provided in Subsection 10-9a-403(2)(a)(i);

1113 (b) a transportation and traffic circulation element as provided in Subsection
 1114 10-9a-403(2)(a)(ii); and
 1115 (c) for all cities, after considering the factors included in Subsection
 1116 10-9a-403(2)(b)(ii), a plan to provide a realistic opportunity to meet estimated needs for
 1117 additional moderate income housing if long-term projections for land use and development
 1118 occur.

1119 Section 26. Section **10-9a-405** is enacted to read:

1120 **10-9a-405. Effect of general plan.**

1121 Except as provided in Section 10-9a-406, the general plan is an advisory guide for land
 1122 use decisions, the impact of which shall be determined by ordinance.

1123 Section 27. Section **10-9a-406**, which is renumbered from Section 10-9-305 is
 1124 renumbered and amended to read:

1125 **[10-9-305]. 10-9a-406. Public uses to conform to general plan.**

1126 After the legislative body has adopted a general plan [~~or any amendments to the general~~
 1127 ~~plan~~], no street, park, or other public way, ground, place, or space, no publicly owned building
 1128 or structure, and no public utility, whether publicly or privately owned, may be constructed or
 1129 authorized until and unless[~~:(1)~~] it conforms to the current general plan[~~;~~~~or~~].

1130 [~~(2) it has been considered by the planning commission and, after receiving the advice~~
 1131 ~~of the planning commission, the legislative body approves it as an amendment to the general~~
 1132 ~~plan.~~]

1133 Section 28. Section **10-9a-407**, which is renumbered from Section 10-9-306 is
 1134 renumbered and amended to read:

1135 **[10-9-306]. 10-9a-407. Effect of official maps.**

1136 (1) Municipalities may adopt an official map [~~in accordance with the provisions of~~
 1137 ~~Title 72, Chapter 5, Part 4, Transportation Corridor Preservation~~].

1138 (2) (a) An official map does not:

1139 (i) require a landowner to dedicate and construct a street as a condition of development
 1140 approval, except under circumstances provided in Subsection (2)(b)(iii); or

1141 (ii) require a municipality to immediately acquire property it has designated for
 1142 eventual use as a public street.

1143 (b) This section does not prohibit a municipality from:

- 1144 (i) ~~[requiring a landowner to take into account]~~ recommending that an applicant
1145 consider and accommodate the location of the proposed streets in the planning of a
1146 development proposal in a manner that is consistent with Section 10-9a-508;
1147 (ii) acquiring the property through purchase, gift, voluntary dedication, or eminent
1148 domain; or
1149 (iii) requiring the dedication and improvement of a street if the street is found
1150 necessary by the municipality because of a proposed development and if the dedication and
1151 improvement are consistent with Section 10-9a-508.

1152 ~~[(3) An official map may not be used to unconstitutionally prohibit the development of~~
1153 ~~property designated for eventual use as a public street.]~~

1154 ~~[(4) An adopted official map shall be available for public inspection upon request.]~~

1155 Section 29. Section **10-9a-408**, which is renumbered from Section 10-9-307 is
1156 renumbered and amended to read:

1157 ~~[10-9-307].~~ **10-9a-408. Biennial review of moderate income housing element of**
1158 **general plan.**

1159 ~~[(1) The availability of moderate income housing is an issue of statewide concern. To~~
1160 ~~this end:]~~

1161 ~~[(a) cities should afford a reasonable opportunity for a variety of housing, including~~
1162 ~~moderate income housing, to meet the needs of people desiring to live there; and]~~

1163 ~~[(b) moderate income housing should be encouraged to allow persons with moderate~~
1164 ~~incomes to benefit from and to fully participate in all aspects of neighborhood and community~~
1165 ~~life.]~~

1166 ~~[(2) As used in this section:]~~

1167 ~~[(a) "Moderate income housing" means housing occupied or reserved for occupancy by~~
1168 ~~households with a gross household income equal to or less than 80% of the median gross~~
1169 ~~income for households of the same size in the county in which the city is located.]~~

1170 ~~[(b) "Plan for moderate income housing" or "plan" means a written document adopted~~
1171 ~~by a city legislative body that includes:]~~

1172 ~~[(i) an estimate of the existing supply of moderate income housing located within the~~
1173 ~~city;]~~

1174 ~~[(ii) an estimate of the need for moderate income housing in the city for the next five~~

1175 ~~years as revised biennially;]~~
 1176 ~~[(iii) a survey of total residential zoning;]~~
 1177 ~~[(iv) an evaluation of how existing zoning densities affect opportunities for moderate~~
 1178 ~~income housing; and]~~
 1179 ~~[(v) a description of the city's program to encourage an adequate supply of moderate~~
 1180 ~~income housing;]~~
 1181 ~~[(3) The legislative body of each city shall, as part of its general plan, adopt a plan for~~
 1182 ~~moderate income housing within that city.]~~
 1183 ~~[(4) A plan may provide moderate income housing by any means or combination of~~
 1184 ~~techniques which provide a realistic opportunity to meet estimated needs. The plan may include~~
 1185 ~~an analysis of why the means or techniques selected provide a realistic opportunity to meet the~~
 1186 ~~objectives of this section. Such techniques may include:]~~
 1187 ~~[(a) rezoning for densities necessary to assure the economic viability of inclusionary~~
 1188 ~~developments, either through mandatory set-asides or density bonuses;]~~
 1189 ~~[(b) infrastructure expansion and rehabilitation that will facilitate the construction of~~
 1190 ~~moderate income housing;]~~
 1191 ~~[(c) rehabilitation of existing uninhabitable housing stock;]~~
 1192 ~~[(d) consideration of waiving construction related fees generally imposed by the city;]~~
 1193 ~~[(e) utilization of state or federal funds or tax incentives to promote the construction of~~
 1194 ~~moderate income housing;]~~
 1195 ~~[(f) utilization of programs offered by the Utah Housing Corporation within that~~
 1196 ~~agency's funding capacity; and]~~
 1197 ~~[(g) utilization of affordable housing programs administered by the Department of~~
 1198 ~~Community and Economic Development.]~~
 1199 ~~[(5)(a) After adoption of a plan for moderate income housing under Subsection (3),~~
 1200 ~~the]~~
 1201 (1) The legislative body of each city shall biennially:
 1202 [(i) (a) review the moderate income housing plan element of its general plan and its
 1203 implementation; and
 1204 [(ii) (b) prepare a report setting forth the findings of the review.
 1205 [(b) (2) Each report under Subsection [(5)(a)(i)] (1) shall include a description of:

1206 [(i)] (a) efforts made by the city to reduce, mitigate, or eliminate local regulatory
1207 barriers to moderate income housing;

1208 [(ii)] (b) actions taken by the city to encourage preservation of existing moderate
1209 income housing and development of new moderate income housing;

1210 [(iii)] (c) progress made within the city to provide moderate income housing, as
1211 measured by permits issued for new units of moderate income housing; and

1212 [(iv)] (d) efforts made by the city to coordinate moderate income housing plans and
1213 actions with neighboring municipalities.

1214 [(e)] (3) The legislative body of each city shall send a copy of the report under
1215 Subsection [(5)(a)(ii)] (1) to the Department of Community and Economic Development and
1216 the association of governments in which the city is located.

1217 [(6)] (4) In a civil action seeking enforcement or claiming a violation of this section or
1218 of Subsection 10-9a-404(5)(c), a plaintiff may not recover damages but may be awarded only
1219 injunctive or other equitable relief [only].

1220 Section 30. Section **10-9a-501**, which is renumbered from Section 10-9-401 is
1221 renumbered and amended to read:

Part 5. Land Use Ordinances

[10-9-401]. 10-9a-501. General powers.

1222 The legislative body may enact [~~a zoning ordinance establishing regulations for land~~
1223 ~~use and development that furthers the intent of this chapter]~~ land use ordinances and a zoning
1224 map.

1225 Section 31. Section **10-9a-502**, which is renumbered from Section 10-9-402 is
1226 renumbered and amended to read:

[10-9-402]. 10-9a-502. Preparation and adoption.

1227 (1) The planning commission shall;

1228 (a) provide notice as required by Subsection 10-9a-205(1)(a);

1229 (b) hold a public hearing on a proposed land use ordinance or zoning map; and

1230 (c) prepare and recommend to the legislative body [a proposed zoning ordinance,
1231 including both the full text of the zoning ordinance and maps, that represents the commission's
1232 recommendations for zoning all or any part of the area within] a proposed land use ordinance
1233 or ordinances and zoning map that represent the planning commission's recommendation for
1234 land use ordinances and a zoning map.

1237 regulating the use and development of land within all or any part of the area of the
 1238 municipality.

1239 (2) ~~[(a)]~~ The municipal legislative body shall ~~[hold a public hearing on the]~~ consider
 1240 each proposed ~~[zoning]~~ land use ordinance and zoning map recommended to it by the planning
 1241 commission~~[-(b) The legislative body shall provide reasonable notice of the public hearing at~~
 1242 least 14 days before the date of the hearing. If a municipality mails notice of a proposed zoning
 1243 change to property owners within that municipality within a specified distance of the property
 1244 on which the zoning change is being proposed, it shall also mail equivalent notice to property
 1245 owners of an adjacent municipality within the same distance of the property on which the
 1246 zoning change is being proposed. (3) After the public hearing, the legislative body may: (a)],
 1247 and, after providing notice as required by Subsection 10-9a-205(1)(b) and holding a public
 1248 meeting, the legislative body may adopt or reject the [zoning] ordinance or map either as
 1249 proposed[-(b) amend the zoning ordinance and adopt or reject the zoning ordinance as
 1250 amended; or (c) reject the ordinance] by the planning commission or after making any revision
 1251 the municipal legislative body considers appropriate.

1252 Section 32. Section **10-9a-503**, which is renumbered from Section 10-9-403 is
 1253 renumbered and amended to read:

1254 ~~[10-9-403].~~ **10-9a-503. Amendments.**

1255 (1) ~~[(a)]~~ The legislative body may amend:

1256 ~~[(i)]~~ (a) the number, shape, boundaries, or area of any zoning district;

1257 ~~[(ii)]~~ (b) any regulation of or within the zoning district; or

1258 ~~[(iii)]~~ (c) any other provision of ~~[the zoning]~~ a land use ordinance.

1259 ~~[(b)]~~ (2) The legislative body may not make any amendment authorized by this
 1260 subsection unless the amendment was proposed by the planning commission or ~~[is]~~ was first
 1261 submitted to the planning commission for its approval, disapproval, or ~~[recommendations]~~
 1262 recommendation.

1263 ~~[(2)]~~ (3) The legislative body shall comply with the procedure specified in Section
 1264 ~~[10-9-402]~~ 10-9a-502 in preparing and adopting an amendment to ~~[the zoning]~~ a land use
 1265 ordinance or [the] a zoning map.

1266 Section 33. Section **10-9a-504**, which is renumbered from Section 10-9-404 is
 1267 renumbered and amended to read:

1268 ~~[10-9-404].~~ 10-9a-504. **Temporary land use regulations.**

1269 (1) (a) A municipal legislative body may, without ~~[a public hearing,]~~ prior
1270 consideration of or recommendation from the planning commission, enact an ordinance
1271 establishing a temporary ~~[zoning]~~ land use regulation for any part or all of the area within the
1272 municipality if:

1273 (i) the legislative body makes a finding of compelling, countervailing public interest;

1274 or

1275 (ii) the area is ~~[unzoned]~~ unregulated.

1276 (b) A temporary ~~[zoning]~~ land use regulation under Subsection (1)(a) may prohibit or
1277 regulate the erection, construction, reconstruction, or alteration of any building or structure or
1278 any subdivision approval.

1279 (c) A temporary ~~[zoning]~~ land use regulation under Subsection (1)(a) may not impose
1280 an impact fee or other financial requirement on building or development.

1281 (2) The municipal legislative body shall establish a period of limited effect for the
1282 ordinance not to exceed six months.

1283 (3) (a) A municipal legislative body may, without ~~[a public hearing]~~ prior planning
1284 commission consideration or recommendation, enact an ordinance establishing a temporary
1285 ~~[zoning]~~ land use regulation prohibiting construction, subdivision approval, and other
1286 development activities within an area that is the subject of an Environmental Impact Statement
1287 or a Major Investment Study examining the area as a proposed highway or transportation
1288 corridor.

1289 (b) A ~~[zoning]~~ regulation under Subsection (3)(a):

1290 (i) may not exceed six months in duration;

1291 (ii) may be renewed, if requested by the Utah Transportation Commission created
1292 under Section 72-1-301, for up to two additional six-month periods by ordinance enacted
1293 before the expiration of the previous ~~[zoning]~~ regulation; and

1294 (iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the
1295 Environmental Impact Statement or Major Investment Study is in progress.

1296 Section 34. Section **10-9a-505**, which is renumbered from Section 10-9-405 is
1297 renumbered and amended to read:

1298 ~~[10-9-405].~~ 10-9a-505. **Zoning districts.**

1299 (1) (a) The legislative body may divide the territory over which it has jurisdiction into
1300 zoning districts of a number, shape, and area that it considers appropriate to carry out the
1301 purposes of this chapter.

1302 (b) Within those zoning districts, the legislative body may regulate and restrict the
1303 erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and
1304 the use of land.

1305 (2) The legislative body shall ensure that the regulations are uniform for each class or
1306 kind of buildings throughout each zoning district, but the regulations in one [~~district~~] zone may
1307 differ from those in other [~~districts~~] zones.

1308 (3) (a) There is no minimum area or diversity of ownership requirement for a zone
1309 designation.

1310 (b) Neither the size of a zoning district nor the number of landowners within the
1311 district may be used as evidence of the illegality of a zoning district or of the invalidity of a
1312 municipal decision.

1313 Section 35. Section **10-9a-506**, which is renumbered from Section 10-9-406 is
1314 renumbered and amended to read:

1315 ~~[10-9-406].~~ **10-9a-506. Regulating annexed territory.**

1316 (1) The legislative body of [a] each municipality [~~may~~] shall assign a [~~zoning~~
1317 ~~designation~~] land use zone or a variety thereof to territory annexed to the municipality at the
1318 time the territory is annexed.

1319 [~~(2) If the annexing municipality's zoning ordinance does not designate a zone for the~~
1320 ~~territory to be annexed to the municipality, or if the legislative body does not assign a zone to~~
1321 ~~territory at the time it is annexed, the territory annexed to a municipality shall be zoned~~
1322 ~~according to the zone of the annexing municipality with which it has the longest common~~
1323 ~~boundary.]~~

1324 (2) If the legislative body fails to assign a land use zone at the time the territory is
1325 annexed, all land uses within the annexed territory shall be compatible with surrounding uses
1326 within the municipality.

1327 Section 36. Section **10-9a-507**, which is renumbered from Section 10-9-407 is
1328 renumbered and amended to read:

1329 ~~[10-9-407].~~ **10-9a-507. Conditional uses.**

1330 (1) A ~~[zoning]~~ land use ordinance may ~~[contain]~~ include conditional uses and
1331 provisions for conditional uses that ~~[may be allowed, allowed with conditions, or denied in~~
1332 ~~designated zoning districts, based on]~~ require compliance with standards ~~[and criteria]~~ set forth
1333 in ~~[the zoning]~~ an applicable ordinance ~~[for those uses].~~

1334 ~~[(2) The board of adjustments has jurisdiction to decide appeals of the approval or~~
1335 ~~denial of conditional use permits unless the legislative body has enacted an ordinance~~
1336 ~~designating the legislative body or another body as the appellate body for those appeals.]~~

1337 (2) (a) A conditional use shall be approved if reasonable conditions are proposed, or
1338 can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use
1339 in accordance with applicable standards.

1340 (b) If the reasonably anticipated detrimental effects of a proposed conditional use
1341 cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve
1342 compliance with applicable standards, the conditional use may be denied.

1343 Section 37. Section **10-9a-508** is enacted to read:

1344 **10-9a-508. Regulation of exactions.**

1345 A municipality may impose an exaction or exactions on development proposed in a
1346 land use application if:

1347 (1) an essential link exists between a legitimate governmental interest and each
1348 exaction; and

1349 (2) each exaction is roughly proportionate, both in nature and extent, to the impact of
1350 the proposed development.

1351 Section 38. Section **10-9a-509** is enacted to read:

1352 **10-9a-509. Land use approval standards and vested rights.**

1353 (1) (a) An applicant is entitled to approval of a land use application if the application
1354 conforms to the requirements of an applicable land use ordinance in effect when a complete
1355 application is submitted, all fees have been paid, and the applicant thereafter proceeds with
1356 reasonable diligence, unless:

1357 (i) the land use authority, on the record, finds that a compelling, countervailing public
1358 interest would be jeopardized by approving the application; or

1359 (ii) in the manner provided by local ordinance and before the application is submitted,
1360 the municipality has formally initiated proceedings to amend its ordinances in a manner that

1361 would prohibit approval of the application as submitted.

1362 (b) If the proceedings initiated to amend the ordinance do not result in an enactment,
1363 which prohibits the approval of the application as submitted within 180 days after the
1364 proceedings have been initiated, any affected application shall be processed without regard to
1365 the initiated proceedings.

1366 (c) An application for a land use approval is considered submitted and complete when
1367 the application is provided in a form that complies with the requirements of applicable
1368 ordinances and all applicable fees have been paid.

1369 (2) A municipality is bound by the terms and standards of applicable land use
1370 ordinances and shall comply with mandatory provisions of those ordinances.

1371 Section 39. Section **10-9a-510**, which is renumbered from Section 10-9-107 is
1372 renumbered and amended to read:

1373 **[10-9-107]. 10-9a-510. Limit on plan check fees.**

1374 (1) A municipality may not impose or collect a fee for reviewing or approving the
1375 plans for a commercial or residential building that exceeds the lesser of:

- 1376 (a) the actual cost of performing the plan review; and
- 1377 (b) 65% of the amount the municipality charges for a building permit fee for that
1378 building.

1379 ~~[(2)(a) For purposes of this Subsection (2):]~~

1380 ~~[(i) "Identical plans" means building plans submitted to a municipality that:]~~

1381 ~~[(A) are substantially identical to building plans that were previously submitted to and~~
1382 ~~reviewed and approved by the municipality; and]~~

1383 ~~[(B) describe a building that is:]~~

1384 ~~[(F) located on land zoned the same as the land on which the building described in the~~
1385 ~~previously approved plans is located; and]~~

1386 ~~[(H) subject to the same geological and meteorological conditions and the same law as~~
1387 ~~the building described in the previously approved plans.]~~

1388 ~~[(ii) "Nominal fee" means a fee that reasonably reimburses a municipality only for time~~
1389 ~~spent and expenses incurred in:]~~

1390 ~~[(A) verifying that building plans are identical plans; and]~~

1391 ~~[(B) reviewing and approving those minor aspects of identical plans that differ from~~

1392 ~~the previously reviewed and approved building plans referred to in Subsection (2)(a)(i):]~~

1393 ~~[(b)]~~ (2) Subject to Subsection (1), a municipality may impose and collect only a
1394 nominal fee for reviewing and approving identical plans.

1395 Section 40. Section **10-9a-511**, which is renumbered from Section 10-9-408 is
1396 renumbered and amended to read:

1397 ~~[10-9-408].~~ **10-9a-511. Nonconforming uses and noncomplying structures.**

1398 (1) (a) Except as provided in this section, a nonconforming use or noncomplying
1399 structure may be continued by the present or by a future property owner.

1400 (b) A nonconforming use may be extended through the same building, provided no
1401 structural alteration of the building is proposed or made for the purpose of the extension.

1402 (c) For purposes of this Subsection (1), the addition of a solar energy device to a
1403 building is not a structural alteration.

1404 (2) The legislative body may provide ~~[in any zoning ordinance or amendment]~~ for:

1405 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
1406 substitution of nonconforming uses upon the terms and conditions set forth in the ~~[zoning]~~ land
1407 use ordinance;

1408 (b) the termination of all nonconforming uses, except billboards, by providing a
1409 formula establishing a reasonable time period during which the owner can recover or amortize
1410 the amount of his investment in the nonconforming use, if any; and

1411 ~~[(c) the termination of a billboard that is a nonconforming use by acquiring the~~
1412 ~~billboard and associated property rights through:]~~

1413 ~~[(i) gift;]~~

1414 ~~[(ii) purchase;]~~

1415 ~~[(iii) agreement;]~~

1416 ~~[(iv) exchange; or]~~

1417 ~~[(v) eminent domain;]~~

1418 ~~[(3) (a) A municipality is considered to have initiated the acquisition of a billboard~~
1419 ~~structure by eminent domain under Subsection (2)(c)(v) if the municipality prevents a billboard~~
1420 ~~owner from:]~~

1421 ~~[(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged~~
1422 ~~by casualty, an act of God, or vandalism; or]~~

1423 ~~[(ii) except as provided in Subsection (3)(b), relocating or rebuilding a billboard~~
1424 ~~structure, or taking other measures, to correct a mistake in the placement or erection of a~~
1425 ~~billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,~~
1426 ~~or other measure is consistent with the intent of that permit.]~~

1427 ~~[(b) A municipality's denial of a billboard owner's request to relocate or rebuild a~~
1428 ~~billboard structure, or to take other measures, in order to correct a mistake in the placement or~~
1429 ~~erection of a billboard does not constitute the initiation of acquisition by eminent domain under~~
1430 ~~Subsection (3)(a) if the mistake in placement or erection of the billboard is determined by clear~~
1431 ~~and convincing evidence to have resulted from an intentionally false or misleading statement:]~~

1432 ~~[(i) by the billboard applicant in the application; and]~~

1433 ~~[(ii) regarding the placement or erection of the billboard:]~~

1434 ~~[(4) Notwithstanding Subsections (2) and (3), a municipality may remove a billboard~~
1435 ~~without providing compensation if:]~~

1436 ~~[(a) the municipality determines:]~~

1437 ~~[(i) by clear and convincing evidence that the applicant for a permit intentionally made~~
1438 ~~a false or misleading statement in the applicant's application regarding the placement or~~
1439 ~~erection of the billboard; or]~~

1440 ~~[(ii) by substantial evidence that the billboard:]~~

1441 ~~[(A) is structurally unsafe;]~~

1442 ~~[(B) is in an unreasonable state of repair; or]~~

1443 ~~[(C) has been abandoned for at least 12 months;]~~

1444 ~~[(b) the municipality notifies the owner in writing that the owner's billboard meets one~~
1445 ~~or more of the conditions listed in Subsections (4)(a)(i) and (ii);]~~

1446 ~~[(c) the owner fails to remedy the condition or conditions within:]~~

1447 ~~[(i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's~~
1448 ~~receipt of written notice under Subsection (4)(b); or]~~

1449 ~~[(ii) if the condition forming the basis of the municipality's intention to remove the~~
1450 ~~billboard is that it is structurally unsafe, ten business days, or a longer period if necessary~~
1451 ~~because of a natural disaster, following the billboard owner's receipt of written notice under~~
1452 ~~Subsection (4)(b); and]~~

1453 ~~[(d) following the expiration of the applicable period under Subsection (4)(c) and after~~

1454 ~~providing the owner with reasonable notice of proceedings and an opportunity for a hearing,~~
1455 ~~the municipality finds:]~~

1456 ~~[(i) by clear and convincing evidence, that the applicant for a permit intentionally made~~
1457 ~~a false or misleading statement in the application regarding the placement or erection of the~~
1458 ~~billboard; or]~~

1459 ~~[(ii) by substantial evidence that the billboard is structurally unsafe, is in an~~
1460 ~~unreasonable state of repair, or has been abandoned for at least 12 months.]~~

1461 ~~[(5) A municipality may not allow a nonconforming billboard to be rebuilt for a reason~~
1462 ~~other than:]~~

1463 ~~[(a) those specified in Subsections (3) and (4);]~~

1464 ~~[(b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and]~~

1465 ~~[(c) those specified in the municipality's ordinance requiring or allowing a billboard~~
1466 ~~owner to relocate and rebuild an existing nonconforming billboard to an area within the~~
1467 ~~municipality where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5,~~
1468 ~~Utah Outdoor Advertising Act.]~~

1469 ~~[(6) A municipality may terminate the nonconforming status of school district property~~
1470 ~~when the property ceases to be used for school district purposes:]~~

1471 ~~(c) the termination of a nonconforming use due to its abandonment.~~

1472 ~~(3) (a) A municipality may not prohibit the reconstruction or restoration of a~~
1473 ~~noncomplying structure or terminate the nonconforming use of a structure that is involuntarily~~
1474 ~~destroyed in whole or in part due to fire or other calamity unless the structure or use has been~~
1475 ~~abandoned.~~

1476 ~~(b) A municipality may prohibit the reconstruction or restoration of a noncomplying~~
1477 ~~structure or terminate the nonconforming use of a structure if:~~

1478 ~~(i) the structure is allowed to deteriorate to a condition that the structure is rendered~~
1479 ~~uninhabitable and is not repaired or restored within six months after written notice to the~~
1480 ~~property owner that the structure is uninhabitable and that the noncomplying structure or~~
1481 ~~nonconforming use will be lost if the structure is not repaired or restored within six months; or~~

1482 ~~(ii) the property owner has voluntarily demolished a majority of the noncomplying~~
1483 ~~structure or the building that houses the nonconforming use.~~

1484 ~~(4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of~~

1485 legal existence for nonconforming uses, the property owner shall have the burden of
1486 establishing the legal existence of a noncomplying structure or nonconforming use.

1487 (b) Any party claiming that a nonconforming use has been abandoned shall have the
1488 burden of establishing such abandonment.

1489 (c) Abandonment may be presumed to have occurred if:

1490 (i) a majority of the primary structure associated with the nonconforming use has been
1491 voluntarily demolished without prior written agreement with the municipality regarding an
1492 extension of the nonconforming use;

1493 (ii) the use has been discontinued for a minimum of one year; or

1494 (iii) the primary structure associated with the nonconforming use remains vacant for a
1495 period of one year.

1496 (d) The property owner may rebut the presumption of abandonment under Subsection
1497 (4)(c), and shall have the burden of establishing that any claimed abandonment under
1498 Subsection (4)(c) has not in fact occurred.

1499 (5) A municipality may terminate the nonconforming status of a school district or
1500 charter school use or structure when the property associated with the school district or charter
1501 school use or structure ceases to be used for school district or charter school purposes for a
1502 period established by ordinance.

1503 Section 41. Section **10-9a-512**, which is renumbered from Section 10-9-409 is
1504 renumbered and amended to read:

1505 **~~[10-9-409]~~. 10-9a-512. Existing outdoor advertising uses.**

1506 (1) A municipality may only require termination of a billboard and associated property
1507 rights through:

1508 (a) gift;

1509 (b) purchase;

1510 (c) agreement;

1511 (d) exchange; or

1512 (e) eminent domain.

1513 (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent
1514 of the billboard owner.

1515 Section 42. Section **10-9a-513** is enacted to read:

1516 **10-9a-513. Nonconforming billboards.**

1517 (1) (a) A municipality is considered to have initiated the acquisition of a billboard
1518 structure by eminent domain if the municipality prevents a billboard owner from:

1519 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
1520 by casualty, an act of God, or vandalism; or

1521 (ii) except as provided in Subsection (1)(b), relocating or rebuilding a billboard
1522 structure, or taking other measures, to correct a mistake in the placement or erection of a
1523 billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,
1524 or other measure is consistent with the intent of that permit.

1525 (b) A municipality's denial of a billboard owner's request to relocate or rebuild a
1526 billboard structure, or to take other measures, in order to correct a mistake in the placement or
1527 erection of a billboard does not constitute the initiation of acquisition by eminent domain under
1528 Subsection (1)(a) if the mistake in placement or erection of the billboard is determined by clear
1529 and convincing evidence to have resulted from an intentionally false or misleading statement:

1530 (i) by the billboard applicant in the application; and

1531 (ii) regarding the placement or erection of the billboard.

1532 (2) Notwithstanding Subsection (1) and Section 10-9a-512, a municipality may remove
1533 a billboard without providing compensation if:

1534 (a) the municipality determines:

1535 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
1536 false or misleading statement in the applicant's application regarding the placement or erection
1537 of the billboard; or

1538 (ii) by substantial evidence that the billboard:

1539 (A) is structurally unsafe;

1540 (B) is in an unreasonable state of repair; or

1541 (C) has been abandoned for at least 12 months;

1542 (b) the municipality notifies the owner in writing that the owner's billboard meets one
1543 or more of the conditions listed in Subsections (2)(a)(i) and (ii);

1544 (c) the owner fails to remedy the condition or conditions within:

1545 (i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's
1546 receipt of written notice under Subsection (2)(b); or

1547 (ii) if the condition forming the basis of the municipality's intention to remove the
1548 billboard is that it is structurally unsafe, ten business days, or a longer period if necessary
1549 because of a natural disaster, following the billboard owner's receipt of written notice under
1550 Subsection (2)(b); and

1551 (d) following the expiration of the applicable period under Subsection (2)(c) and after
1552 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
1553 the municipality finds:

1554 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
1555 a false or misleading statement in the application regarding the placement or erection of the
1556 billboard; or

1557 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
1558 unreasonable state of repair, or has been abandoned for at least 12 months.

1559 (3) A municipality may not allow a nonconforming billboard to be rebuilt for a reason
1560 other than:

1561 (a) those specified in Subsections (1) and (2);

1562 (b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and

1563 (c) those specified in the municipality's ordinance requiring or allowing a billboard
1564 owner to relocate and rebuild an existing nonconforming billboard to an area within the
1565 municipality where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5,
1566 Utah Outdoor Advertising Act.

1567 Section 43. Section **10-9a-514**, which is renumbered from Section 10-9-106.5 is
1568 renumbered and amended to read:

1569 **[10-9-106.5]. 10-9a-514. Manufactured homes.**

1570 (1) For purposes of this section, a manufactured home is the same as defined in Section
1571 58-56-3, except that the manufactured home must be attached to a permanent foundation in
1572 accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection
1573 in compliance with the applicable building code. All appendages, including carports, garages,
1574 storage buildings, additions, or alterations must be built in compliance with the applicable
1575 building code.

1576 (2) A manufactured home may not be excluded from any land use zone or area in
1577 which a single-family residence would be permitted, provided the manufactured home

1578 complies with all local [~~zoning, building code, and subdivision requirements, including~~] land
 1579 use ordinances, building codes, and any restrictive covenants, applicable to single family
 1580 residence within that [~~zone or~~] area.

1581 (3) A municipality may not:

1582 (a) adopt or enforce an ordinance or regulation that treats a proposed development that
 1583 includes manufactured homes differently than one that does not include manufactured homes;
 1584 or

1585 (b) reject a development plan based on the fact that the development is expected to
 1586 contain manufactured homes.

1587 Section 44. Section **10-9a-515**, which is renumbered from Section 10-9-108 is
 1588 renumbered and amended to read:

1589 **~~[10-9-108].~~ 10-9a-515. Regulation of amateur radio antennas.**

1590 (1) A municipality may not enact or enforce an ordinance that does not comply with
 1591 the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101
 1592 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R.
 1593 Part 97.

1594 (2) If a municipality adopts an ordinance involving the placement, screening, or height
 1595 of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance
 1596 shall:

1597 (a) reasonably accommodate amateur radio communications; and

1598 (b) represent the minimal practicable regulation to accomplish the municipality's
 1599 purpose.

1600 Section 45. Section **10-9a-516**, which is renumbered from Section 10-9-501 is
 1601 renumbered and amended to read:

1602 **~~[10-9-501].~~ 10-9a-516. Residential facilities for elderly persons.**

1603 (1) [~~(a)~~] A residential facility for elderly persons may not operate as a business.

1604 [~~(b)~~] (2) A residential facility for elderly persons shall:

1605 [(i)] (a) be owned by one of the residents or by an immediate family member of one of
 1606 the residents or be a facility for which the title has been placed in trust for a resident;

1607 [(ii)] (b) be consistent with [~~existing zoning of~~] any existing, applicable land use
 1608 ordinance affecting the desired location; and

1609 [(iii)] (c) be occupied on a 24-hour-per-day basis by eight or fewer elderly persons in a
 1610 family-type arrangement.

1611 [(2)] (3) A residential facility for elderly persons may not be considered a business
 1612 because a fee is charged for food or for actual and necessary costs of operation and
 1613 maintenance of the facility.

1614 Section 46. Section **10-9a-517**, which is renumbered from Section 10-9-502 is
 1615 renumbered and amended to read:

1616 **[10-9-502]. 10-9a-517. Municipal ordinances governing elderly residential**
 1617 **facilities.**

1618 (1) Each municipality shall adopt ordinances that establish that a residential facility for
 1619 elderly persons is a permitted use in any area where residential dwellings are allowed, except
 1620 an area zoned to permit exclusively single-family dwellings.

1621 (2) The ordinances shall establish a permit process that may require only that:

1622 (a) the facility meet ~~[all applicable]~~ each building, safety, ~~[zoning]~~ land use, and health
 1623 ~~[ordinances]~~ ordinance applicable to similar dwellings;

1624 (b) adequate off-street parking space be provided;

1625 (c) the facility be capable of use as a residential facility for elderly persons without
 1626 structural or landscaping alterations that would change the structure's residential character;

1627 (d) residential facilities for elderly persons be reasonably dispersed throughout the
 1628 municipality;

1629 (e) no person being treated for alcoholism or drug abuse be placed in a residential
 1630 facility for elderly persons; and

1631 (f) placement in a residential facility for elderly persons be on a strictly voluntary basis
 1632 and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional
 1633 facility.

1634 Section 47. Section **10-9a-518**, which is renumbered from Section 10-9-503 is
 1635 renumbered and amended to read:

1636 **[10-9-503]. 10-9a-518. Municipal approval of elderly residential facilities.**

1637 (1) ~~[(a)]~~ Upon application for a permit to establish a residential facility for elderly
 1638 persons in any area where residential dwellings are allowed, except an area zoned to permit
 1639 exclusively single-family dwellings, the municipality ~~[may decide only whether or not the~~

1640 residential facility for elderly persons conforms to ordinances adopted by the municipality
1641 under this part. (b) If the municipality determines that the residential facility for elderly
1642 persons complies with the ordinances, it] shall grant the requested permit to [that facility.] the
1643 facility if the facility is proposed outside of a zone regulated exclusively for single-family
1644 homes and shall otherwise comply with Section 10-9a-519 if the facility is proposed in a land
1645 use zone regulated exclusively for single-family homes.

1646 (2) The use granted and permitted by this section is nontransferable and terminates if
1647 the structure is devoted to a use other than a residential facility for elderly persons or if the
1648 structure fails to comply with the ordinances adopted under this [part] section.

1649 (3) If a municipality has not adopted ordinances under this [part] section at the time an
1650 application for a permit to establish a residential facility for elderly persons is made, the
1651 municipality shall grant the permit if it is established that the criteria set forth in this part have
1652 been met by the facility.

1653 Section 48. Section **10-9a-519**, which is renumbered from Section 10-9-504 is
1654 renumbered and amended to read:

1655 **[10-9-504]. 10-9a-519. Elderly residential facilities in areas zoned exclusively**
1656 **for single-family dwellings.**

1657 (1) For purposes of this section:

1658 (a) no person who is being treated for alcoholism or drug abuse may be placed in a
1659 residential facility for elderly persons; and

1660 (b) placement in a residential facility for elderly persons shall be on a strictly voluntary
1661 basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a
1662 correctional institution.

1663 (2) Subject to the granting of a conditional use permit, a residential facility for elderly
1664 persons shall be allowed in any [~~municipal zoning district~~] zone that is [~~zoned~~] regulated to
1665 permit exclusively single-family dwelling use, if that facility:

1666 (a) conforms to all applicable health, safety, [~~zoning~~] land use, and building codes;

1667 (b) is capable of use as a residential facility for elderly persons without structural or
1668 landscaping alterations that would change the structure's residential character; and

1669 (c) conforms to the municipality's criteria, adopted by ordinance, governing the
1670 location of residential facilities for elderly persons in areas zoned to permit exclusively

1671 single-family dwellings.

1672 (3) A municipality may, by ordinance, provide that no residential facility for elderly
1673 persons be established within three-quarters mile of another existing residential facility for
1674 elderly persons or residential facility for persons with a disability[; as defined by Section
1675 10-9-605].

1676 (4) The use granted and permitted by this section is nontransferable and terminates if
1677 the structure is devoted to a use other than as a residential facility for elderly persons or if the
1678 structure fails to comply with applicable health, safety, and building codes.

1679 (5) (a) Municipal ordinances shall prohibit discrimination against elderly persons and
1680 against residential facilities for elderly persons.

1681 (b) The decision of a municipality regarding the application for a permit by a
1682 residential facility for elderly persons must be based on legitimate land use criteria and may not
1683 be based on the age of the facility's residents.

1684 (6) The requirements of this section that a residential facility for elderly persons obtain
1685 a conditional use permit or other permit do not apply if the facility meets the requirements of
1686 existing [zoning] land use ordinances that allow a specified number of unrelated persons to live
1687 together.

1688 Section 49. Section **10-9a-520**, which is renumbered from Section 10-9-605 is
1689 renumbered and amended to read:

1690 ~~[10-9-605].~~ **10-9a-520. Residences for persons with a disability.**

1691 ~~[(1) As used in this section:]~~

1692 ~~[(a) "Disability" is defined in Section 57-21-2.]~~

1693 ~~[(b) "Residential facility for persons with a disability" means a residence:]~~

1694 ~~[(i) in which more than one person with a disability resides; and]~~

1695 ~~[(ii) (A) is licensed or certified by the Department of Human Services under Title 62A,
1696 Chapter 2, Licensure of Programs and Facilities; or]~~

1697 ~~[(B) is licensed or certified by the Department of Health under Title 26, Chapter 21,
1698 Health Care Facility Licensing and Inspection Act.]~~

1699 ~~[(2)]~~ (1) Each municipality shall adopt an ordinance for residential facilities for persons
1700 with a disability.

1701 ~~[(3)]~~ (2) Each ordinance under Subsection ~~[(2)]~~ (1) shall:

1702 (a) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair
1703 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and

1704 (b) to the extent required by federal law, provide that a residential facility for persons
1705 with a disability is a permitted use in any [~~zoning-area~~] zone where similar residential
1706 dwellings that are not residential facilities for persons with a disability are allowed.

1707 [~~(4)~~] (3) Subject to Subsection [~~(3)~~] (2), an ordinance under Subsection [~~(2)~~] (1) may:

1708 (a) require residential facilities for persons with a disability:

1709 (i) to be reasonably dispersed throughout the municipality;

1710 (ii) to be limited by number of occupants;

1711 (iii) for residential facilities for persons with a disability that are substance abuse

1712 facilities and are located within 500 feet of a school, to provide, in accordance with rules

1713 established by the Department of Human Services under Title 62A, Chapter 2, Licensure of

1714 Programs and Facilities:

1715 (A) a security plan satisfactory to local law enforcement authorities;

1716 (B) 24-hour supervision for residents; and

1717 (C) other 24-hour security measures; and

1718 (iv) to obtain permits that verify compliance with the same building, safety, and health

1719 regulations as are applicable in the same [~~zoning-area~~] zone to similar uses that are not

1720 residential facilities for persons with a disability; and

1721 (b) provide that a residential facility for persons with a disability that would likely

1722 create a fundamental change in the character of a residential neighborhood may be excluded

1723 from a [~~zoning-area~~] zone.

1724 [~~(5)~~] (4) The responsibility to license programs or entities that operate facilities for

1725 persons with a disability, as well as to require and monitor the provision of adequate services to

1726 persons residing in those facilities, shall rest with:

1727 (a) for programs or entities licensed or certified by the Department of Human Services,

1728 the Department of Human Services as provided in Title 62A, Chapter 5, Services to People

1729 with Disabilities; and

1730 (b) for programs or entities licensed or certified by the Department of Health, the

1731 Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and

1732 Inspection Act.

1733 Section 50. Section **10-9a-601**, which is renumbered from Section 10-9-801 is
 1734 renumbered and amended to read:

1735 **Part 6. Subdivisions**

1736 ~~[10-9-801].~~ **10-9a-601. Enactment of subdivision ordinance.**

1737 (1) The legislative body of ~~[any]~~ a municipality may enact ~~[a subdivision ordinance]~~
 1738 ordinances requiring that a subdivision plat comply with the provisions of the ~~[subdivision]~~
 1739 ordinance and ~~[be approved as required by]~~ this part before:

1740 ~~[(1)]~~ (a) it may be filed or recorded in the county recorder's office; and

1741 ~~[(2)]~~ (b) lots may be sold.

1742 (2) If the legislative body fails to enact a subdivision ordinance, the municipality may
 1743 regulate subdivisions only to the extent provided in this part.

1744 Section 51. Section **10-9a-602**, which is renumbered from Section 10-9-802 is
 1745 renumbered and amended to read:

1746 ~~[10-9-802].~~ **10-9a-602. Preparation -- Adoption and amendment.**

1747 (1) The planning commission shall:

1748 (a) prepare and recommend a proposed ~~[subdivision]~~ ordinance to the legislative body
 1749 that regulates the subdivision of land ~~[in the municipality];~~

1750 ~~[(b) hold a public hearing on the proposed subdivision ordinance before making its~~
 1751 ~~final recommendation to the legislative body; and]~~

1752 (b) prepare and recommend or consider and recommend a proposed ordinance that
 1753 amends the regulation of the subdivision of the land in the municipality;

1754 (c) provide ~~[reasonable]~~ notice ~~[of the public hearing at least 14 days before the date of~~
 1755 ~~the hearing;]~~ consistent with Section 10-9a-205; and

1756 ~~[(2) The legislative body shall:]~~

1757 ~~[(a) hold a public hearing on the proposed subdivision ordinance recommended to it by~~
 1758 ~~the planning commission; and]~~

1759 ~~[(b) provide reasonable notice of the public hearing at least 14 days before the date of~~
 1760 ~~the hearing;]~~

1761 ~~[(3) After the public hearing, the]~~

1762 (d) hold a public hearing on the proposed ordinance before making its final
 1763 recommendation to the legislative body.

1764 (2) The municipal legislative body may~~[-(a)]~~ adopt or reject the [subdivision]
 1765 ordinance either as proposed~~[-(b) amend the subdivision ordinance and adopt or reject it as~~
 1766 amended; or (c) reject the ordinance] by the planning commission or after making any revision
 1767 the legislative body considers appropriate.

1768 Section 52. Section **10-9a-603**, which is renumbered from Section 10-9-804 is
 1769 renumbered and amended to read:

1770 ~~[10-9-804].~~ **10-9a-603. Plats required.**

1771 (1) Unless exempt under Section ~~[10-9-806]~~ 10-9a-605 or ~~[not included in]~~ excluded
 1772 from the definition of subdivision under Subsection ~~[10-9-103(1)]~~ 10-9a-103(34), whenever
 1773 any ~~[lands are]~~ land is laid out and platted, the owner of ~~[those lands]~~ the land shall provide an
 1774 accurate plat that describes or specifies:

1775 (a) a name or designation of the subdivision that is distinct from any plat already
 1776 recorded in the county recorder's office;

1777 ~~[(a)]~~ (b) the boundaries, course, and dimensions of [the parcels of ground;] all of the
 1778 parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes
 1779 that any parcel of ground is intended to be used as a street or for any other public use, and
 1780 whether any such area is reserved or proposed for dedication for a public purpose;

1781 ~~[(b) whether the parcels of ground are intended to be used as streets or for other public~~
 1782 ~~uses, and whether any areas are reserved for public purposes;]~~

1783 (c) the lot or unit reference, ~~[the]~~ block or building reference, ~~[the]~~ street or site
 1784 address, ~~[the]~~ street name or coordinate address, ~~[the]~~ acreage or square footage for all parcels,
 1785 units, or lots, and ~~[the]~~ length and width of the blocks and lots intended for sale; and

1786 (d) every existing right-of-way and easement ~~[grants]~~ grant of record for underground
 1787 facilities, as defined in Section 54-8a-2, and for other utility facilities.

1788 (2) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's
 1789 ordinances and this part and has been approved by the culinary water authority and the sanitary
 1790 sewer authority, the municipality shall approve the plat.

1791 (3) The municipality may withhold an otherwise valid plat approval until the owner of
 1792 the land provides the legislative body with a tax clearance indicating that all taxes, interest, and
 1793 penalties owing on the land have been paid.

1794 ~~[(2)]~~ (4) (a) The owner of the land shall acknowledge the plat before an officer

1795 authorized by law to take the acknowledgement of conveyances of real estate and shall obtain
 1796 the signature of each individual designated by the municipality.

1797 (b) The surveyor making the plat shall certify [~~it:~~] that the surveyor:

1798 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
 1799 Professional Land Surveyors Licensing Act;

1800 (ii) has completed a survey of the property described on the plat in accordance with
 1801 Section 17-23-17 and has verified all measurements; and

1802 (iii) has placed monuments as represented on the plat.

1803 (c) [~~The~~] As applicable, the owner or operator of the underground and utility facilities
 1804 shall approve the [~~plat of its property interest if it specifies~~]:

1805 (i) [~~the~~] boundary, course, dimensions, and intended use of the right-of-way and
 1806 easement grants of record;

1807 (ii) [~~the~~] location of existing underground and utility facilities; and

1808 (iii) [~~any~~] conditions or restrictions governing the location of the facilities within the
 1809 right-of-way, and easement grants of records, and utility facilities within the subdivision.

1810 [~~(d) The legislative body shall approve the plat as provided in this part. Before the~~
 1811 ~~legislative body may approve a plat, the owner of the land shall provide the legislative body~~
 1812 ~~with a tax clearance indicating that all taxes, interest, and penalties owing on the land have~~
 1813 ~~been paid.]~~

1814 [~~(3)~~] (5) (a) After the plat has been acknowledged, certified, and approved, the owner
 1815 of the land shall, [~~subject to Subsection (3)(b), record it~~] within the time period designated by
 1816 ordinance, record the plat in the county recorder's office in the county in which the lands
 1817 platted and laid out are situated.

1818 [~~(b) An owner of land may not submit for recording a plat that gives the subdivision~~
 1819 ~~described in the plat the same name as a subdivision in a plat already recorded in the county~~
 1820 ~~recorder's office.]~~

1821 (b) An owner's failure to record a plat within the time period designated by ordinance
 1822 renders the plat voidable.

1823 Section 53. Section **10-9a-604**, which is renumbered from Section 10-9-805 is
 1824 renumbered and amended to read:

1825 [~~10-9-805~~]. **10-9a-604. Subdivision approval procedure.**

1826 (1) A person may not submit a [~~plat of a~~] subdivision plat to the county recorder's
1827 office for recording unless a recommendation has been received from the planning commission
1828 and:

1829 (a) the plat has been approved by:

1830 (i) the [~~legislative body~~] land use authority of the municipality in which the
1831 [~~subdivision~~] land described in the plat is located; [~~or~~] and

1832 (ii) other officers that the [~~municipal legislative body~~] municipality designates in [~~an~~]
1833 its ordinance; and

1834 (b) [~~the approval is~~] all approvals are entered in writing on the plat by the [~~mayor or~~
1835 ~~chairperson of the legislative body or by the other officers~~] designated [~~in the ordinance~~]
1836 officers.

1837 [~~(2) In municipalities under the council-mayor form of government, Section~~
1838 ~~10-3-1219.5 governs.~~]

1839 [~~(3)~~] (2) A subdivision plat recorded without the [~~approval~~] signatures required under
1840 this section is void.

1841 (3) A transfer of land pursuant to a void plat is voidable.

1842 Section 54. Section **10-9a-605**, which is renumbered from Section 10-9-806 is
1843 renumbered and amended to read:

1844 [~~10-9-806~~]. **10-9a-605. Exemptions from plat requirement.**

1845 [(1) (a) Notwithstanding Sections 10-9-804 and 10-9-805, a person may submit to the
1846 county recorder's office for recording a document that subdivides property by metes and
1847 bounds into less than ten lots, without the necessity of recording a plat, if:]

1848 [(i) the planning commission, if required by municipal ordinance, has given the
1849 municipal legislative body its recommendation, whether favorable or not; and]

1850 [(ii) the document contains a certificate or written approval from:]

1851 [(A) the legislative body of the municipality in which the property is located; or]

1852 [(B) other officers that the municipal legislative body designates in an ordinance.]

1853 [(b) By indicating its approval on a document under Subsection (1)(a), the municipal
1854 legislative body or other officer designated by the municipal legislative officer certifies that:]

1855 [(i) the planning commission:]

1856 [(A) has given its recommendation to the municipal legislative body; or]

- 1857 ~~[(B) is not required by municipal ordinance to give its recommendation;]~~
 1858 (1) Notwithstanding Sections 10-9a-603 and 10-9a-604, the land use authority of a
 1859 municipality may approve a subdivision of ten lots or less without a plat by certifying in
 1860 writing that:
- 1861 (a) the municipality has provided notice as required by ordinance and Sections
 1862 10-9a-206 and 10-9a-207; and
- 1863 ~~[(ii)]~~ (b) the proposed subdivision:
- 1864 (i) is not traversed by the mapped lines of a proposed street as shown in the general
 1865 plan and does not require the dedication of any land for street or other public purposes; and
 1866 ~~[(iii) if the subdivision is located in a zoned area, each lot in the subdivision meets the~~
 1867 ~~frontage, width, and area requirements of the zoning ordinance or has been granted a variance~~
 1868 ~~from those requirements by the board of adjustment.]~~
- 1869 ~~[(2) Municipalities under the council-mayor form of government shall comply with~~
 1870 ~~Section 10-3-1219.5.]~~
- 1871 (ii) has been approved by the culinary water authority and the sanitary sewer authority;
 1872 (iii) is located in a zoned area; and
- 1873 (iv) conforms to all applicable land use ordinances or has properly received a variance
 1874 from the requirements of an otherwise conflicting and applicable land use ordinance.
- 1875 ~~[(3)]~~ (2) (a) Subject to Subsection ~~[(3)(b)]~~ (1), a lot or parcel resulting from a division
 1876 of agricultural land is exempt from the plat requirements of Section ~~[10-9-804]~~ 10-9a-603 if
 1877 the lot or parcel:
- 1878 (i) qualifies as land in agricultural use under Title 59, Chapter 2, Part 5, Farmland
 1879 Assessment Act;
- 1880 (ii) meets the minimum size requirement of applicable ~~[zoning]~~ land use ordinances;
 1881 and
- 1882 (iii) is not used and will not be used for any nonagricultural purpose.
- 1883 (b) The boundaries of each lot or parcel exempted under Subsection ~~[(3)(a)]~~ (1) shall
 1884 be graphically illustrated on a record of survey map that, after receiving the same approvals as
 1885 are required for a plat under Section ~~[10-9-805]~~ 10-9a-604, shall be recorded with the county
 1886 recorder.
- 1887 (c) If a lot or parcel exempted under Subsection ~~[(3)(a)]~~ (2)(a) is used for a

1888 nonagricultural purpose, the municipality in which the lot or parcel is located may require the
1889 lot or parcel to comply with the requirements of Section ~~[10-9-804]~~ 10-9a-603.

1890 ~~[(4)]~~ (3) (a) Documents recorded in the county recorder's office that divide property by
1891 a metes and bounds description do not create ~~[a]~~ an approved subdivision allowed by this part
1892 unless the land use authority's certificate of written approval required by Subsection (1)~~[(a)(ii)]~~
1893 is attached to the document.

1894 (b) The absence of the certificate or written approval required by Subsection (1)~~[(a)(ii)]~~
1895 does not affect the validity of a recorded document.

1896 (c) A document ~~[recorded under Subsection (1)(a)]~~ which does not meet the
1897 requirements of Subsection (1)~~[(a)(ii)]~~ may be corrected ~~[to comply with Subsection (1)(a)(ii)]~~
1898 by the recording of an affidavit to which the required certificate or written approval is attached
1899 in accordance with Section 57-3-106.

1900 Section 55. Section **10-9a-606**, which is renumbered from Section 10-9-806.5 is
1901 renumbered and amended to read:

1902 ~~[10-9-806.5]~~. **10-9a-606. Common area parcels on a plat -- No separate**
1903 **ownership -- Ownership interest equally divided among other parcels on plat and**
1904 **included in description of other parcels.**

1905 (1) A parcel designated as common area on a plat recorded in compliance with this part
1906 may not be separately owned or conveyed independent of the other parcels created by the plat.

1907 (2) The ownership interest in a parcel described in Subsection (1) shall:

1908 (a) for purposes of assessment, be divided equally among all parcels created by the
1909 plat, unless a different division of interest for assessment purposes is indicated on the plat or an
1910 accompanying recorded document; and

1911 (b) be considered to be included in the description of each instrument describing a
1912 parcel on the plat by its identifying plat number, even if the common area interest is not
1913 explicitly stated in the instrument.

1914 Section 56. Section **10-9a-607**, which is renumbered from Section 10-9-807 is
1915 renumbered and amended to read:

1916 ~~[10-9-807]~~. **10-9a-607. Dedication of streets.**

1917 (1) Plats, when made, acknowledged, and recorded according to the procedures
1918 specified in this part, operate as a dedication of all streets and other public places, and vest the

1919 fee of those parcels of land in the municipality for the public for the uses named or intended in
 1920 those plats.

1921 (2) The dedication established by this section does not impose liability upon the
 1922 municipality for streets and other public places that are dedicated in this manner but are
 1923 unimproved.

1924 Section 57. Section **10-9a-608**, which is renumbered from Section 10-9-808 is
 1925 renumbered and amended to read:

1926 **[10-9-808]. 10-9a-608. Vacating or changing a subdivision plat.**

1927 (1) (a) Subject to ~~[Subsection (2), the legislative body of a municipality or any other~~
 1928 ~~officer that the legislative body designates by ordinance]~~ Section 10-9a-610, and provided that
 1929 notice has been given pursuant to local ordinance and Section 10-9a-208, the land use
 1930 authority, may, with or without a petition, consider and resolve any proposed vacation,
 1931 alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any street,
 1932 lot, or alley contained in a subdivision plat ~~[at a public hearing]~~.

1933 (b) If a petition is filed, the ~~[responsible body or officer]~~ land use authority shall hold
 1934 ~~[the]~~ a public hearing within 45 days after receipt of the planning commission's
 1935 recommendation under Subsection (2) if:

1936 (i) the plat change includes the vacation of a public street or alley;

1937 (ii) any owner within the plat notifies the municipality of their objection in writing
 1938 within ten days of mailed notification; or

1939 (iii) a public hearing is required because all of the owners in the subdivision have not
 1940 signed the revised plat.

1941 (2) (a) ~~[Before the legislative body or officer designated by the legislative body may~~
 1942 ~~consider]~~ The planning commission shall consider and provide a recommendation for a
 1943 proposed vacation, alteration, or amendment under Subsection (1)(a) or (6)~~[- the legislative~~
 1944 ~~body or officer shall refer the proposal to the planning commission for its recommendation]~~
 1945 before the land use authority takes final action.

1946 (b) The planning commission shall give its recommendation within 30 days after the
 1947 proposed vacation, alteration, or amendment is referred to it, or as that time period is extended
 1948 by agreement with the applicant.

1949 (3) Any fee owner, as shown on the last county assessment rolls, of land within the

1950 subdivision that has been laid out and platted as provided in this part may, in writing, petition
1951 ~~[the legislative body]~~ to have the plat, any portion of it, or any street or lot contained in it,
1952 vacated, altered, or amended as provided in this section.

1953 (4) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street
1954 or lot contained in a plat shall include:

1955 (a) the name and address of all owners of record of the land contained in the entire plat;

1956 (b) the name and address of all owners of record of land adjacent to any street that is
1957 proposed to be vacated, altered, or amended; and

1958 (c) the signature of each of these owners who consents to the petition.

1959 (5) ~~[(a)]~~ A petition that lacks the consent of all owners referred to in Subsection (4)
1960 may not be scheduled for consideration at a public hearing before the ~~[legislative body]~~
1961 planning commission until the notice required by ~~[this part is given]~~ Section 10-9a-207 or
1962 10-9a-208, as applicable, is given.

1963 ~~[(b) The petitioner shall pay the cost of the notice.]~~

1964 (6) Subject to Subsection (2), if the ~~[responsible body or officer]~~ applicant proposes to
1965 vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat,
1966 ~~[they]~~ the planning commission shall consider the issue at a public hearing after giving the
1967 notice required by ~~[this part]~~ Section 10-9a-207 or 10-9a-208, as applicable.

1968 (7) (a) The owners of record of adjacent parcels that are described by either a metes
1969 and bounds description or a recorded plat may exchange title to portions of those parcels if the
1970 exchange of title is approved by the ~~[planning commission, or such other person or board as the~~
1971 ~~municipal legislative body may designate,]~~ land use authority in accordance with Subsection
1972 (7)(b).

1973 (b) The ~~[planning commission, or such other person or board as the municipal~~
1974 ~~legislative body may designate,]~~ land use authority shall approve an exchange of title under
1975 Subsection (7)(a) if:

1976 (i) no new dwelling lot or housing unit will result from the exchange of title; and

1977 (ii) the exchange of title will not result in a violation of ~~[applicable zoning~~
1978 ~~requirements]~~ any land use ordinance.

1979 (c) If an exchange of title is approved under Subsection (7)(b), a notice of approval
1980 shall be recorded ~~[by the planning commission, or such other person or board as the municipal~~

1981 ~~legislative body may designate,]~~ in the office of the county recorder which:

1982 (i) is executed by each owner included in the exchange and by the ~~[planning~~
1983 ~~commission, or such other person or board as the municipal legislative body may designate]~~
1984 land use authority;

1985 (ii) contains an acknowledgment for each party executing the notice in accordance with
1986 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

1987 (iii) recites the descriptions of both the original parcels and the parcels created by the
1988 exchange of title.

1989 (d) A notice of approval recorded under this Subsection (7) does not act as a
1990 conveyance of title to real property and is not required for the recording of a document
1991 purporting to convey title to real property.

1992 (8) (a) The name of a recorded subdivision may be changed by recording an amended
1993 plat making that change, as provided in this section and subject to Subsection (8)(c).

1994 (b) The surveyor ~~[making]~~ preparing the amended plat shall certify ~~[it.]~~ that the
1995 surveyor:

1996 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
1997 Professional Land Surveyors Licensing Act;

1998 (ii) has completed a survey of the property described on the plat in accordance with
1999 Section 17-23-17 and has verified all measurements; and

2000 (iii) has placed monuments as represented on the plat.

2001 (c) An owner of land may not submit for recording an amended plat that gives the
2002 subdivision described in the amended plat the same name as a subdivision in a plat already
2003 recorded in the county recorder's office.

2004 (d) Except as provided in Subsection (8)(a), the recording of a declaration or other
2005 document that purports to change the name of a recorded plat is ~~[void]~~ voidable.

2006 ~~[(9) Municipalities operating under the council-mayor form of government shall~~
2007 ~~comply with Section 10-3-1219.5.]~~

2008 Section 58. Section **10-9a-609**, which is renumbered from Section 10-9-810 is
2009 renumbered and amended to read:

2010 ~~[10-9-810].~~ **10-9a-609. Grounds for vacating or changing a plat.**

2011 (1) ~~[(a)]~~ Within 30 days after the public hearing required by this part, ~~[the responsible~~

2012 ~~body or officer]~~ or as that time period may be extended by agreement of the parties, the land
 2013 use authority shall consider the petition.

2014 ~~[(b)]~~ (2) If the ~~[responsible body or officer]~~ land use authority is satisfied that neither
 2015 the public interest nor any person will be materially injured by the proposed vacation,
 2016 alteration, or amendment, and that there is good cause for the vacation, alteration, or
 2017 amendment, the ~~[legislative body, by ordinance;]~~ land use authority may vacate, alter, or amend
 2018 the plat, any portion of the plat, or any street or lot.

2019 ~~[(c)]~~ (3) The ~~[responsible body or officer]~~ land use authority may approve the vacation,
 2020 alteration, or amendment by ~~[ordinance]~~ resolution, amended plat, administrative order, or deed
 2021 containing a stamp or mark indicating approval by the ~~[responsible body or officer]~~ land use
 2022 authority.

2023 ~~[(d)]~~ (4) The ~~[responsible body or officer]~~ land use authority shall ensure that the
 2024 vacation, alteration, or amendment is recorded in the office of the county recorder in which the
 2025 land is located.

2026 ~~[(2) An aggrieved party may appeal the responsible body's or officer's decision to~~
 2027 ~~district court as provided in Section 10-9-1001.]~~

2028 ~~[(3) Municipalities operating in a council-mayor form of government shall comply with~~
 2029 ~~Section 10-3-1219.5.]~~

2030 (5) The action of the land use authority vacating or narrowing a street or alley which
 2031 has been dedicated to public use by the proprietor shall operate to the extent to which it is
 2032 vacated or narrowed, upon the effective date of the vacating ordinance, as a revocation of the
 2033 acceptance thereof, and the relinquishment of the city's fee therein, but the right-of-way and
 2034 easements therein, if any, of any lot owner and the franchise rights of any public utility shall
 2035 not be impaired thereby.

2036 Section 59. Section **10-9a-610**, which is renumbered from Section 10-9-901 is
 2037 renumbered and amended to read:

2038 ~~[10-9-901].~~ **10-9a-610. Restrictions for solar and other energy devices.**

2039 ~~[(1) The legislative body, in order to protect and ensure access to sunlight for solar~~
 2040 ~~energy devices, may adopt regulations governing legislative subdivision development plans~~
 2041 ~~that relate to the use of restrictive covenants or solar easements, height restrictions, side yard~~
 2042 ~~and setback requirements, street and building orientation and width requirements, height and~~

2043 location of vegetation with respect to property boundary lines, and other permissible forms of
2044 land use controls.]

2045 [(2)] The [~~legislative body~~] land use authority may refuse to approve or renew any plat
2046 [~~or~~], subdivision plan, or dedication of any street or other ground, if [~~the~~] deed restrictions,
2047 covenants, or similar binding agreements running with the land for the lots or parcels covered
2048 by the plat or subdivision prohibit or have the effect of prohibiting reasonably sited and
2049 designed solar collectors, clotheslines, or other energy devices based on renewable resources
2050 from being installed on buildings erected on lots or parcels covered by the plat or subdivision.

2051 Section 60. Section **10-9a-611**, which is renumbered from Section 10-9-811 is
2052 renumbered and amended to read:

2053 ~~[10-9-811].~~ **10-9a-611. Prohibited acts.**

2054 (1) (a) An owner of any land located in a subdivision [~~as defined in this chapter,~~] who
2055 transfers or sells any land in that subdivision before a plat of the subdivision has been approved
2056 and recorded violates this part for each lot or parcel transferred or sold.

2057 (b) The description by metes and bounds in [~~the~~] an instrument of transfer or other
2058 documents used in the process of selling or transferring does not exempt the transaction from
2059 being a violation of Subsection (1)(a) or from the penalties or remedies provided in this
2060 chapter.

2061 (c) Notwithstanding any other provision of this Subsection (1), the recording of an
2062 instrument of transfer or other document used in the process of selling or transferring real
2063 property that violates this part:

2064 (i) does not affect the validity of the instrument or other document; and

2065 (ii) does not affect whether the property that is the subject of the instrument or other
2066 document complies with applicable municipal ordinances on land use and development.

2067 (2) (a) A municipality may bring an action against an owner to require the property to
2068 conform to the provisions of this part or an ordinance enacted under the authority of this part.

2069 (b) An action under this Subsection (2) may include an injunction, abatement, merger
2070 of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation.

2071 (c) A municipality need only establish the violation to obtain the injunction.

2072 Section 61. Section **10-9a-701** is enacted to read:

2073 **Part 7. Appeal Authority**

2074 10-9a-701. Appeal authority -- Condition precedent to judicial review -- Appeal
2075 authorities.

2076 (1) Each municipality adopting a land use ordinance shall, by ordinance, establish an
2077 appeal authority to hear and decide:

2078 (a) requests for variances from the terms of the land use ordinances; and

2079 (b) appeals from decisions applying the land use ordinances.

2080 (2) As a condition precedent to judicial review, an adversely affected person must
2081 timely and specifically challenge a land use authority's decision, in accordance with local
2082 ordinance.

2083 (3) An appeal authority:

2084 (a) shall:

2085 (i) act in a quasi-judicial manner; and

2086 (ii) serve as the final arbiter of issues involving the interpretation or application of land
2087 use ordinances; and

2088 (b) may not entertain an appeal of a matter in which the appeal authority, or any
2089 participating member, had first acted as the land use authority.

2090 (4) By ordinance, a municipality may:

2091 (a) designate a separate appeal authority to hear requests for variances than the appeal
2092 authority it designates to hear appeals;

2093 (b) designate one or more separate appeal authorities to hear distinct types of appeals
2094 of land use authority decisions;

2095 (c) require an adversely affected party to preserve before an appeal authority every
2096 theory of relief that it can raise in district court; and

2097 (d) not require an adversely affected party to pursue duplicate or successive appeals
2098 before the same or separate appeal authorities as a condition of the adversely affected party's
2099 duty to exhaust administrative remedies.

2100 (5) If the municipality establishes or, prior to the effective date of this chapter, has
2101 established a multiperson board, body, or panel to act as an appeal authority, at a minimum, the
2102 board, body, or panel shall:

2103 (a) notify each of its members of any meeting or hearing of the board, body, or panel;

2104 (b) provide each of its members with the same information and access to municipal

2105 resources as any other member:

2106 (c) convene only if a quorum of its members are present; and

2107 (d) act only upon the vote of a majority of its convened members.

2108 Section 62. Section **10-9a-702**, which is renumbered from Section 10-9-707 is

2109 renumbered and amended to read:

2110 ~~[10-9-707]~~. **10-9a-702. Variances.**

2111 (1) Any person or entity desiring a waiver or modification of the requirements of [~~the~~
2112 ~~zoning~~] a land use ordinance as applied to a parcel of property that he owns, leases, or in which
2113 he holds some other beneficial interest may apply to the [~~board of adjustment~~] applicable
2114 appeal authority for a variance from the terms of the [~~zoning~~] ordinance.

2115 (2) (a) The [~~board of adjustment~~] appeal authority may grant a variance only if:

2116 (i) literal enforcement of the [~~zoning~~] ordinance would cause an unreasonable hardship
2117 for the applicant that is not necessary to carry out the general purpose of the [~~zoning ordinance~~]
2118 land use ordinances;

2119 (ii) there are special circumstances attached to the property that do not generally apply
2120 to other properties in the same [~~district~~] zone;

2121 (iii) granting the variance is essential to the enjoyment of a substantial property right
2122 possessed by other property in the same [~~district~~] zone;

2123 (iv) the variance will not substantially affect the general plan and will not be contrary
2124 to the public interest; and

2125 (v) the spirit of the [~~zoning~~] land use ordinance is observed and substantial justice
2126 done.

2127 (b) (i) In determining whether or not enforcement of the [~~zoning~~] land use ordinance
2128 would cause unreasonable hardship under Subsection (2)(a), the [~~board of adjustment~~] appeal
2129 authority may not find an unreasonable hardship unless the alleged hardship:

2130 (A) is located on or associated with the property for which the variance is sought; and

2131 (B) comes from circumstances peculiar to the property, not from conditions that are
2132 general to the neighborhood.

2133 (ii) In determining whether or not enforcement of the [~~zoning~~] land use ordinance
2134 would cause unreasonable hardship under Subsection (2)(a), the [~~board of adjustment~~] appeal
2135 authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

2136 (c) In determining whether or not there are special circumstances attached to the
2137 property under Subsection (2)(a), the ~~[board of adjustment]~~ appeal authority may find that
2138 special circumstances exist only if the special circumstances:

- 2139 (i) relate to the hardship complained of; and
- 2140 (ii) deprive the property of privileges granted to other properties in the same ~~[district]~~
2141 zone.

2142 (3) The applicant shall bear the burden of proving that all of the conditions justifying a
2143 variance have been met.

2144 (4) Variances run with the land.

2145 (5) The ~~[board of adjustment and any other body]~~ appeal authority may not grant a use
2146 ~~[variances]~~ variance.

2147 (6) In granting a variance, the ~~[board of adjustment]~~ appeal authority may impose
2148 additional requirements on the applicant that will:

- 2149 (a) mitigate any harmful affects of the variance; or
- 2150 (b) serve the purpose of the standard or requirement that is waived or modified.

2151 Section 63. Section **10-9a-703** is enacted to read:

2152 **10-9a-703. Standing before appeal authority.**

2153 The applicant, a board or officer of the municipality, or any person adversely affected
2154 by the land use authority's decision administering or interpreting a land use ordinance may,
2155 within the time period provided by ordinance, appeal that decision to the appeal authority by
2156 alleging that there is error in any order, requirement, decision, or determination made by the
2157 land use authority in the administration or interpretation of the land use ordinance.

2158 Section 64. Section **10-9a-704** is enacted to read:

2159 **10-9a-704. Time to appeal.**

2160 (1) The municipality shall enact an ordinance establishing a reasonable time to appeal a
2161 decision of a land use authority to an appeal authority.

2162 (2) In the absence of such an ordinance and at a minimum, an adversely affected party
2163 shall have ten calendar days to appeal.

2164 Section 65. Section **10-9a-705** is enacted to read:

2165 **10-9a-705. Burden of proof.**

2166 The appellant has the burden of proving that the land use authority erred.

2167 Section 66. Section **10-9a-706** is enacted to read:

2168 **10-9a-706. Due process.**

2169 (1) Each appeal authority shall conduct each appeal and variance request as provided in
2170 local ordinance.

2171 (2) Each appeal authority shall respect the due process rights of each of the
2172 participants.

2173 Section 67. Section **10-9a-707** is enacted to read:

2174 **10-9a-707. Standard of review for appeals.**

2175 (1) A municipality may, by ordinance, designate the standard of review for appeals of
2176 land use authority decisions.

2177 (2) If the municipality fails to designate a standard of review of factual matters, the
2178 appeal authority shall review the matter de novo.

2179 (3) The appeal authority shall determine the correctness of a decision of the land use
2180 authority in its interpretation and application of a land use ordinance.

2181 (4) Only those decisions in which a land use authority has applied a land use ordinance
2182 to a particular application, person, or parcel may be appealed to an appeal authority.

2183 Section 68. Section **10-9a-708** is enacted to read:

2184 **10-9a-708. Final decision.**

2185 (1) A decision of an appeal authority takes effect on the date when the appeal authority
2186 issues a written decision, or as otherwise provided by ordinance.

2187 (2) A written decision, or other event as provided by ordinance, constitutes a final
2188 decision under Subsection 10-9a-802(2)(a) or a final action under Subsection 10-9a-801(4).

2189 Section 69. Section **10-9a-801**, which is renumbered from Section 10-9-1001 is
2190 renumbered and amended to read:

2191 **Part 8. District Court Appeal**

2192 **[10-9-1001]. 10-9a-801. Appeals to district court.**

2193 (1) No person may challenge in district court a municipality's land use [decisions]
2194 decision made under this chapter, or under [the] a regulation made under authority of this
2195 chapter until that person has exhausted his administrative remedies as provided in Part 7,
2196 Appeal Authority.

2197 (2) (a) Any person adversely affected by [any] a final decision made in the exercise of

2198 or in violation of the provisions of this chapter may file a petition for review of the decision
 2199 with the district court within 30 days after the local decision is [~~rendered~~] final.

2200 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a
 2201 property owner files a request for arbitration of a constitutional taking issue with the property
 2202 rights ombudsman under Section 63-34-13 until 30 days after:

2203 (A) the arbitrator issues a final award; or

2204 (B) the property rights ombudsman issues a written statement under Subsection
 2205 63-34-13(4)(b) declining to arbitrate or to appoint an arbitrator.

2206 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
 2207 taking issue that is the subject of the request for arbitration filed with the property rights
 2208 ombudsman by a property owner.

2209 (iii) A request for arbitration filed with the property rights ombudsman after the time
 2210 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

2211 (3) (a) The courts shall:

2212 [~~(a)~~] (i) presume that land use [~~decisions~~] ordinances and regulations are valid; [~~and~~]

2213 (ii) presume that appeal authority decisions are valid;

2214 [~~(b)~~] (iii) determine only whether or not the [~~decision is~~] exercise of legislative

2215 discretion or the appeal authority's decision was arbitrary, capricious, or, subject to Subsection

2216 (3)(b), illegal[-]; and

2217 (iv) provide relief from a municipality's noncompliance with its ordinances only to a

2218 party who establishes that the noncompliance has prejudiced the party and that the relief

2219 requested remedies the prejudice.

2220 (b) A determination of illegality under Subsection (3)(a)(iii) requires a determination

2221 that the decision violates an existing law, statute, or ordinance.

2222 (4) The provisions of Subsection (2) apply from the date on which the municipality

2223 takes final action on a land use application for any adversely affected third party, if the

2224 municipality conformed with the notice provisions of Part 2, Notice, or for any person who had

2225 actual notice of the pending application on or before the date of final action.

2226 (5) The provisions of Subsection (2) apply from the date on which the municipality

2227 enacts the ordinance or general plan provision for all ordinances and general plan provisions, if

2228 the municipality conforms with Section 10-9a-205.

2229 (6) The petition is barred unless it is filed within 30 days after the appeal authority's
2230 decision is final.

2231 (7) (a) The appeal authority shall transmit to the reviewing court the record of its
2232 proceedings, including its minutes, findings, orders, and, if available, a true and correct
2233 transcript of its proceedings.

2234 (b) If the proceeding was tape recorded, a transcript of that tape recording is a true and
2235 correct transcript for purposes of this Subsection (7).

2236 (8) (a) (i) If there is a record, the district court's review is limited to the record provided
2237 by the appeal authority.

2238 (ii) The court may not accept or consider any evidence outside the appeal authority's
2239 record unless that evidence was offered to the appeal authority and the court determines that it
2240 was improperly excluded.

2241 (b) If there is no record, the court may call witnesses and take evidence.

2242 (9) The court shall affirm the decision of the appeal authority if the decision is
2243 supported by substantial evidence in the record.

2244 (10) (a) The filing of a petition does not stay the decision of the appeal authority.

2245 (b) (i) Before filing a petition under this section or a request for mediation or
2246 arbitration of a constitutional taking issue under Section 63-34-13, the aggrieved party may
2247 petition the appeal authority to stay its decision.

2248 (ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed
2249 pending district court review if the appeal authority finds it to be in the best interest of the
2250 municipality.

2251 (iii) After a petition is filed under this section or a request for mediation or arbitration
2252 of a constitutional taking issue is filed under Section 63-34-13, the petitioner may seek an
2253 injunction staying the appeal authority's decision.

2254 Section 70. Section **10-9a-802**, which is renumbered from Section 10-9-1002 is
2255 renumbered and amended to read:

2256 **[10-9-1002]. 10-9a-802. Enforcement.**

2257 (1) (a) A municipality or any adversely affected owner of real estate within the
2258 municipality in which violations of this chapter or ordinances enacted under the authority of
2259 this chapter occur or are about to occur may, in addition to other remedies provided by law,

2260 institute:

- 2261 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
- 2262 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 2263 (b) A municipality need only establish the violation to obtain the injunction.
- 2264 (2) (a) The municipality may enforce the ordinance by withholding building permits.
- 2265 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any
- 2266 building or other structure within a municipality without approval of a building permit.
- 2267 (c) The municipality may not issue a building permit unless the plans of and for the
- 2268 proposed erection, construction, reconstruction, alteration, or use fully conform to all
- 2269 regulations then in effect.

2270 Section 71. Section **10-9a-803**, which is renumbered from Section 10-9-1003 is
2271 renumbered and amended to read:

2272 ~~[10-9-1003].~~ **10-9a-803. Penalties.**

2273 (1) The ~~[municipal legislative body]~~ municipality may, by ordinance, establish civil
2274 penalties for violations of any of the provisions of this chapter or of any ordinances adopted
2275 under the authority of this chapter.

2276 (2) Violation of any of the provisions of this chapter or of any ordinances adopted
2277 under the authority of this chapter ~~[are]~~ is punishable as a class C misdemeanor upon
2278 conviction either:

- 2279 (a) as a class C misdemeanor; or
- 2280 (b) by imposing the appropriate civil penalty adopted under the authority of this
- 2281 section.

2282 Section 72. Section **11-36-201** is amended to read:

2283 **11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan --**
2284 **Summary -- Exemptions.**

2285 (1) (a) Each local political subdivision and private entity shall comply with the
2286 requirements of this chapter before establishing or modifying any impact fee.

2287 (b) A local political subdivision may not:

- 2288 (i) establish any new impact fees that are not authorized by this chapter; or
- 2289 (ii) impose or charge any other fees as a condition of development approval unless
- 2290 those fees are a reasonable charge for the service provided.

2291 (c) Notwithstanding any other requirements of this chapter, each local political
2292 subdivision shall ensure that each existing impact fee that is charged for any public facility not
2293 authorized by Subsection 11-36-102(12) is repealed by July 1, 1995.

2294 (d) (i) Existing impact fees for public facilities authorized in Subsection 11-36-102(12)
2295 that are charged by local political subdivisions need not comply with the requirements of this
2296 chapter until July 1, 1997.

2297 (ii) By July 1, 1997, each local political subdivision shall:

2298 (A) review any impact fees in existence as of the effective date of this act, and prepare
2299 and approve the analysis required by this section for each of those impact fees; and

2300 (B) ensure that the impact fees comply with the requirements of this chapter.

2301 (2) (a) Before imposing impact fees, each local political subdivision shall prepare a
2302 capital facilities plan.

2303 (b) (i) As used in this Subsection (2)(b):

2304 (A) (I) "Affected entity" means each county, municipality, independent special district
2305 under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B,
2306 Chapter 2, Local Districts, school district, interlocal cooperation entity established under
2307 Chapter 13, Interlocal Cooperation Act, and specified public utility:

2308 (Aa) whose services or facilities are likely to require expansion or significant
2309 modification because of the facilities proposed in the proposed capital facilities plan; or

2310 (Ab) that has filed with the local political subdivision or private entity a copy of the
2311 general or long-range plan of the county, municipality, independent special district, local
2312 district, school district, interlocal cooperation entity, or specified public utility.

2313 (II) "Affected entity" does not include the local political subdivision or private entity
2314 that is required under this Subsection (2) to provide notice.

2315 (B) "Specified public utility" means an electrical corporation, gas corporation, or
2316 telephone corporation, as those terms are defined in Section 54-2-1.

2317 (ii) Before preparing a capital facilities plan for facilities proposed on land located
2318 within a county of the first or second class, each local political subdivision and each private
2319 entity shall provide written notice, as provided in this Subsection (2)(b), of its intent to prepare
2320 a capital facilities plan.

2321 (iii) Each notice under Subsection (2)(b)(ii) shall:

- 2322 (A) indicate that the local political subdivision or private entity intends to prepare a
- 2323 capital facilities plan;
- 2324 (B) describe or provide a map of the geographic area where the proposed capital
- 2325 facilities will be located;
- 2326 (C) be sent to:
- 2327 (I) each county in whose unincorporated area and each municipality in whose
- 2328 boundaries is located the land on which the proposed facilities will be located;
- 2329 (II) each affected entity;
- 2330 (III) the Automated Geographic Reference Center created in Section 63A-6-202;
- 2331 (IV) the association of governments, established pursuant to an interlocal agreement
- 2332 under Title 11, Chapter 13, Interlocal Cooperation Act, in which the facilities are proposed to
- 2333 be located; and
- 2334 (V) the state planning coordinator appointed under Section 63-38d-202; and
- 2335 (D) with respect to the notice to affected entities, invite the affected entities to provide
- 2336 information for the local political subdivision or private entity to consider in the process of
- 2337 preparing, adopting, and implementing a capital facilities plan concerning:
- 2338 (I) impacts that the facilities proposed in the capital facilities plan may have on the
- 2339 affected entity; and
- 2340 (II) facilities or uses of land that the affected entity is planning or considering that may
- 2341 conflict with the facilities proposed in the capital facilities plan.
- 2342 (c) The plan shall identify:
- 2343 (i) demands placed upon existing public facilities by new development activity; and
- 2344 (ii) the proposed means by which the local political subdivision will meet those
- 2345 demands.
- 2346 (d) Municipalities and counties need not prepare a separate capital facilities plan if the
- 2347 general plan required by Sections 10-9-301 and 17-27-301 contains the elements required by
- 2348 Subsection (2)(c).
- 2349 (e) (i) If a local political subdivision prepares an independent capital facilities plan
- 2350 rather than including a capital facilities element in the general plan, the local political
- 2351 subdivision shall, before adopting the capital facilities plan:
- 2352 (A) give public notice of the plan according to this Subsection (2)(e);

- 2353 (B) at least 14 days before the date of the public hearing:
- 2354 (I) make a copy of the plan, together with a summary designed to be understood by a
- 2355 lay person, available to the public; and
- 2356 (II) place a copy of the plan and summary in each public library within the local
- 2357 political subdivision; and
- 2358 (C) hold a public hearing to hear public comment on the plan.
- 2359 (ii) Municipalities shall comply with the notice and hearing requirements of, and,
- 2360 except as provided in Subsection 11-36-401(4)(f), receive the protections of~~[, Subsections~~
- 2361 ~~10-9-103(2) and 10-9-402(2)]~~ Sections 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2).
- 2362 (iii) Counties shall comply with the notice and hearing requirements of, and, except as
- 2363 provided in Subsection 11-36-401(4)(f), receive the protections of~~[, Subsections 17-27-103(2)~~
- 2364 ~~and 17-27-402(2)]~~ Sections 17-27a-205 and 17-27a-801 and Subsection 17-27a-502(2).
- 2365 (iv) Special districts and private entities shall comply with the notice and hearing
- 2366 requirements of, and receive the protections of, Section 17A-1-203.
- 2367 (v) Nothing contained in this Subsection (2)(e) or in the subsections referenced in
- 2368 Subsections (2)(e)(ii) and (iii) may be construed to require involvement by a planning
- 2369 commission in the capital facilities planning process.
- 2370 (f) (i) Local political subdivisions with a population or serving a population of less
- 2371 than 5,000 as of the last federal census need not comply with the capital facilities plan
- 2372 requirements of this part, but shall ensure that the impact fees imposed by them are based upon
- 2373 a reasonable plan.
- 2374 (ii) Subsection (2)(f)(i) does not apply to private entities.
- 2375 (3) In preparing the plan, each local political subdivision shall generally consider all
- 2376 revenue sources, including impact fees, to finance the impacts on system improvements.
- 2377 (4) A local political subdivision may only impose impact fees on development
- 2378 activities when its plan for financing system improvements establishes that impact fees are
- 2379 necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the
- 2380 future, in comparison to the benefits already received and yet to be received.
- 2381 (5) (a) Each local political subdivision imposing impact fees shall prepare a written
- 2382 analysis of each impact fee that:
- 2383 (i) identifies the impact on system improvements required by the development activity;

2384 (ii) demonstrates how those impacts on system improvements are reasonably related to
2385 the development activity;

2386 (iii) estimates the proportionate share of the costs of impacts on system improvements
2387 that are reasonably related to the new development activity; and

2388 (iv) based upon those factors and the requirements of this chapter, identifies how the
2389 impact fee was calculated.

2390 (b) In analyzing whether or not the proportionate share of the costs of public facilities
2391 are reasonably related to the new development activity, the local political subdivision shall
2392 identify, if applicable:

2393 (i) the cost of existing public facilities;

2394 (ii) the manner of financing existing public facilities, such as user charges, special
2395 assessments, bonded indebtedness, general taxes, or federal grants;

2396 (iii) the relative extent to which the newly developed properties and the other
2397 properties in the municipality have already contributed to the cost of existing public facilities,
2398 by such means as user charges, special assessments, or payment from the proceeds of general
2399 taxes;

2400 (iv) the relative extent to which the newly developed properties and the other
2401 properties in the municipality will contribute to the cost of existing public facilities in the
2402 future;

2403 (v) the extent to which the newly developed properties are entitled to a credit because
2404 the municipality is requiring their developers or owners, by contractual arrangement or
2405 otherwise, to provide common facilities, inside or outside the proposed development, that have
2406 been provided by the municipality and financed through general taxation or other means, apart
2407 from user charges, in other parts of the municipality;

2408 (vi) extraordinary costs, if any, in servicing the newly developed properties; and

2409 (vii) the time-price differential inherent in fair comparisons of amounts paid at
2410 different times.

2411 (c) Each local political subdivision that prepares a written analysis under this
2412 Subsection (5) on or after July 1, 2000 shall also prepare a summary of the written analysis,
2413 designed to be understood by a lay person.

2414 (6) Each local political subdivision that adopts an impact fee enactment under Section

2415 11-36-202 on or after July 1, 2000 shall, at least 14 days before adopting the enactment, submit
 2416 to each public library within the local political subdivision:

2417 (a) a copy of the written analysis required by Subsection (5)(a); and

2418 (b) a copy of the summary required by Subsection (5)(c).

2419 (7) Nothing in this chapter may be construed to repeal or otherwise eliminate any
 2420 impact fee in effect on the effective date of this act that is pledged as a source of revenues to
 2421 pay bonded indebtedness that was incurred before the effective date of this act.

2422 Section 73. Section **11-36-202** is amended to read:

2423 **11-36-202. Impact fees -- Enactment -- Required provisions.**

2424 (1) (a) Each local political subdivision wishing to impose impact fees shall pass an
 2425 impact fee enactment.

2426 (b) The impact fee imposed by that enactment may not exceed the highest fee justified
 2427 by the impact fee analysis performed pursuant to Section 11-36-201.

2428 (c) In calculating the impact fee, each local political subdivision may include:

2429 (i) the construction contract price;

2430 (ii) the cost of acquiring land, improvements, materials, and fixtures;

2431 (iii) the cost for planning, surveying, and engineering fees for services provided for and
 2432 directly related to the construction of the system improvements; and

2433 (iv) debt service charges, if the political subdivision might use impact fees as a revenue
 2434 stream to pay the principal and interest on bonds, notes, or other obligations issued to finance
 2435 the costs of the system improvements.

2436 (d) In enacting an impact fee enactment:

2437 (i) municipalities shall:

2438 (A) make a copy of the impact fee enactment available to the public at least 14 days
 2439 before the date of the public hearing; and

2440 (B) comply with the notice and hearing requirements of, and, except as provided in
 2441 Subsection 11-36-401(4)(f), receive the protections of [~~Subsections 10-9-103(2) and~~
 2442 ~~10-9-802(2)~~] Sections 10-9a-207 and 10-9a-801;

2443 (ii) counties shall:

2444 (A) make a copy of the impact fee enactment available to the public at least 14 days
 2445 before the date of the public hearing; and

2446 (B) comply with the notice and hearing requirements of, and, except as provided in
2447 Subsection 11-36-401(4)(f), receive the protections of~~[, Subsections 17-27-103(2) and~~
2448 ~~17-27-802(2)]~~ Sections 17-27a-207 and 17-27a-801; and

2449 (iii) special districts shall:

2450 (A) make a copy of the impact fee enactment available to the public at least 14 days
2451 before the date of the public hearing; and

2452 (B) comply with the notice and hearing requirements of, and receive the protections of,
2453 Section 17A-1-203.

2454 (e) Nothing contained in Subsection (1)(d) or in the subsections referenced in
2455 Subsections (1)(d)(i)(B) and (ii)(B) may be construed to require involvement by a planning
2456 commission in the impact fee enactment process.

2457 (2) The local political subdivision shall ensure that the impact fee enactment contains:

2458 (a) a provision establishing one or more service areas within which it shall calculate
2459 and impose impact fees for various land use categories;

2460 (b) either:

2461 (i) a schedule of impact fees for each type of development activity that specifies the
2462 amount of the impact fee to be imposed for each type of system improvement; or

2463 (ii) the formula that the local political subdivision will use to calculate each impact fee;

2464 (c) a provision authorizing the local political subdivision to adjust the standard impact
2465 fee at the time the fee is charged to:

2466 (i) respond to unusual circumstances in specific cases; and

2467 (ii) ensure that the impact fees are imposed fairly; and

2468 (d) a provision governing calculation of the amount of the impact fee to be imposed on
2469 a particular development that permits adjustment of the amount of the fee based upon studies
2470 and data submitted by the developer.

2471 (3) The local political subdivision may include a provision in the impact fee enactment
2472 that:

2473 (a) exempts low income housing and other development activities with broad public
2474 purposes from impact fees and establishes one or more sources of funds other than impact fees
2475 to pay for that development activity;

2476 (b) imposes an impact fee for public facility costs previously incurred by a local

2477 political subdivision to the extent that new growth and development will be served by the
2478 previously constructed improvement; and

2479 (c) allows a credit against impact fees for any dedication of land for, improvement to,
2480 or new construction of, any system improvements provided by the developer if the facilities:

2481 (i) are identified in the capital facilities plan; and

2482 (ii) are required by the local political subdivision as a condition of approving the
2483 development activity.

2484 (4) Except as provided in Subsection (3)(b), the local political subdivision may not
2485 impose an impact fee to cure deficiencies in public facilities serving existing development.

2486 (5) Notwithstanding the requirements and prohibitions of this chapter, a local political
2487 subdivision may impose and assess an impact fee for environmental mitigation when:

2488 (a) the local political subdivision has formally agreed to fund a Habitat Conservation
2489 Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec 1531, et seq.
2490 or other state or federal environmental law or regulation;

2491 (b) the impact fee bears a reasonable relationship to the environmental mitigation
2492 required by the Habitat Conservation Plan; and

2493 (c) the legislative body of the local political subdivision adopts an ordinance or
2494 resolution:

2495 (i) declaring that an impact fee is required to finance the Habitat Conservation Plan;

2496 (ii) establishing periodic sunset dates for the impact fee; and

2497 (iii) requiring the legislative body to:

2498 (A) review the impact fee on those sunset dates;

2499 (B) determine whether or not the impact fee is still required to finance the Habitat
2500 Conservation Plan; and

2501 (C) affirmatively reauthorize the impact fee if the legislative body finds that the impact
2502 fee must remain in effect.

2503 (6) Each political subdivision shall ensure that any existing impact fee for
2504 environmental mitigation meets the requirements of Subsection (5) by July 1, 1995.

2505 (7) Notwithstanding any other provision of this chapter, municipalities imposing
2506 impact fees to fund fire trucks as of the effective date of this act may impose impact fees for
2507 fire trucks until July 1, 1997.

2508 (8) Notwithstanding any other provision of this chapter, a local political subdivision
2509 may impose and collect impact fees on behalf of a school district if authorized by Section
2510 53A-20-100.5.

2511 Section 74. Section **11-36-401** is amended to read:

2512 **11-36-401. Impact fees -- Challenges -- Appeals.**

2513 (1) Any person or entity residing in or owning property within a service area, and any
2514 organization, association, or corporation representing the interests of persons or entities owning
2515 property within a service area, may file a declaratory judgment action challenging the validity
2516 of the fee.

2517 (2) (a) Any person or entity required to pay an impact fee who believes the fee does not
2518 meet the requirements of law may file a written request for information with the local political
2519 subdivision who established the fee.

2520 (b) Within two weeks of the receipt of the request for information, the local political
2521 subdivision shall provide the person or entity with the written analysis required by Section
2522 11-36-201, the capital facilities plan, and with any other relevant information relating to the
2523 impact fee.

2524 (3) (a) Any local political subdivision may establish, by ordinance, an administrative
2525 appeals procedure to consider and decide challenges to impact fees.

2526 (b) If the local political subdivision establishes an administrative appeals procedure,
2527 the local political subdivision shall ensure that the procedure includes a requirement that the
2528 local political subdivision make its decision no later than 30 days after the date the challenge to
2529 the impact fee is filed.

2530 (4) (a) In addition to the method of challenging an impact fee under Subsection (1), a
2531 person or entity that has paid an impact fee that was imposed by a local political subdivision
2532 may challenge:

2533 (i) if the impact fee enactment was adopted on or after July 1, 2000:

2534 (A) whether the local political subdivision complied with the notice requirements of
2535 this chapter with respect to the imposition of the impact fee; and

2536 (B) whether the local political subdivision complied with other procedural
2537 requirements of this chapter for imposing the impact fee; and

2538 (ii) except as limited by Subsection (4)(a)(i), the impact fee.

2539 (b) A challenge under Subsection (4)(a) may not be initiated unless it is initiated
2540 within:

2541 (i) for a challenge under Subsection (4)(a)(i)(A), 30 days after the person or entity pays
2542 the impact fee;

2543 (ii) for a challenge under Subsection (4)(a)(i)(B), 180 days after the person or entity
2544 pays the impact fee; or

2545 (iii) for a challenge under Subsection (4)(a)(ii), one year after the person or entity pays
2546 the impact fee.

2547 (c) A challenge under Subsection (4)(a) is initiated by filing:

2548 (i) if the local political subdivision has established an administrative appeals procedure
2549 under Subsection (3), the necessary document, under the administrative appeals procedure, for
2550 initiating the administrative appeal;

2551 (ii) a request for arbitration as provided in Subsection 11-36-402(1); or

2552 (iii) an action in district court.

2553 (d) (i) The sole remedy for a challenge under Subsection (4)(a)(i)(A) is the equitable
2554 remedy of requiring the local political subdivision to correct the defective notice and repeat the
2555 process.

2556 (ii) The sole remedy for a challenge under Subsection (4)(a)(i)(B) is the equitable
2557 remedy of requiring the local political subdivision to correct the defective process.

2558 (iii) The sole remedy for a challenge under Subsection (4)(a)(ii) is a refund of the
2559 difference between what the person or entity paid as an impact fee and the amount the impact
2560 fee should have been if it had been correctly calculated.

2561 (e) Nothing in this Subsection (4) may be construed as requiring a person or entity to
2562 exhaust administrative remedies with the local political subdivision before filing an action in
2563 district court under this Subsection (4).

2564 (f) The protections given to a municipality under [~~Subsection 10-9-103(2)~~] Section
2565 10-9a-801 and to a county under [~~Subsection 17-27-103(2)~~] Section 17-27a-801 do not apply in
2566 a challenge under Subsection (4)(a)(i)(A).

2567 (5) The judge may award reasonable attorneys' fees and costs to the prevailing party in
2568 any action brought under this section.

2569 (6) Nothing in this chapter may be construed as restricting or limiting any rights to

2570 challenge impact fees that were paid before the effective date of this chapter.

2571 Section 75. Section **17-27a-101**, which is renumbered from Section 17-27-101 is
2572 renumbered and amended to read:

2573 **CHAPTER 27a. COUNTY LAND USE, DEVELOPMENT, AND MANAGEMENT ACT**

2574 **Part 1. General Provisions**

2575 ~~[17-27-101].~~ **17-27a-101. Title.**

2576 This chapter ~~[shall be]~~ is known as the "County Land Use, Development, and
2577 Management Act."

2578 Section 76. Section **17-27a-102**, which is renumbered from Section 17-27-102 is
2579 renumbered and amended to read:

2580 ~~[17-27-102].~~ **17-27a-102. Purposes -- General land use authority.**

2581 ~~[(1) To accomplish the purpose]~~

2582 (1) (a) The purposes of this chapter~~[, and in order]~~ are to provide for the health, safety,
2583 and welfare, and promote the prosperity, improve the morals, peace and good order, comfort,
2584 convenience, and aesthetics of ~~[the]~~ each county and its present and future inhabitants and
2585 businesses, to protect the tax base, to secure economy in governmental expenditures, to foster
2586 the state's agricultural and other industries, to protect both urban and nonurban development, to
2587 protect and ensure access to sunlight for solar energy devices, and to protect property values~~[;]~~.

2588 (b) To accomplish the purposes of this chapter, counties may enact all ordinances,
2589 resolutions, and rules and may enter into other forms of land use controls and development
2590 agreements that they consider necessary for the use and development of land within the
2591 unincorporated area of the county, including ordinances, resolutions, rules, development
2592 agreements, restrictive covenants, and ~~[rules]~~ easements governing uses, density, open spaces,
2593 structures, buildings, energy-efficiency, light and air, air quality, transportation and public or
2594 alternative transportation, infrastructure, street and building orientation and width
2595 requirements, public facilities, and height and location of vegetation, ~~[and]~~ trees, and
2596 landscaping, unless ~~[those ordinances, resolutions, or rules are]~~ expressly prohibited by law.

2597 (2) ~~[A]~~ Each county shall comply with the mandatory provisions of this part before any
2598 agreement or contract to provide goods, services, or municipal-type services to any storage
2599 facility or transfer facility for high-level nuclear waste, or greater than class C radioactive
2600 waste, may be executed or implemented.

2601 Section 77. Section **17-27a-103**, which is renumbered from Section 17-27-103 is
 2602 renumbered and amended to read:

2603 ~~[17-27-103].~~ **17-27a-103. Definitions.**

2604 [(†)] As used in this chapter:

2605 (1) "Affected entity" means a county, municipality, independent special district under
 2606 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
 2607 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
 2608 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of
 2609 Transportation, if:

2610 (a) the entity's services or facilities are likely to require expansion or significant
 2611 modification because of an intended use of land;

2612 (b) the entity has filed with the county a copy of the entity's general or long-range plan;

2613 or

2614 (c) the entity's boundaries or facilities are within one mile of land that is the subject of
 2615 a general plan amendment or land use ordinance change.

2616 (2) "Appeal authority" means the person, board, commission, agency, or other body
 2617 designated by ordinance to decide an appeal on a land use application or a variance.

2618 [(a)] (3) "Billboard" means a freestanding ground sign located on industrial,
 2619 commercial, or residential property if the sign is designed or intended to direct attention to a
 2620 business, product, or service that is not sold, offered, or existing on the property where the sign
 2621 is located.

2622 [(b)] (4) "Chief executive officer" means the person or body that exercises the
 2623 executive powers of the county.

2624 [(c)] (5) "Conditional use" means a land use that, because of its unique characteristics
 2625 or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
 2626 compatible in some areas or may be compatible only if certain conditions are required that
 2627 mitigate or eliminate the detrimental impacts.

2628 [(d)] (6) "Constitutional taking" ~~[has the meaning as defined in Section 63-34-13.]~~
 2629 means a governmental action that results in a taking of private property so that compensation to
 2630 the owner of the property is required by the:

2631 [(e) "County" means the unincorporated area of the county.]

- 2632 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
2633 (b) Utah Constitution Article I, Section 22.
- 2634 (7) "Culinary water authority" means the department, agency, or public entity with
2635 responsibility to review and approve the feasibility of the culinary water system and sources for
2636 the subject property.
- 2637 (8) (a) "Disability" means a physical or mental impairment that substantially limits one
2638 or more of a person's major life activities, including a person having a record of such an
2639 impairment or being regarded as having such an impairment.
- 2640 (b) "Disability" does not include current illegal use of, or addiction, any federally
2641 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
2642 802.
- 2643 ~~[(f)]~~ (9) "Elderly person" means a person who is 60 years old or older, who desires or
2644 needs to live with other elderly persons in a group setting, but who is capable of living
2645 independently.
- 2646 ~~[(g)]~~ (10) "Gas corporation" has the same meaning as defined in Section 54-2-1.
- 2647 ~~[(h)]~~ (i) (11) "General plan" means a document that a county adopts that sets forth
2648 general guidelines for proposed future development of the unincorporated land within the
2649 county~~, as set forth in Sections 17-27-301 and 17-27-302~~.
- 2650 ~~[(ii)]~~ "General plan" includes what is also commonly referred to as a "master plan."
- 2651 (12) "Identical plans" means building plans submitted to a county that are substantially
2652 identical building plans that were previously submitted and reviewed and approved by the
2653 county and describe a building that is:
- 2654 (a) located on land zoned the same as the land on which the building described in the
2655 previously approved plans is located; and
- 2656 (b) subject to the same geological and meteorological conditions and the same law as
2657 the building described in the previously approved plans.
- 2658 ~~[(i)]~~ (13) "Interstate pipeline company" means a person or entity engaged in natural gas
2659 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
2660 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- 2661 ~~[(j)]~~ (14) "Intrastate pipeline company" means a person or entity engaged in natural gas
2662 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory

2663 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

2664 (15) "Land use application" means an application required by a county's land use
 2665 ordinance.

2666 (16) "Land use authority" means a person, board, commission, agency, or other body
 2667 designated by the local legislative body to act upon a land use application.

2668 (17) "Land use ordinance" means a planning, zoning, development, or subdivision
 2669 ordinance of the county, but does not include the general plan.

2670 ~~[(k)]~~ (18) "Legislative body" means the county legislative body, or for a county that has
 2671 adopted an alternative form of government, the body exercising legislative powers.

2672 ~~[(h)]~~ (19) "Lot line adjustment" means the relocation of the property boundary line
 2673 between two adjoining lots ~~[with the consent of the owners of record].~~

2674 ~~[(m) "Municipality" means a city or town.]~~

2675 ~~[(n) "Nonconforming]~~

2676 (20) "Moderate income housing" means housing occupied or reserved for occupancy
 2677 by households with a gross household income equal or less than 80% of the median gross
 2678 income for households of the same size in the county in which the housing is located.

2679 (21) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
 2680 and expenses incurred in:

2681 (a) verifying that building plans are identical plans; and

2682 (b) reviewing and approving those minor aspects of identical plans that differ from the
 2683 previously reviewed and approved building plans.

2684 (22) "Noncomplying structure" means a structure that:

2685 ~~[(i)]~~ (a) legally existed before its current ~~[zoning]~~ land use designation; and

2686 ~~[(ii)]~~ (b) because of one or more subsequent ~~[zoning]~~ land use ordinance changes, does
 2687 not conform ~~[with]~~ to the ~~[zoning regulation's]~~ setback, height restrictions, or other regulations
 2688 ~~[that]~~ , excluding those regulations that govern the ~~[structure]~~ use of land.

2689 ~~[(o)]~~ (23) "Nonconforming use" means a use of land that:

2690 ~~[(i)]~~ (a) legally existed before its current ~~[zoning]~~ land use designation;

2691 ~~[(ii)]~~ (b) has been maintained continuously since the time the ~~[zoning]~~ land use
 2692 ordinance regulation governing the land changed; and

2693 ~~[(iii)]~~ (c) because of one or more subsequent ~~[zoning]~~ land use ordinance changes, does

2694 not conform ~~[with]~~ to the ~~[zoning]~~ regulations that now govern the use of the land.

2695 ~~[(p)]~~ ~~"Official map" has the same meaning as provided in Section 72-5-401.~~

2696 (24) "Official map" means a map drawn by county authorities and recorded in the
2697 county recorder's office that:

2698 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
2699 highways and other transportation facilities;

2700 (b) provides a basis for restricting development in designated rights-of-way or between
2701 designated setbacks to allow the government authorities time to purchase or otherwise reserve
2702 the land; and

2703 (c) has been adopted as an element of the county's general plan.

2704 ~~[(q)]~~ (25) "Person" means an individual, corporation, partnership, organization,
2705 association, trust, governmental agency, or any other legal entity.

2706 (26) "Plan for moderate income housing" means a written document adopted by a
2707 county legislative body that includes:

2708 (a) an estimate of the existing supply of moderate income housing located within the
2709 county;

2710 (b) an estimate of the need for moderate income housing in the county for the next five
2711 years as revised biennially;

2712 (c) a survey of total residential land use;

2713 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
2714 income housing; and

2715 (e) a description of the county's program to encourage an adequate supply of moderate
2716 income housing.

2717 ~~[(r)]~~ (27) "Plat" means a map or other graphical representation of lands being laid out
2718 and prepared in accordance with Section ~~[17-27-804]~~ 17-27a-603, 17-23-17, or 57-8-13.

2719 (28) "Public hearing" means a hearing at which members of the public are provided a
2720 reasonable opportunity to comment on the subject of the hearing.

2721 (29) "Public meeting" means a meeting that is required to be open to the public under
2722 Title 52, Chapter 4, Open and Public Meetings.

2723 ~~[(s)]~~ (30) "Record of survey map" means a map of a survey of land prepared in
2724 accordance with Section 17-23-17.

2725 ~~[(t)-(i)]~~ (31) "Residential facility for elderly persons" means a single-family or
 2726 multiple-family dwelling unit that meets the requirements of Part ~~[5 and any ordinance adopted~~
 2727 ~~under authority of that part.~~ (ii) ~~"Residential facility for elderly persons"]~~ 4, General Plan, but
 2728 does not include a health care facility as defined by Section 26-21-2.

2729 (32) "Residential facility for persons with a disability" means a residence:

2730 (a) in which more than one person with a disability resides; and

2731 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
 2732 Chapter 2, Licensure of Programs and Facilities; or

2733 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
 2734 Health Care Facility Licensing and Inspection Act.

2735 (33) "Sanitary sewer authority" means the department, agency, or public entity with
 2736 responsibility to review and approve the feasibility of sanitary sewer services or onsite
 2737 wastewater systems.

2738 ~~[(u)]~~ (34) "Special district" means ~~[all entities]~~ any entity established under the
 2739 authority of Title 17A, Special Districts, and any other governmental or quasi-governmental
 2740 entity that is not a county, municipality, school district, or unit of the state.

2741 ~~[(v)]~~ "Street" means ~~public rights-of-way, including highways, avenues, boulevards,~~
 2742 ~~parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements,~~
 2743 ~~and other ways.]~~

2744 (35) "Specified public utility" means an electrical corporation, gas corporation, or
 2745 telephone corporation, as those terms are defined in Section 54-2-1.

2746 (36) "Street" means a public right-of-way, including a highway, avenue, boulevard,
 2747 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
 2748 way.

2749 ~~[(w)-(i)]~~ (37) "Subdivision" means any land that is divided, resubdivided or proposed
 2750 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
 2751 purpose, whether immediate or future, for offer, sale, lease, or development either on the
 2752 installment plan or upon any and all other plans, terms, and conditions.

2753 ~~[(ii)]~~ (a) "Subdivision" includes:

2754 (i) the division or development of land whether by deed, metes and bounds description,
 2755 devise and testacy, ~~[lease,]~~ map, plat, or other recorded instrument[-]; and

2756 (ii) except as provided in Subsection (37)(b), divisions of land for residential and
2757 nonresidential uses, including land used or to be used for commercial, agricultural, and
2758 industrial purposes.

2759 [~~(iii)~~] (b) "Subdivision" does not include:

2760 [~~(A)~~] (i) a bona fide division or partition of agricultural land for [~~agricultural purposes;~~
2761 (B)] the purpose of joining one of the resulting separate unsubdivided parcels to a contiguous
2762 parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel
2763 remaining from the division or partition violates an applicable land use ordinance;

2764 (ii) a recorded agreement between owners of adjoining properties adjusting their
2765 mutual boundary if:

2766 [~~(F)~~] (A) no new lot is created; and

2767 [~~(H)~~] (B) the adjustment does not [~~result in a violation of~~] violate applicable [~~zoning~~]
2768 land use ordinances; or

2769 [~~(E)~~] (iii) a recorded document, executed by the owner of record[;]:

2770 (A) revising the legal description of more than one contiguous unsubdivided parcel of
2771 property into one legal description encompassing all such parcels of property; or

2772 (B) joining a subdivided parcel of property to another parcel of property that has not
2773 been subdivided, if the joinder does not violate applicable land use ordinances; or

2774 [~~(D)~~] (iv) a bona fide division or partition of land in a county other than a first class
2775 county for the purpose of siting, on one or more of the resulting separate parcels:

2776 [~~(F)~~] (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
2777 corporation, interstate pipeline company, or intrastate pipeline company; or

2778 [~~(H)~~] (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
2779 utility service regeneration, transformation, retransmission, or amplification facility.

2780 [~~(iv)~~] (c) The joining of a subdivided parcel of property to another parcel of property

2781 that has not been subdivided does not constitute a ["subdivision["] under this Subsection

2782 [~~(1)(w)~~] (37) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the
2783 county's subdivision ordinance.

2784 (38) "Township" means a contiguous, geographically defined portion of the
2785 unincorporated area of a county, established under this part or reconstituted or reinstated under
2786 Section 17-27a-307, with planning and zoning functions as exercised through the township

2787 planning commission, as provided in this chapter, but with no legal or political identity
 2788 separate from the county and no taxing authority, except that "township" means a former
 2789 township under Chapter 308, Laws of Utah 1996 where the context so indicates.

2790 ~~[(x)] (39)~~ "Unincorporated" means the area outside of the incorporated [~~boundaries of~~
 2791 ~~cities and towns~~] area of a municipality.

2792 ~~[(2) (a) A county meets the requirements of reasonable notice required by this chapter~~
 2793 ~~if it:]~~

2794 ~~[(i) posts notice of the hearing or meeting in at least three public places within the~~
 2795 ~~jurisdiction and publishes notice of the hearing or meeting in a newspaper of general~~
 2796 ~~circulation in the jurisdiction, if one is available; or]~~

2797 ~~[(ii) gives actual notice of the hearing or meeting.]~~

2798 ~~[(b) A county legislative body may enact an ordinance establishing stricter notice~~
 2799 ~~requirements than those required by this Subsection (2).]~~

2800 ~~[(c) (i) Proof that one of the two forms of notice authorized by this Subsection (2) was~~
 2801 ~~given is prima facie evidence that notice was properly given.]~~

2802 ~~[(ii) If notice given under authority of this section is not challenged as provided in~~
 2803 ~~Section 17-27-1001 within 30 days from the date of the meeting for which the notice was~~
 2804 ~~given, the notice is considered adequate and proper.]~~

2805 (40) "Zoning map" means a map, adopted as part of a land use ordinance, which
 2806 depicts land use zones, overlays, or districts.

2807 Section 78. Section **17-27a-104**, which is renumbered from Section 17-27-104 is
 2808 renumbered and amended to read:

2809 ~~[17-27-104].~~ **17-27a-104. Stricter requirements.**

2810 (1) Except as provided in Subsection (2), [~~counties~~] a county may enact [~~ordinances~~]
 2811 an ordinance imposing stricter requirements or higher standards than are required by this
 2812 chapter.

2813 (2) A county may not impose stricter requirements or higher standards than are
 2814 required by:

2815 (a) Section [~~17-27-105~~] 17-27a-305;

2816 (b) Section [~~17-27-105.5~~] 17-27a-513;

2817 ~~[(c) Part 5, Residential Facilities for Elderly; and]~~

2818 ~~[(d) Part 6, Residential Facilities for Persons with a Disability.]~~

2819 ~~(c) Section 17-27a-515; and~~

2820 ~~(d) Section 17-27a-519.~~

2821 Section 79. Section **17-27a-201** is enacted to read:

2822 **Part 2. Notice**

2823 **17-27a-201. Required notice.**

2824 (1) At a minimum, each county shall provide actual notice or the notice required by
2825 this part.

2826 (2) A county may by ordinance require greater notice than required under this part.

2827 Section 80. Section **17-27a-202** is enacted to read:

2828 **17-27a-202. Applicant notice.**

2829 For each land use application, the county shall notify the applicant of the date, time, and
2830 place of each public hearing and public meeting to consider the application and of any final
2831 action on a pending application.

2832 Section 81. Section **17-27a-203**, which is renumbered from Section 17-27-301.5 is
2833 renumbered and amended to read:

2834 ~~[**17-27-301.5.**~~ **17-27a-203. Notice of intent to prepare a general plan or**
2835 **amendments to a general plan in certain counties.**

2836 ~~[(1) As used in this section:]~~

2837 ~~[(a) (i) "Affected entity" means each county, municipality, independent special district~~
2838 ~~under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B,~~
2839 ~~Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title~~
2840 ~~11, Chapter 13, Interlocal Cooperation Act, and specified public utility:]~~

2841 ~~[(A) whose services or facilities are likely to require expansion or significant~~
2842 ~~modification because of an intended use of land; or]~~

2843 ~~[(B) that has filed with the county a copy of the entity's general or long-range plan.]~~

2844 ~~[(ii) "Affected entity" does not include the county that is required under this section to~~
2845 ~~provide notice.]~~

2846 ~~[(b) "Specified public utility" means an electrical corporation, gas corporation, or~~
2847 ~~telephone corporation, as those terms are defined in Section 54-2-1.]~~

2848 ~~[(2)]~~ (1) Before preparing a proposed general plan or ~~[amendments to an existing]~~ a

2849 comprehensive general plan amendment, each county of the first or second class shall provide
 2850 [~~written~~] ten calendar days notice~~[-, as provided in this section,]~~ of its intent to prepare a
 2851 proposed general plan or [~~amendments to~~] a comprehensive general plan~~[-]~~ amendment to:

2852 (a) each affected entity;

2853 (b) the Automated Geographic Reference Center created in Section 63A-6-202;

2854 (c) the association of governments, established pursuant to an interlocal agreement
 2855 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and

2856 (d) the state planning coordinator appointed under Section 63-38d-202.

2857 [~~(3)~~] (2) Each notice under Subsection [~~(2)~~] (1) shall:

2858 (a) indicate that the county intends to prepare a general plan or [~~amendments to a~~] a
 2859 comprehensive general plan amendment, as the case may be;

2860 (b) describe or provide a map of the geographic area that will be affected by the general
 2861 plan or [~~amendments to a general plan~~] amendment;

2862 (c) be sent [~~to~~] by mail, e-mail, or other effective means;

2863 [~~(i) each affected entity;~~]

2864 [~~(ii) the Automated Geographic Reference Center created in Section 63A-6-202;~~]

2865 [~~(iii) the association of governments, established pursuant to an interlocal agreement~~
 2866 ~~under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and]~~

2867 [~~(iv) the state planning coordinator appointed under Section 63-38d-202;~~]

2868 (d) [~~with respect to the notice to affected entities;~~] invite the affected entities to provide
 2869 information for the county to consider in the process of preparing, adopting, and implementing
 2870 a general plan or [~~amendments to a general plan~~] amendment concerning:

2871 (i) impacts that the use of land proposed in the proposed general plan or [~~amendments~~
 2872 ~~to a general plan~~] amendment may have [~~on the affected entity~~]; and

2873 (ii) uses of land within the county that the affected entity is [~~planning or~~] considering
 2874 that may conflict with the proposed general plan or [~~amendments to the general plan~~]
 2875 amendment; and

2876 (e) include the address of an Internet website, if the county has one, and the name and
 2877 telephone number of a person where more information can be obtained concerning the county's
 2878 proposed general plan or [~~amendments to a general plan~~] amendment.

2879 Section 82. Section **17-27a-204** is enacted to read:

2880 **17-27a-204. Notice of public hearings and public meetings to consider general**
2881 **plan or amendments.**

2882 (1) A county shall provide:

2883 (a) notice of the date, time, and place of the first public hearing to consider the original
2884 adoption or any modification of all or any portion of a general plan; and

2885 (b) notice of each public meeting on the subject.

2886 (2) Each notice of a public hearing under Subsection (1)(a) shall be at least ten
2887 calendar days prior to the public hearing and shall be:

2888 (a) published in a newspaper of general circulation in the area;

2889 (b) mailed to each affected entity; and

2890 (c) posted:

2891 (i) in at least three public locations within the county; or

2892 (ii) on the county's official website.

2893 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
2894 prior to the meeting and shall be:

2895 (a) published in a newspaper of general circulation in the area; and

2896 (b) posted:

2897 (i) in at least three public locations within the county; or

2898 (ii) on the county's official website.

2899 Section 83. Section **17-27a-205** is enacted to read:

2900 **17-27a-205. Notice of public hearings and public meetings on adoption or**
2901 **modification of land use ordinance.**

2902 (1) Each county shall give:

2903 (a) notice of the date, time, and place of the first public hearing to consider the
2904 adoption or modification of a land use ordinance; and

2905 (b) notice of each public meeting on the subject.

2906 (2) Each notice of a public hearing under Subsection (1)(a) shall be:

2907 (a) mailed to each affected entity at least ten calendar days before the public hearing;

2908 (b) posted:

2909 (i) in at least three public locations within the county; and

2910 (ii) on the county's official website; and

2911 (c) (i) published in a newspaper of general circulation in the area at least ten calendar
2912 days before the public hearing; or

2913 (ii) mailed at least three days prior to the public hearing to:

2914 (A) each property owner whose land is directly affected by the land use ordinance
2915 change; and

2916 (B) each adjacent property owner within the parameters specified by county ordinance.

2917 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
2918 prior to the hearing and shall be posted:

2919 (a) in at least three public locations within the county; or

2920 (b) on the county's official website.

2921 Section 84. Section **17-27a-206** is enacted to read:

2922 **17-27a-206. Third party notice.**

2923 (1) If a county requires notice to adjacent property owners, the county shall:

2924 (a) mail notice to the record owner of each parcel within parameters specified by local
2925 ordinance; or

2926 (b) post notice on the property with a sign of sufficient size, durability, print quality,
2927 and location that is reasonably calculated to give notice to passers-by.

2928 (2) If a county mails notice to third party property owners under Subsection (1), it shall
2929 mail equivalent notice to property owners within an adjacent jurisdiction.

2930 Section 85. Section **17-27a-207** is enacted to read:

2931 **17-27a-207. Subdivision notice without vacation, alteration, or amendment of a**
2932 **street.**

2933 (1) For a proposed subdivision or an amendment to a subdivision, each county shall
2934 provide notice of the date, time, and place of a public hearing that is:

2935 (a) mailed not less than ten calendar days prior to the public hearing and addressed to
2936 the record owner of each parcel within specified parameters of that property; or

2937 (b) posted not less than ten calendar days prior to the public hearing, on the property
2938 proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and
2939 print quality that is reasonably calculated to give notice to passers-by.

2940 (2) Each county shall mail notice to each affected entity of a public hearing to consider
2941 a preliminary plat describing a multiple-unit residential development or a commercial or

2942 industrial development.

2943 (3) Each county shall provide notice as required by Section 17-27a-208 for a
2944 subdivision that involves a vacation, alteration, or amendment of a street.

2945 Section 86. Section **17-27a-208** is enacted to read:

2946 **17-27a-208. Subdivision notice with vacation, alteration, or amendment of a**
2947 **street.**

2948 For any proposal to vacate, alter, or amend a platted street, the land use authority shall
2949 hold a public hearing and shall give notice of the date, place, and time of the hearing by:

2950 (1) mailing notice as required in Section 17-27a-207;

2951 (2) mailing notice to each affected entity; and

2952 (3) (a) publishing notice once a week for four consecutive weeks before the hearing in
2953 a newspaper of general circulation in the county in which the land subject to the petition is
2954 located; or

2955 (b) if there is no newspaper of general circulation in the county, posting the property
2956 and posting notice in three public places for four consecutive weeks before the hearing.

2957 Section 87. Section **17-27a-209** is enacted to read:

2958 **17-27a-209. Notice challenge.**

2959 If notice given under authority of this part is not challenged under Section 17-27a-801
2960 within 30 days after the meeting or action for which notice is given, the notice is considered
2961 adequate and proper.

2962 Section 88. Section **17-27a-301**, which is renumbered from Section 17-27-201 is
2963 renumbered and amended to read:

2964 **Part 3. Planning Commission**

2965 ~~[17-27-201].~~ **17-27a-301. Appointment term, vacancy, and compensation.**

2966 (1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
2967 establishing a countywide planning commission for the unincorporated areas of the county not
2968 within a township.

2969 (b) Subsection (1)(a) does not apply if all of the county is included within any
2970 combination of:

2971 (i) municipalities; and

2972 (ii) townships with their own planning commissions.

2973 (2) The ordinance [~~establishing a countywide planning commission~~] shall define:

2974 (a) the number and terms of the members and, if the county chooses, alternate
 2975 members;

2976 (b) the mode of appointment;

2977 (c) the procedures for filling vacancies and removal from office; [~~and~~]

2978 (d) the authority of the planning commission; and

2979 [~~(d)~~] (e) other details relating to the organization and procedures of the planning
 2980 commission.

2981 (3) (a) If the county establishes a township planning [~~commissions~~] commission, the
 2982 county legislative body shall enact an ordinance defining appointment procedures, procedures
 2983 for filling vacancies and removing members from office, and other details relating to the
 2984 organization and procedures of each township planning commission.

2985 (b) The planning commission for each township shall consist of seven members who,
 2986 except as provided in Subsection (3)(e), shall be appointed by:

2987 (i) in a county operating under a form of government in which the executive and
 2988 legislative functions of the governing body are separated, the county executive with the advice
 2989 and consent of the county legislative body; or

2990 (ii) in a county operating under a form of government in which the executive and
 2991 legislative functions of the governing body are not separated, the county legislative body.

2992 (c) (i) Members shall serve four-year terms and until their successors are appointed or,
 2993 as provided in Subsection (3)(e), elected and qualified.

2994 (ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in
 2995 Subsection (3)(e), members of the first planning commissions shall be appointed so that, for
 2996 each commission, the terms of at least one member and no more than two members expire each
 2997 year.

2998 (d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township planning
 2999 commission shall be a registered voter residing within the township.

3000 (ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission
 3001 of a township reconstituted under Chapter 389, Laws of Utah 1997, or reinstated or established
 3002 under Subsection [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) may be an appointed member who is a
 3003 registered voter residing outside the township if that member:

3004 (I) is an owner of real property located within the township; and

3005 (II) resides within the county in which the township is located.

3006 (B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township
3007 planning commission from a list of three persons submitted by the county legislative body.

3008 (II) If the township planning commission has not notified the county legislative body of
3009 its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning
3010 commission's receipt of the list, the county legislative body may appoint one of the three
3011 persons on the list or a registered voter residing within the township as a member of the
3012 township planning commission.

3013 (e) (i) The legislative body of each county in which a township reconstituted under
3014 Chapter 389, Laws of Utah 1997, or reinstated or established under Subsection
3015 [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) is located shall enact an ordinance that provides for the
3016 election of at least three members of the planning commission of that township.

3017 (ii) The election of planning commission members under Subsection (3)(e)(i) shall
3018 coincide with the election of other county officers during even-numbered years.
3019 Approximately half the elected planning commission members shall be elected every four years
3020 during elections held on even-numbered years, and the remaining elected members shall be
3021 elected every four years on alternating even-numbered years.

3022 (f) (i) (A) The legislative body of each county in which a township reconstituted under
3023 Chapter 389, Laws of Utah 1997, or reinstated or established under Subsection
3024 [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) is located shall enact an ordinance appointing each
3025 elected member of the planning and zoning board of the former township, established under
3026 Chapter 308, Laws of Utah 1996, as a member of the planning commission of the reconstituted
3027 or reinstated township. Each member appointed under this subsection shall be considered an
3028 elected member.

3029 (B) (I) Except as provided in Subsection (3)(f)(i)(B)(II), the term of each member
3030 appointed under Subsection (3)(f)(i)(A) shall continue until the time that the member's term as
3031 an elected member of the former township planning and zoning board would have expired.

3032 (II) Notwithstanding Subsection (3)(f)(i)(B)(I), the county legislative body may adjust
3033 the terms of the members appointed under Subsection (3)(f)(i)(A) so that the terms of those
3034 members coincide with the schedule under Subsection (3)(e)(ii) for elected members.

3035 (ii) Subject to Subsection (3)(f)(iii), the legislative body of a county in which a
3036 township reconstituted under Chapter 389, Laws of Utah 1997, or reinstated or established
3037 under Subsection [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) is located may enact an ordinance
3038 allowing each appointed member of the planning and zoning board of the former township,
3039 established under Chapter 308, Laws of Utah 1996, to continue to hold office as a member of
3040 the planning commission of the reconstituted or reinstated township until the time that the
3041 member's term as a member of the former township's planning and zoning board would have
3042 expired.

3043 (iii) If a planning commission of a township reconstituted under Chapter 389, Laws of
3044 Utah 1997, or reinstated or established under Subsection [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i)
3045 has more than one appointed member who resides outside the township, the legislative body of
3046 the county in which that township is located shall, within 15 days of the effective date of this
3047 Subsection (3)(f)(iii), dismiss all but one of the appointed members who reside outside the
3048 township, and a new member shall be appointed under Subsection (3)(b) no later than August
3049 16, 1997, to fill the position of each dismissed member.

3050 (g) (i) Except as provided in Subsection (3)(g)(ii), upon the appointment or election of
3051 all members of a township planning commission, each township planning commission under
3052 this section shall begin to exercise the powers and perform the duties provided in Section
3053 [~~17-27-204~~] 17-27a-302 with respect to all matters then pending that previously had been under
3054 the jurisdiction of the countywide planning commission or township planning and zoning
3055 board.

3056 (ii) Notwithstanding Subsection (3)(g)(i), if the members of a former township
3057 planning and zoning board continue to hold office as members of the planning commission of
3058 the township planning district under an ordinance enacted under Subsection (3)(f), the
3059 township planning commission shall immediately begin to exercise the powers and perform the
3060 duties provided in Section [~~17-27-204~~] 17-27a-302 with respect to all matters then pending that
3061 had previously been under the jurisdiction of the township planning and zoning board.

3062 (4) The legislative body may fix per diem compensation for the members of the
3063 planning commission, based on necessary and reasonable expenses and on meetings actually
3064 attended.

3065 Section 89. Section **17-27a-302**, which is renumbered from Section 17-27-204 is

3066 renumbered and amended to read:

3067 ~~[17-27-204].~~ **17-27a-302. Planning commission powers and duties.**

3068 (1) Each countywide or township planning commission shall, with respect to the
3069 unincorporated area of the county, or the township, ~~[as the case may be: (a) prepare and~~
3070 ~~recommend]~~ make a recommendation to the county legislative body for:

3071 ~~(a) a general plan and amendments to the general plan [to the county legislative body~~
3072 ~~as provided in this chapter];~~

3073 ~~[(b) recommend zoning ordinances and maps, and amendments to zoning ordinances~~
3074 ~~and maps, to the county legislative body as provided in this chapter;]~~

3075 ~~[(c) administer provisions of the zoning ordinance, if specifically provided for in the~~
3076 ~~zoning ordinance adopted by the county legislative body;]~~

3077 ~~[(d) recommend subdivision regulations and amendments to those regulations to the~~
3078 ~~county legislative body as provided in this chapter;]~~

3079 ~~[(e) recommend approval or denial of subdivision applications as provided in this~~
3080 ~~chapter;]~~

3081 ~~[(f) advise the county legislative body on matters as the county legislative body~~
3082 ~~directs;]~~

3083 ~~[(g) hear or decide any matters that the county legislative body designates, including~~
3084 ~~the approval or denial of, or recommendations to approve or deny, conditional use permits;]~~

3085 ~~[(h) exercise any other powers delegated to it by the county legislative body; and]~~

3086 ~~[(i) exercise any other powers that are necessary to enable it to perform its functions;]~~

3087 (b) land use ordinances, zoning maps, official maps, and amendments thereto;

3088 (c) an appropriate delegation of power to at least one designated land use authority to
3089 hear and act on a land use application;

3090 (d) an appropriate delegation of power to at least one appeal authority to hear and act
3091 on an appeal from a decision of the land use authority; and

3092 (e) application processes that:

3093 (i) may include a designation of routine land use matters that, upon application and
3094 proper notice, will receive informal streamlined review and action if the application is
3095 uncontested; and

3096 (ii) shall protect the right of each:

3097 (A) applicant and third party to require formal consideration of any application by a
 3098 land use authority;

3099 (B) applicant, adversely affected party, or county officer or employee to appeal a land
 3100 use authority's decision to a separate appeal authority; and

3101 (C) participant to be heard in each public hearing on a contested application.

3102 (2) The planning commission of a township under this part may recommend to the
 3103 legislative body of the county in which the township is located:

3104 (a) that the [county] legislative body support or oppose a proposed incorporation of an
 3105 area located within the township, as provided in Subsection 10-2-105(4); or

3106 (b) that the [county] legislative body file a protest to a proposed annexation of an area
 3107 located within the township, as provided in Subsection 10-2-407(1)(b).

3108 Section 90. Section **17-27a-303**, which is renumbered from Section 17-27-205 is
 3109 renumbered and amended to read:

3110 ~~[17-27-205].~~ **17-27a-303. Entrance upon land.**

3111 A ~~[planning commission or its authorized agents]~~ county may enter upon any land at
 3112 reasonable times to make examinations and surveys[?] pertinent to the:

3113 (1) preparation of its general plan; or

3114 (2) preparation or enforcement of its land use ordinances.

3115 Section 91. Section **17-27a-304**, which is renumbered from Section 17-27-104.5 is
 3116 renumbered and amended to read:

3117 ~~[17-27-104.5].~~ **17-27a-304. State and federal property.**

3118 Unless otherwise provided by law, nothing contained in ~~[Parts 4 and 8 of]~~ this chapter
 3119 may be construed as giving ~~[the planning commission or the legislative body]~~ a county
 3120 jurisdiction over ~~[properties]~~ property owned by the state or the United States ~~[government]~~.

3121 Section 92. Section **17-27a-305**, which is renumbered from Section 17-27-105 is
 3122 renumbered and amended to read:

3123 ~~[17-27-105].~~ **17-27a-305. Property owned by other government units --**
 3124 **Effect of land use and development ordinances.**

3125 (1) (a) Each county, municipality, school district, special district, and political
 3126 subdivision of Utah shall conform to ~~[the]~~ any applicable land use ~~[and development~~
 3127 ~~ordinances]~~ ordinance of any county when installing, constructing, operating, or otherwise

3128 using any area, land, or building situated within [~~that county only in a manner or for a purpose~~
3129 ~~that conforms to that county's ordinances~~] the unincorporated portion of the county.

3130 (b) In addition to any other remedies provided by law, when a county's land use [~~and~~
3131 ~~development ordinances are being~~] ordinance is violated or is about to be violated by another
3132 political subdivision, that county may institute an injunction, mandamus, abatement, or other
3133 appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation,
3134 improvement, or use.

3135 (2) A school district is subject to a county's land use [~~regulations under this chapter~~]
3136 ordinances, except that a county may not:

3137 (a) impose requirements for landscaping, fencing, aesthetic considerations,
3138 construction methods or materials, building codes, building use for educational purposes, or the
3139 placement or use of temporary classroom facilities on school property;

3140 (b) require a school district to participate in the cost of any roadway or sidewalk not
3141 reasonably necessary for the safety of school children and not located on or contiguous to
3142 school property, unless the roadway or sidewalk is required to connect an otherwise isolated
3143 school site to an existing roadway;

3144 (c) require a district to pay fees not authorized by this section;

3145 (d) provide for inspection of school construction or assess a fee or other charges for
3146 inspection, unless the school district is unable to provide for inspection by an inspector, other
3147 than the project architect or contractor, who is qualified under criteria established by the state
3148 superintendent;

3149 (e) require a school district to pay any impact fee for an improvement project that is
3150 not reasonably related to the impact of the project upon the need that the improvement is to
3151 address; or

3152 (f) impose regulations upon the location of a project except as necessary to avoid
3153 unreasonable risks to health or safety.

3154 (3) Subject to Section 53A-20-108, a school district shall coordinate the siting of a new
3155 school with the county in which the school is to be located, to avoid or mitigate existing and
3156 potential traffic hazards to maximize school safety.

3157 Section 93. Section **17-27a-306**, which is renumbered from Section 17-27-200.5 is
3158 renumbered and amended to read:

3159 ~~[17-27-200.5].~~ 17-27a-306. Townships.

3160 ~~[(1) As used in this part:]~~

3161 ~~[(a) "Township" means a contiguous, geographically defined portion of the~~
 3162 ~~unincorporated area of a county, established under this part or reconstituted or reinstated under~~
 3163 ~~Subsection 17-27-200.5(2)(c) of this part, with planning and zoning functions as exercised~~
 3164 ~~through the township planning commission, as provided in this part, but with no legal or~~
 3165 ~~political identity separate from the county and no taxing authority, except that "township"~~
 3166 ~~means a former township under Chapter 308, Laws of Utah 1996, where the context so~~
 3167 ~~indicates:]~~

3168 ~~[(b) "Unincorporated" means not within a municipality.]~~

3169 ~~[(2)]~~ (1) (a) (i) Subject to Subsection ~~[(2)]~~ (1)(a)(ii), a county legislative body may
 3170 enact an ordinance establishing a township within the unincorporated county or dividing the
 3171 unincorporated county into townships.

3172 (ii) Before enacting an ordinance under Subsection ~~[(2)]~~ (1)(a)(i), the county legislative
 3173 body shall, after providing reasonable advance notice, hold a public hearing on the proposal to
 3174 establish a township or to divide the unincorporated county into townships.

3175 (b) If 25% of the private real property owners in a contiguous area of the
 3176 unincorporated county petition the county legislative body to establish a township for that area,
 3177 the county legislative body shall:

3178 (i) hold a public hearing to discuss the petition;

3179 (ii) at least one week before the public hearing, publish notice of the petition and the
 3180 time, date, and place of the public hearing at least once in a newspaper of general circulation in
 3181 the county; and

3182 (iii) at the public hearing, consider oral and written testimony from the public and vote
 3183 on the question of whether or not to establish a township.

3184 (c) If the county legislative body establishes a township pursuant to a petition, the
 3185 members of the township planning commission shall be appointed as provided in Subsection
 3186 ~~[17-27-201]~~ 17-27a-301(3)(b) to perform the duties established in this part for the township.

3187 (d) Except as provided in Subsection ~~[(2)]~~ (1)(e), each township shall contain:

3188 (i) in a county of the first, second, or third class:

3189 (A) at least 20% but not more than 80% of:

- 3190 (I) the total private land area in the unincorporated county; or
- 3191 (II) the total value of locally assessed taxable property in the unincorporated county; or
- 3192 (B) at least 5% of the total population of the unincorporated county; or
- 3193 (ii) in a county of the fourth, fifth, or sixth class:
- 3194 (A) at least 20% but not more than 80% of:
- 3195 (I) the total private land area in the unincorporated county; or
- 3196 (II) the total value of locally assessed taxable property in the unincorporated county;

3197 and

3198 (B) at least 25% of the total population of the unincorporated county.

3199 (e) (i) (A) A township that was dissolved under Chapter 389, Laws of Utah 1997, is
3200 reinstated as a township under this part with the same boundaries and name as before the
3201 dissolution, if the former township consisted of a single, contiguous land area.

3202 (B) Notwithstanding Subsection [~~2~~] (1)(e)(i)(A), a county legislative body may enact
3203 an ordinance establishing as a township under this part a former township that was dissolved
3204 under Chapter 389, Laws of Utah 1997, even though the former township does not qualify to be
3205 reinstated under Subsection [~~2~~] (1)(e)(i)(A).

3206 (C) A township reinstated under Subsection [~~2~~] (1)(e)(i)(A) or established under
3207 Subsection [~~2~~] (1)(e)(i)(B) shall be subject to the provisions of this part.

3208 (ii) Each planning district established under Chapter 225, Laws of Utah 1995, and each
3209 township planning district established under Chapter 389, Laws of Utah 1997, shall continue in
3210 existence as a township, subject to the provisions of this part.

3211 (f) (i) After May 1, 2002, the legislative body of each county in which a township that
3212 has been reconstituted under Chapter 389, Laws of Utah 1997, or reinstated under Subsection
3213 [~~2~~] (1)(e)(i) is located shall review the township and determine whether its continued
3214 existence is advisable.

3215 (ii) In conducting the review required under Subsection [~~2~~] (1)(f)(i), the county
3216 legislative body shall hold a public hearing with reasonable, advance, published notice of the
3217 hearing and the purpose of the hearing.

3218 (iii) Each township that has been reconstituted under Chapter 389, Laws of Utah 1997,
3219 or reinstated or established under Subsection [~~2~~] (1)(e)(i) and its planning commission shall
3220 continue in effect, unless, within 90 days after conducting the review and public hearing

3221 required under Subsections [~~(2)~~] (1)(f)(i) and (ii), the county legislative body by ordinance
3222 dissolves the township and its planning commission.

3223 (g) A township established under this section on or after May 5, 1997, may use the
3224 word "township" in its name.

3225 [~~(3)~~] (2) (a) If the county legislative body establishes a township without having
3226 received a petition, the county legislative body may:

3227 (i) assign to the countywide planning commission the duties established in this part that
3228 would have been assumed by a township planning commission designated under Subsection
3229 [~~(3)~~] (2)(a)(ii); or

3230 (ii) designate a planning commission for the township.

3231 (b) (i) If the county legislative body fails to designate a planning commission for a
3232 township, 40% of the private real property owners in the area proposed to be included in the
3233 township, as shown by the last county assessment roll, may petition the county legislative body
3234 to designate and appoint a planning commission for the township.

3235 (ii) If the county legislative body determines that the petition is validly signed by 40%
3236 of the private real property owners in the township, as shown by the last county assessment
3237 roll, it shall designate and appoint a planning commission for the township.

3238 [~~(4)~~] (3) (a) Except as provided in Subsection [~~(2)~~] (1)(f)(iii), a county legislative body
3239 may dissolve township planning commissions created under the authority of this section only
3240 by following the procedures and requirements of this Subsection [~~(4)~~] (3).

3241 (b) If 20% of the private real property owners in the county petition the county
3242 legislative body to dissolve township planning commissions and to appoint a countywide
3243 planning commission, the county legislative body shall:

3244 (i) hold a public hearing to discuss the petition;

3245 (ii) at least one week before the public hearing, publish notice of the petition and the
3246 time, date, and place of the public hearing at least once in a newspaper of general circulation in
3247 the county; and

3248 (iii) at the public hearing, consider oral and written testimony from the public and vote
3249 on the question of whether or not to dissolve township planning commissions and to appoint a
3250 countywide planning commission.

3251 (c) (i) If the county legislative body fails to dissolve township planning commissions

3252 and to appoint a countywide planning commission when petitioned to do so by private real
3253 property owners under this subsection, 40% of private real property owners in the county, as
3254 shown by the last county assessment roll, may petition the county legislative body to dissolve
3255 the township planning commissions and to appoint a countywide planning commission.

3256 (ii) If the county legislative body determines that the petition is validly signed by 40%
3257 of private real property owners in the township, as shown by the last county assessment roll, it
3258 shall dissolve the township planning commissions and appoint a countywide planning
3259 commission.

3260 Section 94. Section **17-27a-307**, which is renumbered from Section 17-27-206 is
3261 renumbered and amended to read:

3262 ~~[17-27-206].~~ **17-27a-307. Planning and zoning board dissolved.**

3263 Except as provided in Subsection ~~[17-27-201(3)]~~ 17-27a-306(1)(f), the planning and
3264 zoning board of each township formed before May 5, 1997, under Chapter 308, Laws of Utah
3265 1996, is dissolved.

3266 Section 95. Section **17-27a-401**, which is renumbered from Section 17-27-301 is
3267 renumbered and amended to read:

3268 **Part 4. General Plan**

3269 ~~[17-27-301].~~ **17-27a-401. General plan required -- Content -- Provisions**
3270 **related to radioactive waste facility.**

3271 (1) In order to accomplish the purposes ~~[set forth in]~~ of this chapter, each county shall
3272 prepare and adopt a comprehensive, long-range general plan for:

3273 (a) ~~[the]~~ present and future needs of the county; and

3274 (b) ~~[the]~~ growth and development of all or any part of the land within the ~~[county or~~
3275 ~~any part of the county, including uses of land for urbanization, trade, industry, residential,~~
3276 ~~agricultural, wildlife habitat, and other purposes]~~ unincorporated portions of the county.

3277 (2) The plan may provide for:

3278 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
3279 activities, aesthetics, and recreational, educational, and cultural opportunities;

3280 (b) the reduction of the waste of physical, financial, or human resources that result
3281 from either excessive congestion or excessive scattering of population;

3282 (c) the efficient and economical use, conservation, and production of the supply of:

- 3283 (i) food and water; and
- 3284 (ii) drainage, sanitary, and other facilities and resources;
- 3285 (d) the use of energy conservation and solar and renewable energy resources;
- 3286 (e) the protection of urban development;
- 3287 (f) the protection or promotion of moderate income housing;
- 3288 ~~[(f)]~~ (g) the protection and promotion of air quality;
- 3289 ~~[(g)]~~ (h) historic preservation;
- 3290 ~~[(h)]~~ (i) identifying future uses of land that are likely to require an expansion or
- 3291 significant modification of services or facilities provided by ~~[affected entities and specified~~
- 3292 ~~public utilities, as those terms are defined in Section 17-27-301.5; and]~~ each affected entity;
- 3293 and
- 3294 ~~[(i)]~~ (j) an official map~~[-pursuant to Title 72, Chapter 5, Part 4, Transportation~~
- 3295 ~~Corridor Preservation]~~.
- 3296 (3) (a) The plan shall include specific provisions related to any areas within, or
- 3297 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a
- 3298 county, which are proposed for the siting of a storage facility or transfer facility for the
- 3299 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as
- 3300 these wastes are defined in Section 19-3-303. The provisions shall address the effects of the
- 3301 proposed site upon the health and general welfare of citizens of the state, and shall provide:
- 3302 (i) the information identified in Section 19-3-305;
- 3303 (ii) information supported by credible studies that demonstrates that the provisions of
- 3304 Subsection 19-3-307(2) have been satisfied; and
- 3305 (iii) specific measures to mitigate the effects of high-level nuclear waste and greater
- 3306 than class C radioactive waste and guarantee the health and safety of the citizens of the state.
- 3307 (b) A county may, in lieu of complying with Subsection (3)(a), adopt an ordinance
- 3308 indicating that all proposals for the siting of a storage facility or transfer facility for the
- 3309 placement of high-level nuclear waste or greater than class C radioactive waste wholly or
- 3310 partially within the county are rejected.
- 3311 (c) A county may adopt the ordinance listed in Subsection (3)(b) at any time.
- 3312 (d) The county shall send a certified copy of the ordinance under Subsection (3)(b) to
- 3313 the executive director of the Department of Environmental Quality by certified mail within 30

3314 days of enactment.

3315 (e) If a county repeals an ordinance adopted pursuant to Subsection (3)(b) the county
3316 shall:

3317 (i) comply with Subsection (3)(a) as soon as reasonably possible; and

3318 (ii) send a certified copy of the repeal to the executive director of the Department of
3319 Environmental Quality by certified mail within 30 days after the repeal.

3320 (4) The plan may define the county's local customs, local culture, and the components
3321 necessary for the county's economic stability.

3322 (5) ~~[The]~~ Subject to Subsection 17-27a-403(2), the county may determine the
3323 comprehensiveness, extent, and format of the general plan.

3324 Section 96. Section ~~17-27a-402~~, which is renumbered from Section 17-27-203 is
3325 renumbered and amended to read:

3326 ~~[17-27-203].~~ **17-27a-402. Information and technical assistance from the**
3327 **state.**

3328 ~~[(1) A planning commission may obtain access to and use any data and information~~
3329 ~~held by the state or any of its agencies:]~~

3330 ~~[(a) that is classified "public"; and]~~

3331 ~~[(b) that is classified "protected" if the planning commission's use of the data is~~
3332 ~~lawfully authorized or if the data will be used for a purpose similar to the purpose for which it~~
3333 ~~was gathered.]~~

3334 ~~[(2)]~~ Each state official, department, and agency shall:

3335 ~~[(a) make]~~ (1) promptly deliver any data and information requested by [the planning
3336 commission available if authorized under the requirements of this section; and] a county,
3337 unless the disclosure is prohibited by Title 63, Chapter 2, Government Records Access and
3338 Management Act; and

3339 ~~[(b)]~~ (2) furnish any other technical assistance and advice that they have available to
3340 [planning commissions] the county without additional cost to the county.

3341 Section 97. Section ~~17-27a-403~~, which is renumbered from Section 17-27-302 is
3342 renumbered and amended to read:

3343 ~~[17-27-302].~~ **17-27a-403. Plan preparation.**

3344 ~~[(1)(a) Subject to Section 17-27-301.5, the]~~

3345 (1) (a) The planning commission shall provide notice, as provided in Section
 3346 17-27a-203, of its intent to make a recommendation to the county legislative body for a general
 3347 plan or a comprehensive general plan amendment when the planning commission initiates the
 3348 process of preparing its recommendation.

3349 (b) The planning commission shall make and recommend to the legislative body a
 3350 proposed general plan for the [area within the] county.

3351 ~~[(b)]~~ (c) (i) The plan may include planning for incorporated areas if, in the planning
 3352 commission's judgment, they are related to the planning of the unincorporated territory or of
 3353 the county as a whole.

3354 (ii) Elements of the county plan that address incorporated areas are not an official plan
 3355 or part of a municipal plan for any municipality, unless it is [adopted] recommended by the
 3356 municipal planning commission and adopted by the governing body of the municipality.

3357 ~~[(The)]~~ (a) At a minimum, the proposed general plan, with the accompanying maps,
 3358 plats, charts, and descriptive and explanatory matter, shall [show] include the planning
 3359 commission's recommendations for the [development of the territory covered by the plan, and
 3360 may include, among other things] following plan elements:

3361 ~~[(a)]~~ (i) a land use element that:

3362 ~~[(i)]~~ (A) designates the long-term goals and the proposed extent, general distribution,
 3363 and location [and extent of uses] of land for housing, business, industry, agriculture, recreation,
 3364 education, public buildings and grounds, open space, and other categories of public and private
 3365 uses of land as appropriate; and

3366 ~~[(i)]~~ (B) may include a statement of the projections for and standards of population
 3367 density and building intensity recommended for the various land use categories covered by the
 3368 plan;

3369 ~~[(b)]~~ (ii) a transportation and traffic circulation element consisting of the general
 3370 location and extent of existing and proposed freeways, arterial and collector streets, mass
 3371 transit, and any other modes of transportation that [are] the planning commission considers
 3372 appropriate, all correlated with the population projections and the proposed land use element of
 3373 the general plan; and

3374 (iii) an estimate of the need for the development of additional moderate income
 3375 housing within the county, and a plan to provide a realistic opportunity to meet estimated needs

3376 for additional moderate income housing if long-term projections for land use and development
3377 occur.

3378 (b) In drafting the moderate income housing element, the planning commission:

3379 (i) shall consider the Legislature's determination that counties should facilitate a

3380 reasonable opportunity for a variety of housing, including moderate income housing:

3381 (A) to meet the needs of people desiring to live there; and

3382 (B) to allow persons with moderate incomes to benefit from and fully participate in all
3383 aspects of neighborhood and community life; and

3384 (ii) may include an analysis of why the recommended means, techniques, or
3385 combination of means and techniques provide a realistic opportunity for the development of
3386 moderate income housing within the planning horizon, which means or techniques may include
3387 a recommendation to:

3388 (A) rezone for densities necessary to assure the production of moderate income
3389 housing;

3390 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the
3391 construction of moderate income housing;

3392 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
3393 income housing;

3394 (D) consider general fund subsidies to waive construction related fees that are
3395 otherwise generally imposed by the county;

3396 (E) consider utilization of state or federal funds or tax incentives to promote the
3397 construction of moderate income housing;

3398 (F) consider utilization of programs offered by the Utah Housing Corporation within
3399 that agency's funding capacity; and

3400 (G) consider utilization of affordable housing programs administered by the
3401 Department of Community and Economic Development.

3402 (3) The proposed general plan may include:

3403 [(c)] (a) an environmental element that addresses:

3404 (i) the protection, conservation, development, and use of natural resources, including
3405 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
3406 and other natural resources; and

3407 (ii) the reclamation of land, flood control, prevention and control of the pollution of
 3408 streams and other waters, regulation of the use of land on hillsides, stream channels and other
 3409 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
 3410 protection of watersheds and wetlands, and the mapping of known geologic hazards;

3411 ~~[(d)]~~ (b) a public services and facilities element showing general plans for sewage,
 3412 water, waste disposal, drainage, ~~[local]~~ public utilities, rights-of-way, easements, and facilities
 3413 for them, police and fire protection, and other public services;

3414 ~~[(e)]~~ (c) a rehabilitation, redevelopment, and conservation element consisting of plans
 3415 and programs for:

3416 (i) historic preservation; and

3417 (ii) the diminution of elimination of blight; and ~~[for]~~

3418 (iii) redevelopment of land, including housing sites, business and industrial sites, and
 3419 public building sites;

3420 ~~[(f)]~~ (d) an economic element composed of appropriate studies and forecasts, as well as
 3421 an economic development plan ~~[that]~~, which may include review of ~~[county]~~ existing and
 3422 protected county revenue and expenditures, revenue sources, identification of base and
 3423 ~~[residential]~~ residential industry, primary and secondary market areas, employment, and retail
 3424 sales activity;

3425 ~~[(g)]~~ (e) recommendations for implementing all or any portion of the general plan,
 3426 including the use of ~~[zoning ordinances, subdivision]~~ land use ordinances, capital improvement
 3427 plans, ~~[and]~~ community development and promotion, and any other appropriate ~~[actions]~~
 3428 action;

3429 ~~[(h)]~~ (f) provisions addressing any of the matters listed in Subsection ~~[17-27-301]~~
 3430 17-27a-401(2); and

3431 ~~[(i)]~~ (g) any other ~~[elements that]~~ element the county considers appropriate.

3432 Section 98. Section **17-27a-404**, which is renumbered from Section 17-27-303 is
 3433 renumbered and amended to read:

3434 ~~[17-27-303]~~. **17-27a-404. Public hearing by planning commission on**
 3435 **proposed general plan or amendment -- Notice -- Revisions to general plan or amendment**
 3436 **-- Adoption or rejection by legislative body..**

3437 (1) (a) After completing its recommendation for a proposed general plan for all or part

3438 of the area within the county, or a general plan amendment, the planning commission shall
3439 schedule and hold a public hearing on the proposed plan or amendment.

3440 (b) The planning commission shall provide [~~reasonable~~] notice of the public hearing [at
3441 ~~least 14 days before the date of the hearing~~], as required by Part 2, Notice.

3442 (c) After the public hearing, the planning commission may [~~make changes to~~] modify
3443 the proposed general plan.

3444 (2) The planning commission shall [~~then~~] forward the proposed general plan to the
3445 legislative body.

3446 [~~(3) (a) The legislative body shall hold a public hearing on the proposed general plan~~
3447 ~~recommended to it by the planning commission.~~]

3448 [~~(b) The~~] (3) (a) As provided by local ordinance and by Section 17-27a-204, the
3449 legislative body shall provide [~~reasonable~~] notice of [~~the public hearing at least 14 days before~~
3450 ~~the date of the hearing~~]; its intent to consider the general plan proposal.

3451 [~~(4) (a)~~] (b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the
3452 legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed
3453 county plan regarding Subsection [~~17-27-301~~] 17-27a-401(3). The hearing procedure shall
3454 comply with this Subsection [~~(4)~~] (3)(b).

3455 (ii) The hearing format shall allow adequate time for public comment at the actual
3456 public hearing, and shall also allow for public comment in writing to be submitted to the
3457 legislative body for not fewer than 90 days after the date of the public hearing.

3458 [~~(b)~~] (c) (i) The legislative body shall give notice of the hearing in accordance with this
3459 Subsection [~~(4)~~] (3) when the proposed plan provisions required by Subsection [~~17-27-301~~]
3460 17-27a-401(3) are complete.

3461 (ii) Direct notice of the hearing shall be given, in writing, to the governor, members of
3462 the state Legislature, executive director of the Department of Environmental Quality, the state
3463 planning coordinator, the Resource Development Coordinating Committee, and any other
3464 citizens or entities who specifically request notice in writing.

3465 (iii) Public notice shall be given by publication in at least one major Utah newspaper
3466 having broad general circulation in the state, and also in at least one Utah newspaper having a
3467 general circulation focused mainly on the county where the proposed high-level nuclear waste
3468 or greater than class C radioactive waste site is to be located.

3469 (iv) The notice in these newspapers shall be published not fewer than 180 days prior to
 3470 the date of the hearing to be held under this Subsection [~~(4)~~] (3), to allow reasonable time for
 3471 interested parties and the state to evaluate the information regarding the provisions of
 3472 Subsection [~~17-27-301~~] 17-27a-401(3).

3473 [~~(5)~~] (4) (a) After [~~a~~] the public hearing required under this section, the legislative body
 3474 may make any [~~modifications~~] revisions to the proposed general plan that it considers
 3475 appropriate.

3476 (b) The legislative body shall respond in writing and in a substantive manner to all
 3477 those providing comments as a result of the hearing required by Subsection [~~(4)~~] (3).

3478 [~~(6)~~] (5) (a) The county legislative body may [~~:- (a)~~] adopt or reject the proposed general
 3479 plan [~~without~~] or amendment [~~;- (b) amend the~~] either as proposed [~~general plan and adopt or~~
 3480 ~~reject it as amended; or (c) reject~~] by the planning commission or after making any revision the
 3481 county legislative body considers appropriate.

3482 (b) If the county legislative body rejects the proposed general plan [~~:-~~] or amendment, it
 3483 may provide suggestions to the planning commission for its consideration.

3484 [~~(7) (a) The general plan is an advisory guide for land use decisions, except for the~~
 3485 ~~provision required by Subsection 17-27-301(3), which the legislative body shall adopt.]~~

3486 [~~(b) The legislative body may adopt an ordinance mandating compliance with the~~
 3487 ~~general plan, and shall adopt an ordinance requiring compliance with all provisions of~~
 3488 ~~Subsection 17-27-301(3).]~~

3489 (6) The legislative body shall adopt:

3490 (a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

3491 (b) a transportation and traffic circulation element as provided in Subsection
 3492 17-27a-403(2)(a)(ii); and

3493 (c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to
 3494 provide a realistic opportunity to meet estimated needs for additional moderate income housing
 3495 if long-term projections for land use and development occur.

3496 Section 99. Section **17-27a-405** is enacted to read:

3497 **17-27a-405. Effect of general plan.**

3498 (1) Except for the mandatory provisions in Subsection 17-27a-401(3)(b) and Section
 3499 17-27a-406, the general plan is an advisory guide for land use decisions, the impact of which

3500 shall be determined by ordinance.

3501 (2) The legislative body may adopt an ordinance mandating compliance with the
3502 general plan, and shall adopt an ordinance requiring compliance with all provisions of
3503 Subsection 17-27a-401(3)(b).

3504 Section 100. Section **17-27a-406**, which is renumbered from Section 17-27-305 is
3505 renumbered and amended to read:

3506 ~~[17-27-305].~~ **17-27a-406. Public uses to conform to general plan.**

3507 After the legislative body has adopted a [~~general plan or any amendments to the~~]
3508 general plan, no street, park, or other public way, ground, place, or space, no publicly owned
3509 building or structure, and no public utility, whether publicly or privately owned, may be
3510 constructed or authorized until and unless[~~:(1)~~] it conforms to the current general plan[~~;~~or].

3511 [~~(2) it has been considered by the planning commission and, after receiving the advice~~
3512 ~~of the planning commission, the legislative body approves it as an amendment to the general~~
3513 ~~plan.]~~

3514 Section 101. Section **17-27a-407**, which is renumbered from Section 17-27-306 is
3515 renumbered and amended to read:

3516 ~~[17-27-306].~~ **17-27a-407. Effect of official maps.**

3517 (1) Counties may adopt an official map [~~in accordance with the provisions of Title 72,~~
3518 ~~Chapter 5, Part 4, Transportation Corridor Preservation].~~

3519 (2) (a) An official map does not:

3520 (i) require a landowner to dedicate and construct a street as a condition of development
3521 approval, except under circumstances provided in Subsection (2)(b)(iii); or

3522 (ii) require a county to immediately acquire property it has designated for eventual use
3523 as a public street.

3524 (b) This section does not prohibit a county from:

3525 (i) [~~requiring a landowner to take into account~~] recommending that an applicant
3526 consider and accommodate the location of the proposed streets in the planning of a
3527 development proposal in a manner that is consistent with Section 17-27a-507;

3528 (ii) acquiring the property through purchase, gift, voluntary dedication, or eminent
3529 domain; or

3530 (iii) requiring the dedication and improvement of a street if the street is found

3531 necessary by the county because of a proposed development and if the dedication and
 3532 improvement is consistent with Section 17-27a-507.

3533 ~~[(3) An official map may not be used to unconstitutionally prohibit the development of~~
 3534 ~~property designated for eventual use as a public street.]~~

3535 ~~[(4) An adopted official map shall be available for public inspection upon request.]~~

3536 Section 102. Section **17-27a-408**, which is renumbered from Section 17-27-307 is
 3537 renumbered and amended to read:

3538 ~~[17-27-307].~~ **17-27a-408. Biennial review of moderate income housing**
 3539 **element.**

3540 ~~[(1) The availability of moderate income housing is an issue of statewide concern. To~~
 3541 ~~this end:]~~

3542 ~~[(a) counties should afford a reasonable opportunity for a variety of housing, including~~
 3543 ~~moderate income housing, to meet the needs of people desiring to live there; and]~~

3544 ~~[(b) moderate income housing should be located in all areas of a community to allow~~
 3545 ~~persons with moderate incomes to benefit from and to fully participate in all aspects of~~
 3546 ~~neighborhood and community life.]~~

3547 ~~[(2) As used in this section:]~~

3548 ~~[(a) "Moderate income housing" means housing occupied or reserved for occupancy by~~
 3549 ~~households with a gross household income equal to or less than 80% of the median gross~~
 3550 ~~income of the county statistical area for households of the same size.]~~

3551 ~~[(b) "Plan for moderate income housing" or "plan" means a written document adopted~~
 3552 ~~by a county legislative body that includes, but is not limited to:]~~

3553 ~~[(i) an estimate of the existing supply of moderate income housing located within the~~
 3554 ~~county;]~~

3555 ~~[(ii) an estimate of the need for moderate income housing in that county for the next~~
 3556 ~~five years as revised biennially;]~~

3557 ~~[(iii) a survey of total residential zoning;]~~

3558 ~~[(iv) an evaluation of how existing zoning densities affect opportunities for moderate~~
 3559 ~~income housing; and]~~

3560 ~~[(v) a description of the county's program to encourage an adequate supply of~~
 3561 ~~moderate income housing;]~~

3562 ~~[(3) Before December 31, 1998, each county legislative body shall, as part of its~~
3563 ~~general plan, adopt a plan for moderate income housing within the unincorporated areas of that~~
3564 ~~county.]~~

3565 ~~[(4) A plan may provide for moderate income housing by any means or combination of~~
3566 ~~techniques which provide a realistic opportunity to meet estimated needs. The plan may include~~
3567 ~~an analysis of why the means or techniques selected provide a realistic opportunity to meet the~~
3568 ~~objectives of this section. Such techniques may include]:~~

3569 ~~[(a) rezoning for densities necessary to assure the economic viability of inclusionary-~~
3570 ~~developments, either through mandatory set asides or density bonuses;]~~

3571 ~~[(b) infrastructure expansion and rehabilitation that will facilitate the construction of~~
3572 ~~moderate income housing;]~~

3573 ~~[(c) rehabilitation of existing uninhabitable housing stock;]~~

3574 ~~[(d) consideration of waiving construction related fees generally imposed by the~~
3575 ~~county;]~~

3576 ~~[(e) utilization of state or federal funds or tax incentives to promote the construction of~~
3577 ~~moderate income housing;]~~

3578 ~~[(f) utilization of programs offered by the Utah Housing Corporation within that~~
3579 ~~agency's funding capacity; and]~~

3580 ~~[(g) utilization of affordable housing programs administered by the Department of~~
3581 ~~Community and Economic Development.]~~

3582 ~~[(5) (a) After adoption of a plan for moderate income housing under Subsection (3),~~
3583 ~~the]~~

3584 (1) The legislative body of each county with a population over 25,000 shall biennially:

3585 [(i)] (a) review the moderate income housing plan element of its general plan and its
3586 implementation; and

3587 [(ii)] (b) prepare a report setting forth the findings of the review~~[-(b) Each]~~ which
3588 report ~~[under Subsection (5)(a)(ii)]~~ shall include a description of:

3589 (i) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers
3590 to moderate income housing;

3591 (ii) actions taken by the county to encourage preservation of existing moderate income
3592 housing and development of new moderate income housing;

3593 (iii) progress made within the county to provide moderate income housing, as
 3594 measured by permits issued for new units of moderate income housing; and

3595 (iv) efforts made by the county to coordinate moderate income housing plans and
 3596 actions with neighboring counties and municipalities.

3597 (c) The legislative body of each county with a population over 25,000 shall send a copy
 3598 of the report [~~under Subsection (5)(a)(ii)~~] to the Department of Community and Economic
 3599 Development and the association of governments in which the county is located.

3600 [~~(6)~~] (2) In a civil action seeking enforcement or claiming a violation of this section or
 3601 of Subsection 17-27a-404(6)(c), a plaintiff may not recover damages but may be awarded
 3602 injunctive or other equitable relief only.

3603 Section 103. Section **17-27a-409**, which is renumbered from Section 17-27-308 is
 3604 renumbered and amended to read:

3605 [~~17-27-308~~]. **17-27a-409. State to indemnify county regarding refusal to**
 3606 **site nuclear waste -- Terms and conditions.**

3607 If a county is challenged in a court of law regarding its decision to deny siting of a
 3608 storage or transfer facility for the placement of high-level nuclear waste or greater than class C
 3609 radioactive waste or its refusal to provide municipal-type services regarding the operation of
 3610 the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless
 3611 from any claims or damages, including court costs and attorney fees that are assessed as a result
 3612 of the county's action, if:

3613 (1) the county has complied with the provisions of Subsection [~~17-27-301~~]
 3614 7-27a-401(3)(b) by adopting an ordinance rejecting all proposals for the siting of a storage or
 3615 transfer facility for the placement of high-level nuclear waste or greater than class C
 3616 radioactive waste wholly or partially within the boundaries of the county;

3617 (2) the county has complied with Subsection 17-34-1(3) regarding refusal to provide
 3618 municipal-type services; and

3619 (3) the court challenge against the county addresses the county's actions in compliance
 3620 with Subsection [~~17-27-301~~] 17-27a-401(3)(b) or [~~Subsection~~] 17-34-1(3).

3621 Section 104. Section **17-27a-501**, which is renumbered from Section 17-27-401 is
 3622 renumbered and amended to read:

3623 **Part 5. Land Use Ordinances**

3624 ~~[17-27-401].~~ **17-27a-501. General powers.**

3625 The legislative body may enact ~~[a zoning ordinance establishing regulations for land~~
3626 ~~use and development that furthers the intent of this chapter]~~ land use ordinances and a zoning
3627 map.

3628 Section 105. Section **17-27a-502**, which is renumbered from Section 17-27-402 is
3629 renumbered and amended to read:

3630 ~~[17-27-402].~~ **17-27a-502. Preparation and adoption.**

3631 (1) The planning commission shall:

3632 (a) provide notice as required by Subsection 17-27a-205(1)(a);

3633 (b) hold a public hearing on a proposed land use ordinance or zoning map; and

3634 (c) prepare and recommend to the legislative body a proposed [zoning ordinance,
3635 including both the full text of the zoning ordinance and maps, that represents the commission's
3636 recommendations for zoning] land use ordinance or ordinances and zoning map that represent
3637 the planning commission's recommendation for regulating the use and development of land
3638 within all or any part of the unincorporated area [within] of the county.

3639 (2) ~~[(a)]~~ The county legislative body shall ~~[hold a public hearing on the]~~ consider each
3640 proposed [zoning] land use ordinance and zoning map recommended to it by the planning
3641 commission~~[-(b) The legislative body shall provide reasonable notice of the public hearing at~~
3642 ~~least 14 days before the date of the hearing. (3) After the public hearing,], and, after providing~~
3643 notice as required by Subsection 17-27a-205(1)(b) and holding a public meeting, the legislative
3644 body may~~[-(a)]~~ adopt or reject the [zoning] proposed ordinance or map either as proposed[-(b)-
3645 amend the zoning ordinance and adopt or reject the zoning ordinance as amended; or (c) reject
3646 the ordinance] by the planning commission or after making any revision the county legislative
3647 body considers appropriate.

3648 Section 106. Section **17-27a-503**, which is renumbered from Section 17-27-403 is
3649 renumbered and amended to read:

3650 ~~[17-27-403].~~ **17-27a-503. Amendments.**

3651 (1) ~~[(a)]~~ The legislative body may amend:

3652 ~~[(i)]~~ (a) the number, shape, boundaries, or area of any zoning district;

3653 ~~[(ii)]~~ (b) any regulation of or within the zoning district; or

3654 ~~[(iii)]~~ (c) any other provision of [the zoning] a land use ordinance.

3655 ~~[(b)]~~ (2) The legislative body may not make any amendment authorized by this
 3656 subsection unless the amendment was proposed by the planning commission or is first
 3657 submitted to the planning commission for its approval, disapproval, or recommendations.

3658 ~~[(2)]~~ (3) The legislative body shall comply with the procedure specified in Section
 3659 ~~[17-27-402]~~ 17-27a-502 in preparing and adopting an amendment to ~~[the zoning]~~ a land use
 3660 ordinance or ~~[the]~~ a zoning map.

3661 Section 107. Section **17-27a-504**, which is renumbered from Section 17-27-404 is
 3662 renumbered and amended to read:

3663 ~~[17-27-404].~~ **17-27a-504. Temporary land use regulations.**

3664 (1) (a) ~~[A county]~~ The legislative body may, without ~~[a public hearing]~~ prior
 3665 consideration of or recommendation from the planning commission, enact an ordinance
 3666 establishing a temporary ~~[zoning]~~ land use regulation for any part or all of the area within the
 3667 county if:

3668 (i) the legislative body makes a finding of compelling, countervailing public interest;

3669 or

3670 (ii) the area is ~~[unzoned]~~ unregulated.

3671 (b) A temporary ~~[zoning]~~ land use regulation under Subsection (1)(a) may prohibit~~[-~~
 3672 ~~restrict,]~~ or regulate the erection, construction, reconstruction, or alteration of any building or
 3673 structure or any subdivision approval.

3674 (c) A temporary ~~[zoning]~~ land use regulation under Subsection (1)(a) may not impose
 3675 an impact fee or other financial requirement on building or development.

3676 (2) The ~~[county]~~ legislative body shall establish a period of limited effect for the
 3677 ~~[temporary]~~ ordinance not to exceed six months.

3678 (3) (a) A ~~[county]~~ legislative body may, without ~~[a public hearing]~~ prior planning
 3679 commission consideration or recommendation, enact an ordinance establishing a temporary
 3680 ~~[zoning]~~ land use regulation prohibiting construction, subdivision approval, and other
 3681 development activities within an area that is the subject of an Environmental Impact Statement
 3682 or a Major Investment Study examining the area as a proposed highway or transportation
 3683 corridor.

3684 (b) A ~~[zoning]~~ regulation under Subsection (3)(a):

3685 (i) may not exceed six months in duration;

3686 (ii) may be renewed, if requested by the [Utah] Transportation Commission created
3687 under Section 72-1-301, for up to two additional six-month periods by ordinance enacted
3688 before the expiration of the previous [zoning] regulation; and

3689 (iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the
3690 Environmental Impact Statement or Major Investment Study is in progress.

3691 Section 108. Section **17-27a-505**, which is renumbered from Section 17-27-405 is
3692 renumbered and amended to read:

3693 ~~[17-27-405].~~ **17-27a-505. Zoning districts.**

3694 (1) (a) The legislative body may divide the territory over which it has jurisdiction into
3695 zoning districts of a number, shape, and area that it considers appropriate to carry out the
3696 purposes of this chapter.

3697 (b) Within those zoning districts, the legislative body may regulate and restrict the
3698 erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and
3699 the use of land.

3700 (2) The legislative body shall ensure that the regulations are uniform for each class or
3701 kind of buildings throughout each [district] zone, but the regulations in one [district] zone may
3702 differ from those in other [districts] zones.

3703 (3) (a) There is no minimum area, nor diversity of ownership, requirement for a zone
3704 designation.

3705 (b) Neither the size of a zoning district nor the number of landowners within the
3706 district may be used as evidence of the illegality of a zoning district or of the invalidity of a
3707 county decision.

3708 Section 109. Section **17-27a-506**, which is renumbered from Section 17-27-406 is
3709 renumbered and amended to read:

3710 ~~[17-27-406].~~ **17-27a-506. Conditional uses.**

3711 ~~[(1) A zoning ordinance may contain provisions for administrative decisions relating~~
3712 ~~to]~~

3713 (1) A land use ordinance may include conditional uses [that may be allowed, allowed
3714 with conditions, or denied in designated zoning districts, based on] and provisions for
3715 conditional uses that require compliance with standards [and criteria] set forth in [the zoning
3716 ordinance for those uses] an applicable ordinance.

3717 (2) ~~(a) [Appeals of the approval or denial of a] A~~ conditional use ~~[permit shall be~~
3718 ~~decided by the board of adjustment, unless the county legislative body by ordinance designates~~
3719 ~~itself or another body to decide those appeals.] shall be approved if reasonable conditions are~~
3720 ~~proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the~~
3721 ~~proposed use in accordance with applicable standards.~~

3722 (b) If the reasonably anticipated detrimental effects of a proposed conditional use
3723 cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to
3724 achieve compliance with applicable standards, the conditional use may be denied.

3725 Section 110. Section **17-27a-507** is enacted to read:

3726 **17-27a-507. Regulation of exactions.**

3727 A county may impose an exaction or exactions on development proposed in a land use
3728 application provided that:

3729 (1) an essential link exists between a legitimate governmental interest and each
3730 exaction; and

3731 (2) each exaction is roughly proportionate, both in nature and extent, to the impact of
3732 the proposed development.

3733 Section 111. Section **17-27a-508** is enacted to read:

3734 **17-27a-508. Land use approval standards and vested rights.**

3735 (1) (a) An applicant is entitled to approval of a land use application if the application
3736 conforms to the requirements of an applicable land use ordinance in effect when a complete
3737 application is submitted, all fees have been paid, and the applicant thereafter proceeds with
3738 reasonable diligence, unless:

3739 (i) the land use authority, on the record, finds that a compelling, countervailing public
3740 interest would be jeopardized by approving the application; or

3741 (ii) in the manner provided by local ordinance and before the application is submitted,
3742 the county has formally initiated proceedings to amend its ordinances in a manner that would
3743 prohibit approval of the application as submitted.

3744 (b) If the proceedings initiated to amend the ordinance do not result in an enactment,
3745 which prohibits the approval of the application as submitted within 180 days after the
3746 proceedings have been initiated, any affected application shall be processed without regard to
3747 the initiated proceedings.

3748 (c) An application for a land use approval is considered submitted and complete when
3749 the application is provided in a form that complies with the requirements of applicable
3750 ordinances and all applicable fees have been paid.

3751 (2) A county is bound by the terms and standards of applicable land use ordinances and
3752 shall comply with mandatory provisions of those ordinances.

3753 Section 112. Section **17-27a-509**, which is renumbered from Section 17-27-106 is
3754 renumbered and amended to read:

3755 ~~[17-27-106].~~ **17-27a-509. Limit on plan check fees.**

3756 (1) A county may not impose or collect a fee for reviewing or approving the plans for a
3757 commercial or residential building that exceeds the lesser of:

- 3758 (a) the actual cost of performing the plan review; and
- 3759 (b) 65% of the amount the county charges for a building permit fee for that building.

3760 ~~[(2) (a) For purposes of this Subsection (2):]~~

3761 ~~[(i) "Identical plans" means building plans submitted to a county that:]~~

3762 ~~[(A) are substantially identical to building plans that were previously submitted to and~~
3763 ~~reviewed and approved by the county; and]~~

3764 ~~[(B) describe a building that is:]~~

3765 ~~[(F) located on land zoned the same as the land on which the building described in the~~
3766 ~~previously approved plans is located; and]~~

3767 ~~[(H) subject to the same geological and meteorological conditions and the same law as~~
3768 ~~the building described in the previously approved plans.]~~

3769 ~~[(ii) "Nominal fee" means a fee that reasonably reimburses a county only for time spent~~
3770 ~~and expenses incurred in:]~~

3771 ~~[(A) verifying that building plans are identical plans; and]~~

3772 ~~[(B) reviewing and approving those minor aspects of identical plans that differ from~~
3773 ~~the previously reviewed and approved building plans referred to in Subsection (2)(a)(i).]~~

3774 ~~[(b)]~~ (2) Subject to Subsection (1), a county may impose and collect only a nominal fee
3775 for reviewing and approving identical plans.

3776 Section 113. Section **17-27a-510**, which is renumbered from Section 17-27-407 is
3777 renumbered and amended to read:

3778 ~~[17-27-407].~~ **17-27a-510. Nonconforming uses and noncomplying**

3779 **structures.**

3780 (1) (a) Except as provided in this section, a nonconforming use or a noncomplying
3781 structure may be continued by the present or by a future property owner.

3782 (b) A nonconforming use may be extended through the same building, provided no
3783 structural alteration of the building is proposed or made for the purpose of the extension.

3784 (c) For purposes of this Subsection (1), the addition of a solar energy device to a
3785 building is not a structural alteration.

3786 ~~[(d) If any county acquires title to any property because of tax delinquency and the
3787 property is not redeemed as provided by law, the future use of the property shall conform with
3788 the existing provisions of the county ordinances equally applicable to other like properties
3789 within the district in which the property acquired by the county is located.]~~

3790 (2) The legislative body may provide ~~[in any zoning ordinance or amendment]~~ for:

3791 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
3792 substitution of nonconforming uses upon the terms and conditions set forth in the ~~[zoning]~~ land
3793 use ordinance;

3794 (b) the termination of all nonconforming uses, except billboards, by providing a
3795 formula establishing a reasonable time period during which the owner can recover or amortize
3796 the amount of his investment in the nonconforming use, if any; and

3797 (c) the termination of ~~[a billboard that is a nonconforming use by acquiring the
3798 billboard and associated property rights through:]~~ a nonconforming use due to its abandonment.

3799 ~~[(i) gift;]~~

3800 ~~[(ii) purchase;]~~

3801 ~~[(iii) agreement;]~~

3802 ~~[(iv) exchange; or]~~

3803 ~~[(v) eminent domain.]~~

3804 ~~[(3) (a) A county is considered to have initiated the acquisition of a billboard structure
3805 by eminent domain under Subsection (2)(c)(v) if the county prevents a billboard owner from:]~~

3806 ~~[(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
3807 by casualty, an act of God, or vandalism; or]~~

3808 ~~[(ii) except as provided in Subsection (3)(b), relocating or rebuilding a billboard
3809 structure, or taking other measures, to correct a mistake in the placement or erection of a~~

3810 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or
3811 other measure is consistent with the intent of that permit.]

3812 ~~[(b) A county's denial of a billboard owner's request to relocate or rebuild a billboard~~
3813 ~~structure, or to take other measures, in order to correct a mistake in the placement or erection of~~
3814 ~~a billboard does not constitute the initiation of acquisition by eminent domain under Subsection~~
3815 ~~(3)(a) if the mistake in placement or erection of the billboard is determined by clear and~~
3816 ~~convincing evidence to have resulted from an intentionally false or misleading statement:]~~

3817 ~~[(i) by the billboard applicant in the application; and]~~

3818 ~~[(ii) regarding the placement or erection of the billboard:]~~

3819 ~~[(4) Notwithstanding Subsections (2) and (3), a county may remove a billboard without~~
3820 ~~providing compensation if:]~~

3821 ~~[(a) the county determines:]~~

3822 ~~[(i) by clear and convincing evidence that the applicant for a permit intentionally made~~
3823 ~~a false or misleading statement in the applicant's application regarding the placement or~~
3824 ~~erection of the billboard; or]~~

3825 ~~[(ii) by substantial evidence that the billboard:]~~

3826 ~~[(A) is structurally unsafe;]~~

3827 ~~[(B) is in an unreasonable state of repair; or]~~

3828 ~~[(C) has been abandoned for at least 12 months;]~~

3829 ~~[(b) the county notifies the owner in writing that the owner's billboard meets one or~~
3830 ~~more of the conditions listed in Subsections (4)(a)(i) and (ii);]~~

3831 ~~[(c) the owner fails to remedy the condition or conditions within:]~~

3832 ~~[(i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's~~
3833 ~~receipt of written notice under Subsection (4)(b); or]~~

3834 ~~[(ii) if the condition forming the basis of the county's intention to remove the billboard~~
3835 ~~is that it is structurally unsafe, ten business days, or a longer period if necessary because of a~~
3836 ~~natural disaster, following the billboard owner's receipt of written notice under Subsection~~
3837 ~~(4)(b); and]~~

3838 ~~[(d) following the expiration of the applicable period under Subsection (4)(c) and after~~
3839 ~~providing the owner with reasonable notice of proceedings and an opportunity for a hearing,~~
3840 ~~the county finds:]~~

3841 ~~[(i) by clear and convincing evidence, that the applicant for a permit intentionally made~~
3842 ~~a false or misleading statement in the application regarding the placement or erection of the~~
3843 ~~billboard; or]~~

3844 ~~[(ii) by substantial evidence that the billboard is structurally unsafe, is in an~~
3845 ~~unreasonable state of repair, or has been abandoned for at least 12 months.]~~

3846 ~~[(5) A county may not allow a nonconforming billboard to be rebuilt for a reason other~~
3847 ~~than:]~~

3848 ~~[(a) those specified in Subsections (3) and (4);]~~

3849 ~~[(b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and]~~

3850 ~~[(c) those specified in the county's ordinance requiring or allowing a billboard owner to~~
3851 ~~relocate and rebuild an existing nonconforming billboard to an area within the county where~~
3852 ~~outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor~~
3853 ~~Advertising Act.]~~

3854 (3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying
3855 structure or terminate the nonconforming use of a structure that is involuntarily destroyed in
3856 whole or in part due to fire or other calamity, unless the structure or use has been abandoned.

3857 (b) A county may prohibit the reconstruction or restoration of a noncomplying structure
3858 or terminate the nonconforming use of a structure if:

3859 (i) the structure is allowed to deteriorate to a condition that the structure is rendered
3860 uninhabitable and is not repaired or restored within six months after written notice to the
3861 property owner that the structure is uninhabitable and that the noncomplying structure or
3862 nonconforming use will be lost if the structure is not repaired or restored within six months; or

3863 (ii) the property owner has voluntarily demolished a majority of the noncomplying
3864 structure or the building that houses the nonconforming use.

3865 (4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal
3866 existence for nonconforming uses, the property owner shall have the burden of establishing the
3867 legal existence of a noncomplying structure or nonconforming use.

3868 (b) Any party claiming that a nonconforming use has been abandoned shall have the
3869 burden of establishing such abandonment.

3870 (c) Abandonment may be presumed to have occurred if:

3871 (i) a majority of the primary structure associated with the nonconforming use has been

3872 voluntarily demolished without prior written agreement with the county regarding an extension
3873 of the nonconforming use;

3874 (ii) the use has been discontinued for a minimum of one year; or

3875 (iii) the primary structure associated with the nonconforming use remains vacant for a
3876 period of one year.

3877 (d) The property owner may rebut the presumption of abandonment under Subsection
3878 (4)(c), and shall have the burden of establishing that any claimed abandonment under
3879 Subsection (4)(c) has not in fact occurred.

3880 [(6)] (5) A county may terminate the nonconforming status of a school district
3881 [property] or charter school use or structure when the property associated with the school
3882 district or charter school use or structure ceases to be used for school district or charter school
3883 purposes for a period established by ordinance.

3884 Section 114. Section **17-27a-511**, which is renumbered from Section 17-27-408 is
3885 renumbered and amended to read:

3886 ~~[17-27-408].~~ **17-27a-511. Existing outdoor advertising uses.**

3887 (1) A county may only require termination of a billboard and associated property rights
3888 through:

3889 (a) gift;

3890 (b) purchase;

3891 (c) agreement;

3892 (d) exchange; or

3893 (e) eminent domain.

3894 (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent
3895 of the billboard owner.

3896 Section 115. Section **17-27a-512** is enacted to read:

3897 **17-27a-512. Nonconforming billboards.**

3898 (1) (a) A county is considered to have initiated the acquisition of a billboard structure
3899 by eminent domain if the county prevents a billboard owner from:

3900 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
3901 by casualty, an act of God, or vandalism; or

3902 (ii) except as provided in Subsection (1)(b), relocating or rebuilding a billboard

3903 structure, or taking other measures, to correct a mistake in the placement or erection of a
3904 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or
3905 other measure is consistent with the intent of that permit.

3906 (b) A county's denial of a billboard owner's request to relocate or rebuild a billboard
3907 structure, or to take other measures, in order to correct a mistake in the placement or erection of
3908 a billboard does not constitute the initiation of acquisition by eminent domain under Subsection
3909 (1)(a) if the mistake in placement or erection of the billboard is determined by clear and
3910 convincing evidence to have resulted from an intentionally false or misleading statement:

3911 (i) by the billboard applicant in the application; and

3912 (ii) regarding the placement or erection of the billboard.

3913 (2) Notwithstanding Section 17-27a-511 and Subsection (1), a county may remove a
3914 billboard without providing compensation if:

3915 (a) the county determines:

3916 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
3917 false or misleading statement in the applicant's application regarding the placement or erection
3918 of the billboard; or

3919 (ii) by substantial evidence that the billboard:

3920 (A) is structurally unsafe;

3921 (B) is in an unreasonable state of repair; or

3922 (C) has been abandoned for at least 12 months;

3923 (b) the county notifies the owner in writing that the owner's billboard meets one or
3924 more of the conditions listed in Subsections (2)(a)(i) and (ii);

3925 (c) the owner fails to remedy the condition or conditions within:

3926 (i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's
3927 receipt of written notice under Subsection (2)(b); or

3928 (ii) if the condition forming the basis of the county's intention to remove the billboard
3929 is that it is structurally unsafe, ten business days, or a longer period if necessary because of a
3930 natural disaster, following the billboard owner's receipt of written notice under Subsection
3931 (2)(b); and

3932 (d) following the expiration of the applicable period under Subsection (2)(c) and after
3933 providing the owner with reasonable notice of proceedings and an opportunity for a hearing.

3934 the county finds:

3935 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
 3936 a false or misleading statement in the application regarding the placement or erection of the
 3937 billboard; or

3938 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
 3939 unreasonable state of repair, or has been abandoned for at least 12 months.

3940 (3) A county may not allow a nonconforming billboard to be rebuilt for a reason other
 3941 than:

3942 (a) those specified in Subsections (1) and (2);

3943 (b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and

3944 (c) those specified in the county's ordinance requiring or allowing a billboard owner to
 3945 relocate and rebuild an existing nonconforming billboard to an area within the county where
 3946 outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor
 3947 Advertising Act.

3948 Section 116. Section **17-27a-513**, which is renumbered from Section 17-27-105.5 is
 3949 renumbered and amended to read:

3950 ~~[17-27-105.5].~~ **17-27a-513. Manufactured homes.**

3951 (1) For purposes of this section, a manufactured home is the same as defined in Section
 3952 58-56-3, except that the manufactured home must be attached to a permanent foundation in
 3953 accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection
 3954 in compliance with the applicable building code. All appendages, including carports, garages,
 3955 storage buildings, additions, or alterations must be built in compliance with the applicable
 3956 building code.

3957 (2) A manufactured home may not be excluded from any land use zone or area in
 3958 which a single-family residence would be permitted, provided the manufactured home
 3959 complies with all local [~~zoning;~~] land use ordinances, building [~~code~~] codes, and [~~subdivision~~
 3960 ~~requirements, including~~] any restrictive covenants, applicable to [~~single-family~~] a single-family
 3961 residence within that zone or area.

3962 (3) A county may not:

3963 (a) adopt or enforce an ordinance or regulation that treats a proposed development that
 3964 includes manufactured homes differently than one that does not include manufactured homes;

3965 or

3966 (b) reject a development plan based on the fact that the development is expected to
3967 contain manufactured homes.

3968 Section 117. Section **17-27a-514**, which is renumbered from Section 17-27-107 is
3969 renumbered and amended to read:

3970 ~~[17-27-107].~~ **17-27a-514. Regulation of amateur radio antennas.**

3971 (1) A county may not enact or enforce an ordinance that does not comply with the
3972 ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC
3973 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R. Part
3974 97.

3975 (2) If a county adopts an ordinance involving the placement, screening, or height of an
3976 amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance shall:

3977 (a) reasonably accommodate amateur radio communications; and

3978 (b) represent the minimal practicable regulation to accomplish the county's purpose.

3979 Section 118. Section **17-27a-515**, which is renumbered from Section 17-27-501 is
3980 renumbered and amended to read:

3981 ~~[17-27-501].~~ **17-27a-515. Residential facilities for elderly persons.**

3982 (1) ~~[(a)]~~ A residential facility for elderly persons may not operate as a business.

3983 ~~[(b)]~~ (2) A residential facility for elderly persons shall:

3984 ~~[(i)]~~ (a) be owned by one of the residents or by an immediate family member of one of
3985 the residents or be a facility for which the title has been placed in trust for a resident;

3986 ~~[(ii)]~~ (b) be consistent with any existing [zoning-of], applicable land use ordinance
3987 affecting the desired location; and

3988 ~~[(iii)]~~ (c) be occupied on a 24-hour-per-day basis by eight or fewer elderly persons in a
3989 family-type arrangement.

3990 ~~[(2)]~~ (3) A residential facility for elderly persons may not be considered a business
3991 because a fee is charged for food or for actual and necessary costs of operation and
3992 maintenance of the facility.

3993 Section 119. Section **17-27a-516**, which is renumbered from Section 17-27-502 is
3994 renumbered and amended to read:

3995 ~~[17-27-502].~~ **17-27a-516. County ordinances governing elderly residential**

3996 **facilities.**

3997 (1) Each county shall adopt ordinances that establish that a residential facility for
 3998 elderly persons is a permitted use in any area where residential dwellings are allowed, except
 3999 an area zoned to permit exclusively single-family dwellings.

4000 (2) The ordinances shall establish a permit process that may require only that:

4001 (a) the facility meet ~~[all applicable]~~ each building, safety, ~~[zoning,]~~ land use, and
 4002 health ~~[ordinances]~~ ordinance applicable to similar dwellings;

4003 (b) adequate off-street parking space be provided;

4004 (c) the facility be capable of use as a residential facility for elderly persons without
 4005 structural or landscaping alterations that would change the structure's residential character;

4006 (d) residential facilities for elderly persons be reasonably dispersed throughout the
 4007 county;

4008 (e) no person being treated for alcoholism or drug abuse be placed in a residential
 4009 facility for elderly persons; and

4010 (f) placement in a residential facility for elderly persons be on a strictly voluntary basis
 4011 and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional
 4012 facility.

4013 Section 120. Section **17-27a-517**, which is renumbered from Section 17-27-503 is
 4014 renumbered and amended to read:

4015 ~~[17-27-503].~~ **17-27a-517. County approval of elderly residential facilities.**

4016 (1) ~~[(a)]~~ Upon application for a permit to establish a residential facility for elderly
 4017 persons in any area where residential dwellings are allowed, except an area zoned to permit
 4018 exclusively single-family dwellings, the county ~~[may decide only whether or not the residential~~
 4019 ~~facility for elderly persons conforms to ordinances adopted by the county under this part]~~ shall
 4020 grant the requested permit to the facility if the facility is proposed outside of a zone regulated
 4021 exclusively for single-family homes and shall otherwise comply with Section 17-27a-518 if the
 4022 facility is proposed in a land use zone regulated exclusively for single-family homes.

4023 ~~[(b) If the county determines that the residential facility for elderly persons complies~~
 4024 ~~with the ordinances, it shall grant the requested permit to that facility.]~~

4025 (2) The use granted and permitted by this section is nontransferable and terminates if
 4026 the structure is devoted to a use other than a residential facility for elderly persons or if the

4027 structure fails to comply with the ordinances adopted under this ~~[part]~~ section.

4028 (3) If a county has not adopted ordinances under this ~~[part]~~ section at the time an
 4029 application for a permit to establish a residential facility for elderly persons is made, the county
 4030 shall grant the permit if it is established that the criteria set forth in this part have been met by
 4031 the facility.

4032 Section 121. Section **17-27a-518**, which is renumbered from Section 17-27-504 is
 4033 renumbered and amended to read:

4034 ~~[17-27-504]~~. **17-27a-518. Elderly residential facilities in areas zoned**
 4035 **exclusively for single-family dwellings.**

4036 (1) For purposes of this section:

4037 (a) no person who is being treated for alcoholism or drug abuse may be placed in a
 4038 residential facility for elderly persons; and

4039 (b) placement in a residential facility for elderly persons shall be on a strictly voluntary
 4040 basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a
 4041 correctional institution.

4042 (2) Subject to the granting of a conditional use permit, a residential facility for elderly
 4043 persons shall be allowed in any ~~[county zoning district]~~ zone that is ~~[zoned]~~ regulated to permit
 4044 exclusively single-family dwelling use, if that facility:

4045 (a) conforms to all applicable health, safety, ~~[zoning]~~ land use, and building codes;

4046 (b) is capable of use as a residential facility for elderly persons without structural or
 4047 landscaping alterations that would change the structure's residential character; and

4048 (c) conforms to the county's criteria, adopted by ordinance, governing the location of
 4049 residential facilities for elderly persons in areas zoned to permit exclusively single-family
 4050 dwellings.

4051 (3) A county may, by ordinance, provide that no residential facility for elderly persons
 4052 be established within three-quarters mile of another existing residential facility for elderly
 4053 persons or residential facility for persons with a disability~~[-as defined by Section 17-27-605]~~.

4054 (4) The use granted and permitted by this section is nontransferable and terminates if
 4055 the structure is devoted to a use other than as a residential facility for elderly persons or if the
 4056 structure fails to comply with applicable health, safety, and building codes.

4057 (5) (a) County ordinances shall prohibit discrimination against elderly persons and

4058 against residential facilities for elderly persons.

4059 (b) The decision of a county regarding the application for a permit by a residential
4060 facility for elderly persons must be based on legitimate land use criteria and may not be based
4061 on the age of the facility's residents.

4062 (6) The requirements of this section that a residential facility for elderly persons obtain
4063 a conditional use permit or other permit do not apply if the facility meets the requirements of
4064 existing [~~zoning~~] land use ordinances that allow a specified number of unrelated persons to live
4065 together.

4066 Section 122. Section **17-27a-519**, which is renumbered from Section 17-27-605 is
4067 renumbered and amended to read:

4068 [~~17-27-605~~]. **17-27a-519. Residences for persons with a disability.**

4069 [~~(1) As used in this section:~~]

4070 [~~(a) "Disability" is defined in Section 57-21-2.~~]

4071 [~~(b) "Residential facility for persons with a disability" means a residence:]~~

4072 [~~(i) in which more than one person with a disability resides, and]~~

4073 [~~(ii) (A) is licensed or certified by the Department of Human Services under Title 62A,
4074 Chapter 2, Licensure of Programs and Facilities, or]~~

4075 [~~(B) is licensed or certified by the Department of Health under Title 26, Chapter 21,
4076 Health Care Facility Licensing and Inspection Act.]~~

4077 [~~(2)~~] (1) Each county shall adopt an ordinance for residential facilities for persons with
4078 a disability.

4079 [~~(3)~~] (2) Each ordinance under Subsection [~~(2)~~] (1) shall:

4080 (a) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair
4081 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and

4082 (b) to the extent required by federal law, provide that a residential facility for persons
4083 with a disability is a permitted use in any [~~zoning area~~] zone where similar residential
4084 dwellings that are not residential facilities for persons with a disability are allowed.

4085 [~~(4)~~] (3) Subject to Subsection [~~(3)~~] (2), an ordinance under Subsection [~~(2)~~] (1) may:

4086 (a) require residential facilities for persons with a disability:

4087 (i) to be reasonably dispersed throughout the county;

4088 (ii) to be limited by number of occupants;

4089 (iii) for residential facilities for persons with a disability that are substance abuse
 4090 facilities and are located within 500 feet of a school, to provide, in accordance with rules
 4091 established by the Department of Human Services under Title 62A, Chapter 2, Licensure of
 4092 Programs and Facilities:

4093 (A) a security plan satisfactory to local law enforcement authorities;

4094 (B) 24-hour supervision for residents; and

4095 (C) other 24-hour security measures; and

4096 (iv) to obtain permits that verify compliance with the same building, safety, and health
 4097 regulations as are applicable in the same ~~[zoning area]~~ zone to similar uses that are not
 4098 residential facilities for persons with a disability; and

4099 (b) provide that a residential facility for persons with a disability that would likely
 4100 create a fundamental change in the character of a residential neighborhood may be excluded
 4101 from a ~~[zoning area]~~ zone.

4102 ~~[(5)]~~ (4) The responsibility to license programs or entities that operate facilities for
 4103 persons with a disability, as well as to require and monitor the provision of adequate services to
 4104 persons residing in those facilities, shall rest with:

4105 (a) for programs or entities licensed or certified by the Department of Human Services,
 4106 the Department of Human Services as provided in Title 62A, Chapter 5, Services to People
 4107 with Disabilities; and

4108 (b) for programs or entities licensed or certified by the Department of Health, the
 4109 Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and
 4110 Inspection Act.

4111 Section 123. Section **17-27a-601**, which is renumbered from Section 17-27-801 is
 4112 renumbered and amended to read:

4113 **Part 6. Subdivisions**

4114 ~~[17-27-801]~~. **17-27a-601. Enactment of subdivision ordinance.**

4115 (1) The legislative body of ~~[any]~~ a county may enact ~~[a subdivision ordinance]~~
 4116 ordinances requiring that a subdivision plat comply with the provisions of the ~~[subdivision]~~
 4117 ordinance and ~~[be approved as required by]~~ this part before:

4118 ~~[(1)]~~ (a) it may be filed or recorded in the county recorder's office; and

4119 ~~[(2)]~~ (b) lots may be sold.

4120 (2) If the legislative body fails to enact a subdivision ordinance, the county may
 4121 regulate subdivisions only as provided in this Part 6.

4122 Section 124. Section **17-27a-602**, which is renumbered from Section 17-27-802 is
 4123 renumbered and amended to read:

4124 ~~[17-27-802].~~ **17-27a-602. Preparation -- Adoption/amendment.**

4125 (1) The planning commission shall:

4126 (a) prepare and recommend a proposed ~~[subdivision]~~ ordinance to the legislative body
 4127 that regulates the subdivision of land;

4128 (b) prepare and recommend or consider and recommend a proposed ordinance that
 4129 amends the regulation of the subdivision of the unincorporated land in the county;

4130 (c) provide notice consistent with Section 17-27a-205; and

4131 ~~[(b)]~~ (d) hold a public hearing on the proposed [subdivision] ordinance before making
 4132 its final recommendation to the legislative body[; and].

4133 ~~[(c) provide reasonable notice of the public hearing at least 14 days before the date of~~
 4134 ~~the hearing.]~~

4135 ~~[(2) The legislative body shall:]~~

4136 ~~[(a) hold a public hearing on the proposed subdivision ordinance recommended to it by~~
 4137 ~~the planning commission; and]~~

4138 ~~[(b) provide reasonable notice of the public hearing at least 14 days before the date of~~
 4139 ~~the hearing.]~~

4140 ~~[(3) After the public hearing, the]~~

4141 (2) The county legislative body may[; (a)] adopt or reject the [subdivision] ordinance
 4142 either as proposed[; (b) amend the subdivision ordinance and adopt or reject it as amended; or
 4143 (c) reject the ordinance] by the planning commission or after making any revision the county
 4144 legislative body considers appropriate.

4145 Section 125. Section **17-27a-603**, which is renumbered from Section 17-27-804 is
 4146 renumbered and amended to read:

4147 ~~[17-27-804].~~ **17-27a-603. Plats required.**

4148 (1) Unless exempt under Section ~~[17-27-806]~~ 17-27a-605 or ~~[not included in the]~~
 4149 excluded from the definition of [a] subdivision under Subsection ~~[17-27-103(1)]~~

4150 17-27a-103(37), whenever any [lands are divided] land is laid out and platted, the owner of

4151 ~~[those lands]~~ the land shall ~~[have]~~ provide an accurate plat ~~[made of them that sets forth and~~
 4152 ~~describes: (a) all]~~ that describes or specifies:

4153 (a) a name or designation of the subdivision that is distinct from any plat already
 4154 recorded in the county recorder's office;

4155 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
 4156 their boundaries, course, and extent, [and] whether [they are intended for streets or] the owner
 4157 proposes that any parcel of ground is intended be used as a street or for any other public [uses,
 4158 together with any areas that are reserved for public purposes; and] use, and whether any such
 4159 area is reserved or proposed for dedication for a public purpose;

4160 ~~[(b)]~~ (c) the lot or unit reference, [the] block or building reference, [the] street or site
 4161 address, [the] street name or coordinate address, [the] acreage or square footage for all parcels,
 4162 units, or lots, and [the] length and width of the blocks and lots intended for sale[-]; and

4163 (d) every existing right-of-way and easement grant of record for underground facilities,
 4164 as defined in Section 54-8a-2, and for other utility facilities.

4165 (2) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's
 4166 ordinances and this part and has been approved by the culinary water authority and the sanitary
 4167 sewer authority, the county shall approve the plat.

4168 (3) The county may withhold an otherwise valid plat approval until the owner of the
 4169 land provides the legislative body with a tax clearance indicating that all taxes, interest, and
 4170 penalties owing on the land have been paid.

4171 ~~[(2)]~~ (4) (a) The owner of the land shall acknowledge the plat before an officer
 4172 authorized by law to take the acknowledgment of conveyances of real estate and shall obtain
 4173 the signature of each individual designated by the county.

4174 (b) The surveyor making the plat shall certify [it:] that the surveyor:

4175 ~~[(c) The county executive shall approve the plat as provided in this part. Before the~~
 4176 ~~county executive may approve a plat, the owner of the land shall provide the county executive~~
 4177 ~~with a tax clearance indicating that all taxes, interest, and penalties owing on the land have~~
 4178 ~~been paid.]~~

4179 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
 4180 Land Surveyors Licensing Act;

4181 (ii) has completed a survey of the property described on the plat in accordance with

4182 Section 17-23-17 and has verified all measurements; and

4183 (iii) has placed monuments as represented on the plat.

4184 (c) As applicable, the owner or operator of the underground and utility facilities shall
4185 approve the:

4186 (i) boundary, course, dimensions, and intended use of the right-of-way and easement
4187 grants of record;

4188 (ii) location of existing underground and utility facilities; and

4189 (iii) conditions or restrictions governing the location of the facilities within the
4190 right-of-way, and easement grants of records, and utility facilities within the subdivision.

4191 ~~[(3)]~~ (5) (a) After the plat has been acknowledged, certified, and approved, the owner
4192 of the land shall, ~~[subject to Subsection (3)(b)]~~ within the time period designated by ordinance,
4193 record [it] the plat in the county recorder's office in the county in which the lands platted and
4194 laid out are situated.

4195 ~~[(b) An owner of land may not submit for recording a plat that gives the subdivision~~
4196 ~~described in the plat the same name as a subdivision in a plat already recorded in the county~~
4197 ~~recorder's office.]~~

4198 (b) An owner's failure to record a plat within the time period designated by ordinance
4199 renders the plat voidable.

4200 Section 126. Section **17-27a-604**, which is renumbered from Section 17-27-805 is
4201 renumbered and amended to read:

4202 ~~[17-27-805].~~ **17-27a-604. Subdivision approval procedure.**

4203 (1) A person may not submit a ~~[plat of a]~~ subdivision plat to the county recorder's
4204 office for recording unless a recommendation has been received from the planning commission
4205 and:

4206 (a) the plat has been approved by:

4207 ~~[(i) the executive of the county in whose unincorporated area the subdivision is~~
4208 ~~located; or]~~

4209 (i) the land use authority; and

4210 (ii) other officers that the county [legislative body] designates in [an] its ordinance; and

4211 (b) [the approval is] all approvals are entered in writing on the plat by [the county
4212 executive or by the other officers designated in the ordinance] designated officers.

4213 (2) A [~~subdivision~~] plat recorded without the [~~approval~~] signatures required under this
 4214 section is void.

4215 (3) Any transfer of land pursuant to a void plat is voidable.

4216 Section 127. Section **17-27a-605**, which is renumbered from Section 17-27-806 is
 4217 renumbered and amended to read:

4218 ~~[17-27-806].~~ **17-27a-605. Exemptions from plat requirement.**

4219 [~~(1) (a) Notwithstanding Sections 17-27-804 and 17-27-805, a person may submit to~~
 4220 ~~the county recorder's office for recording a document that subdivides property by metes and~~
 4221 ~~bounds into less than ten lots, without the necessity of recording a plat, if:]~~

4222 [~~(i) the planning commission, if required by county ordinance, has given the county~~
 4223 ~~executive its recommendation, whether favorable or not; and]~~

4224 [~~(ii) the document contains a certificate or written approval from:]~~

4225 [~~(A) the executive of the county in whose unincorporated area the property is located;~~
 4226 ~~or]~~

4227 [~~(B) other officers that the county legislative body designates in an ordinance.]~~

4228 [~~(b) By indicating its approval on a document under Subsection (1)(a), the county~~
 4229 ~~executive or other officer designated by the county legislative body certifies that:]~~

4230 [~~(i) the planning commission:]~~

4231 [~~(A) has given its recommendation to the county executive; or]~~

4232 [~~(B) is not required by county ordinance to give its recommendation;]~~

4233 [~~(ii) the subdivision]~~

4234 (1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority may
 4235 approve the subdivision of unincorporated land into ten lots or less without a plat, by certifying
 4236 in writing that:

4237 (a) the county has provided notice as required by ordinance and by Sections
 4238 17-27a-206 and 17-27a-207;

4239 (b) the proposed subdivision:

4240 (i) is not traversed by the mapped lines of a proposed street as shown in the general
 4241 plan and does not require the dedication of any land for street or other public purposes; [and]

4242 [~~(iii) if the subdivision]~~

4243 (ii) has been approved by the culinary water authority and the sanitary sewer authority;

4244 (iii) is located in a zoned area~~[, each lot in the subdivision meets the frontage, width,~~
4245 ~~and area requirements of the zoning ordinance or has been granted]; and~~

4246 (iv) conforms to all applicable land use ordinances or has properly received a variance
4247 ~~from [those requirements by the board of adjustment.]~~ the requirements of an otherwise
4248 conflicting and applicable land use ordinance.

4249 (2) (a) Subject to Subsection ~~[(2)(b)]~~ (1), a lot or parcel resulting from a division of
4250 agricultural land is exempt from the plat requirements of Section ~~[17-27-804]~~ 17-27a-603 if the
4251 lot or parcel:

4252 (i) qualifies as land in agricultural use under Title 59, Chapter 2, Part 5, Farmland
4253 Assessment Act;

4254 (ii) meets the minimum size requirement of applicable ~~[zoning]~~ land use ordinances
4255 ~~[for agricultural uses]; and~~

4256 (iii) is not used and will not be used for any nonagricultural purpose.

4257 (b) ~~[(i)]~~ The ~~[county legislative body may adopt an ordinance requiring the]~~ boundaries
4258 of each lot or parcel exempted under Subsection ~~[(2)(a) to]~~ (1) shall be graphically illustrated
4259 on a record of survey map that, after receiving the same approvals as are required for a plat
4260 under Section ~~[17-27-805]~~ 17-27a-604, shall be recorded with the county recorder.

4261 ~~[(ii) As an alternative to enacting an ordinance under Subsection (2)(b)(i), a county~~
4262 ~~legislative body may establish a procedure under which a notice, covenant, or other specified~~
4263 ~~legal instrument containing a legal description of the subject property and identifying the~~
4264 ~~agricultural purpose for the land division is recorded with the county recorder.]~~

4265 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural
4266 purpose, the county ~~[in whose unincorporated area the lot or parcel is located]~~ may require the
4267 lot or parcel to comply with the requirements of Section ~~[17-27-804]~~ 17-27a-603.

4268 (3) (a) Documents recorded in the county recorder's office that divide property by a
4269 metes and bounds description do not create ~~[a]~~ an approved subdivision allowed by this part
4270 unless the land use authority's certificate of written approval required by Subsection (1)(a)(ii) is
4271 attached to the document.

4272 (b) The absence of the certificate or written approval required by Subsection (1)~~[(a)(ii)]~~
4273 does not affect the validity of a recorded document.

4274 (c) A document ~~[recorded under Subsection (1)(a)]~~ which does not meet the

4275 requirements of Subsection (1)[(a)(ii)] may be corrected [~~to comply with Subsection (1)(a)(ii)]~~
 4276 by the recording of an affidavit to which the required certificate or written approval is attached
 4277 in accordance with Section 57-3-106.

4278 Section 128. Section **17-27a-606**, which is renumbered from Section 17-27-806.5 is
 4279 renumbered and amended to read:

4280 ~~[17-27-806.5].~~ **17-27a-606. Common area parcels on a plat -- No separate**
 4281 **ownership -- Ownership interest equally divided among other parcels on plat and**
 4282 **included in description of other parcels.**

4283 (1) A parcel designated as common area on a plat recorded in compliance with this part
 4284 may not be separately owned or conveyed independent of the other parcels created by the plat.

4285 (2) The ownership interest in a parcel described in Subsection (1) shall:

4286 (a) for purposes of assessment, be divided equally among all parcels created by the
 4287 plat, unless a different division of interest for assessment purposes is indicated on the plat or an
 4288 accompanying recorded document; and

4289 (b) be considered to be included in the description of each instrument describing a
 4290 parcel on the plat by its identifying plat number, even if the common area interest is not
 4291 explicitly stated in the instrument.

4292 Section 129. Section **17-27a-607**, which is renumbered from Section 17-27-807 is
 4293 renumbered and amended to read:

4294 ~~[17-27-807].~~ **17-27a-607. Dedication of streets.**

4295 (1) Plats, when made, acknowledged, and recorded according to the procedures
 4296 specified in this part, operate as a dedication of all streets and other public places, and vest the
 4297 fee of those parcels of land in the county for the public for the uses named or intended in those
 4298 plats.

4299 (2) The dedication established by this section does not impose liability upon the county
 4300 for streets and other public places that are dedicated in this manner but are unimproved.

4301 Section 130. Section **17-27a-608**, which is renumbered from Section 17-27-808 is
 4302 renumbered and amended to read:

4303 ~~[17-27-808].~~ **17-27a-608. Vacating or changing a subdivision plat.**

4304 (1) (a) Subject to [~~Subsection (2), the county executive or any other officer that the~~
 4305 ~~county legislative body designates by ordinance]~~ Section 17-27a-610, and provided that notice

4306 has been given pursuant to local ordinance and Section 17-27a-208, the land use authority,
4307 may, with or without a petition, consider and resolve any proposed vacation, alteration, or
4308 amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley
4309 contained in a subdivision plat [~~at a public hearing~~].

4310 (b) If a petition is filed, the [~~responsible officer~~] land use authority shall hold [~~the~~] a
4311 public hearing within 45 days after receipt of the planning commission's recommendation
4312 under Subsection (2) if:

4313 (i) the plat change includes the vacation of a public street or alley;

4314 (ii) any owner within the plat notifies the [~~municipality~~] county of their objection in
4315 writing within ten days of mailed notification; or

4316 (iii) a public hearing is required because all of the owners in the subdivision have not
4317 signed the revised plat.

4318 [~~(2) (a) Before the county legislative body or officer designated by the county~~
4319 ~~legislative body may consider~~]

4320 (2) (a) The planning commission shall consider and shall provide a recommendation
4321 for a proposed vacation, alteration, or amendment under Subsection (1)(a) or (6)[, the county
4322 legislative body or officer shall refer the proposal to the planning commission for its
4323 recommendation] before the land use authority takes final action.

4324 (b) The planning commission shall give its recommendation within 30 days after the
4325 proposed vacation, alteration, or amendment is referred to it, or as that time period is extended
4326 by agreement with the applicant.

4327 (3) Any fee owner, as shown on the last county assessment rolls, of land within the
4328 subdivision that has been laid out and platted as provided in this part may, in writing, petition
4329 [~~the county executive~~] to have the plat, any portion of it, or any street or lot contained in it,
4330 vacated, altered, or amended as provided in this section.

4331 (4) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street
4332 or lot contained in a plat shall include:

4333 (a) the name and address of all owners of record of the land contained in the entire plat;

4334 (b) the name and address of all owners of record of land adjacent to any street that is
4335 proposed to be vacated, altered, or amended; and

4336 (c) the signature of each of these owners who consents to the petition.

4337 (5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may
4338 not be scheduled for consideration at a public hearing before the ~~[responsible officer]~~ planning
4339 commission until the notice required by ~~[this part]~~ Section 17-27a-207 or 17-27a-208, as
4340 applicable, is given.

4341 (b) The petitioner shall pay the cost of the notice.

4342 (6) Subject to Subsection (2), if the ~~[responsible body or officer]~~ applicant proposes to
4343 vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat,
4344 ~~[they]~~ the planning commission shall consider the issue at a public hearing after giving the
4345 notice required by ~~[this part]~~ Section 17-27a-207 or 17-27a-208, as applicable.

4346 (7) (a) The owners of record of adjacent parcels that are described by either a metes
4347 and bounds description or a recorded plat may exchange title to portions of those parcels if the
4348 exchange of title is approved by the ~~[planning commission, or such other person or board as the~~
4349 ~~county legislative body may designate,]~~ land use authority in accordance with Subsection
4350 (7)(b).

4351 (b) The ~~[planning commission, or such other person or board as the county legislative~~
4352 ~~body may designate,]~~ land use authority shall approve an exchange of title under Subsection
4353 (7)(a) if:

4354 (i) no new dwelling lot or housing unit will result from the exchange of title; and

4355 (ii) the exchange of title will not result in a violation of ~~[applicable zoning~~
4356 ~~requirements]~~ any land use ordinance.

4357 (c) If an exchange of title is approved under Subsection (7)(b), a notice of approval
4358 shall be recorded ~~[by the planning commission, or such other person or board as the county~~
4359 ~~legislative body may designate,]~~ in the office of the county recorder which:

4360 (i) is executed by each owner included in the exchange and by the ~~[planning~~
4361 ~~commission, or such other person or board as the county legislative body may designate]~~ land
4362 use authority;

4363 (ii) contains an acknowledgment for each party executing the notice in accordance with
4364 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

4365 (iii) recites the descriptions of both the original parcels and the parcels created by the
4366 exchange of title.

4367 (d) A notice of approval recorded under this Subsection (7) does not act as a

4368 conveyance of title to real property and is not required for the recording of a document
 4369 purporting to convey title to real property.

4370 (8) (a) The name of a recorded subdivision may be changed by recording an amended
 4371 plat making that change, as provided in this section and subject to Subsection (8)(c).

4372 (b) The surveyor [~~making~~] preparing the amended plat shall certify [~~it.~~] that the
 4373 surveyor:

4374 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
 4375 Land Surveyors Licensing Act;

4376 (ii) has completed a survey of the property described on the plat in accordance with
 4377 Section 17-23-17 and has verified all measurements; and

4378 (iii) has placed monuments as represented on the plat;

4379 (c) An owner of land may not submit for recording an amended plat that gives the
 4380 subdivision described in the amended plat the same name as a subdivision in a plat already
 4381 recorded in the county recorder's office.

4382 (d) Except as provided in Subsection (8)(a), the recording of a declaration or other
 4383 document that purports to change the name of a recorded plat is [~~void~~] voidable.

4384 Section 131. Section **17-27a-609**, which is renumbered from Section 17-27-810 is
 4385 renumbered and amended to read:

4386 [~~17-27-810~~]. **17-27a-609. Grounds for vacating or changing a plat.**

4387 (1) [~~(a)~~] Within 30 days after the public hearing required by this part, [~~the responsible~~
 4388 ~~officer~~] or as that time period may be extended by agreement of the parties, the land use
 4389 authority shall consider the petition to vacate or change a plat.

4390 [~~(b)~~] (2) If the [~~responsible officer~~] land use authority is satisfied that the public will
 4391 not be materially injured by the proposed vacation, alteration, or amendment, and that there is
 4392 good cause for the vacation, alteration, or amendment, the county executive may vacate, alter,
 4393 or amend the plat, any portion of the plat, or any street or lot.

4394 [~~(c)~~] (3) The [~~responsible officer~~] land use authority may approve the vacation,
 4395 alteration, or amendment by resolution, amended plat, administrative order, or deed containing
 4396 a stamp or mark indicating approval by the [~~responsible officer~~] land use authority.

4397 [~~(d)~~] (4) The [~~responsible officer~~] land use authority shall ensure that the vacation,
 4398 alteration, or amendment is recorded in the office of the county recorder in which the land is

4399 located.

4400 ~~[(2) An aggrieved party may appeal the responsible officer's decision to the board of~~
4401 ~~adjustment.]~~

4402 (5) The action of the land use authority vacating or narrowing a street or alley which
4403 has been dedicated to public use shall operate to the extent which it is vacated or narrowed,
4404 upon the effective date of the vacating ordinance, as a revocation of the acceptance thereof, and
4405 the relinquishment of the county's fee therein, but the right-of-way and easements therein, if
4406 any, of any lot owner and the franchise rights of any public utility shall not be impaired
4407 thereby.

4408 Section 132. Section **17-27a-610**, which is renumbered from Section 17-27-901 is
4409 renumbered and amended to read:

4410 ~~[17-27-901].~~ **17-27a-610. Restrictions for solar and other energy devices.**

4411 ~~[(1) The legislative body, in order to protect and ensure access to sunlight for solar~~
4412 ~~energy devices, may adopt regulations governing legislative subdivision development plans~~
4413 ~~that relate to the use of restrictive covenants or solar easements, height restrictions, side yard~~
4414 ~~and setback requirements, street and building orientation and width requirements, height and~~
4415 ~~location of vegetation with respect to property boundary lines, and other permissible forms of~~
4416 ~~land use controls.]~~

4417 ~~[(2) The county executive]~~

4418 The land use authority may refuse to approve or renew any plat [or], subdivision plan,
4419 or dedication of any street or other ground, if [the] deed restrictions, covenants, or similar
4420 binding agreements running with the land for the lots or parcels covered by the plat or
4421 subdivision prohibit, or have the effect of prohibiting reasonably sited and designed solar
4422 collectors, clotheslines, or other energy devices based on renewable resources from being
4423 installed on buildings erected on lots or parcels covered by the plat or subdivision.

4424 Section 133. Section **17-27a-611**, which is renumbered from Section 17-27-811 is
4425 renumbered and amended to read:

4426 ~~[17-27-811].~~ **17-27a-611. Prohibited acts.**

4427 (1) (a) An owner of any land located in a subdivision[~~, as defined in this chapter,~~] who
4428 transfers or sells any land in that subdivision before a plat of the subdivision has been approved
4429 and recorded [~~as required in this part~~] violates this part for each lot or parcel transferred or

4430 sold.

4431 (b) The description by metes and bounds in [~~the~~] an instrument of transfer or other
4432 documents used in the process of selling or transferring does not exempt the transaction from
4433 being a violation of Subsection (1)(a) or from the penalties or remedies provided in this
4434 chapter.

4435 (c) Notwithstanding any other provision of this Subsection (1), the recording of an
4436 instrument of transfer or other document used in the process of selling or transferring real
4437 property that violates this part:

- 4438 (i) does not affect the validity of the instrument or other document; and
- 4439 (ii) does not affect whether the property that is the subject of the instrument or other
4440 document complies with applicable county ordinances on land use and development.

4441 (2) (a) A county may bring an action against an owner to require the property to
4442 conform to the provisions of this part or an ordinance enacted under the authority of this part.

4443 (b) An action under this Subsection (2) may include an injunction, abatement, merger
4444 of title, or any other appropriate action or [~~proceedings~~] proceeding to prevent, enjoin, or abate
4445 the violation.

4446 (c) A county need only establish the violation to obtain the injunction.

4447 Section 134. Section **17-27a-701** is enacted to read:

4448 **Part 7. Appeal Authority and Variances**

4449 **17-27a-701. Appeal authority required -- Condition precedent to judicial review.**

4450 (1) Each county adopting a land use ordinance shall, by ordinance, establish an appeal
4451 authority to hear and decide:

- 4452 (a) requests for variances from the terms of the land use ordinances; and
- 4453 (b) appeals from decisions applying the land use ordinances.

4454 (2) As a condition precedent to judicial review, an adversely affected person must
4455 timely and specifically challenge a land use authority's decision, in accordance with local
4456 ordinance.

4457 (3) An appeal authority:

- 4458 (a) shall act in a quasi-judicial manner;
- 4459 (b) shall serve as the final arbiter of issues involving the interpretation or application of
4460 land use ordinances; and

4461 (c) may not entertain an appeal of a matter in which the appeal authority, or any
 4462 participating member of the appeal authority had first acted as the land use authority.

4463 (4) By ordinance, a county may:

4464 (a) designate a separate appeal authority to hear requests for variances than the appeal
 4465 authority it designates to hear appeals;

4466 (b) designate one or more separate appeal authorities to hear distinct types of appeals
 4467 of land use authority decisions;

4468 (c) require an adversely affected party to preserve before an appeal authority every
 4469 theory of relief that it can raise in district court; or

4470 (d) not require an adversely affected party to pursue duplicate or successive appeals
 4471 before the same or separate appeal authorities as a condition of the adversely affected party's
 4472 duty to exhaust administrative remedies.

4473 (5) If the county establishes or, prior to the effective date of this chapter, has
 4474 established a multiperson board, body, or panel to act as an appeal authority, at a minimum, the
 4475 board, body, or panel shall:

4476 (a) notify each of its members of any meeting or hearing of the board, body, or panel;

4477 (b) provide each of its members with the same information and access to municipal
 4478 resources as any other member;

4479 (c) convene only if a quorum of its members are present; and

4480 (d) act only upon the vote of a majority of its convened members.

4481 Section 135. Section **17-27a-702**, which is renumbered from Section 17-27-707 is
 4482 renumbered and amended to read:

4483 ~~[17-27-707]~~. **17-27a-702. Variances.**

4484 (1) Any person or entity desiring a waiver or modification of the requirements of [~~the~~
 4485 ~~zoning~~] land use ordinance as applied to a parcel of property that he owns, leases, or in which
 4486 he holds some other beneficial interest may apply to the [~~board of adjustment~~] applicable
 4487 appeal authority for a variance from the terms of the [~~zoning~~] ordinance.

4488 (2) (a) The [~~board of adjustment~~] appeal authority may grant a variance only if:

4489 (i) literal enforcement of the [~~zoning~~] ordinance would cause an unreasonable hardship
 4490 for the applicant that is not necessary to carry out the general purpose of the [~~zoning ordinance~~]
 4491 land use ordinances;

4492 (ii) there are special circumstances attached to the property that do not generally apply
4493 to other properties in the same [~~district~~] zone;

4494 (iii) granting the variance is essential to the enjoyment of a substantial property right
4495 possessed by other property in the same [~~district~~] zone;

4496 (iv) the variance will not substantially affect the general plan and will not be contrary
4497 to the public interest; and

4498 (v) the spirit of the [~~zoning~~] land use ordinance is observed and substantial justice
4499 done.

4500 (b) (i) In determining whether or not enforcement of the [~~zoning~~] land use ordinance
4501 would cause unreasonable hardship under Subsection (2)(a), the [~~board of adjustment~~] appeal
4502 authority may not find an unreasonable hardship unless the alleged hardship:

4503 (A) is located on or associated with the property for which the variance is sought; and

4504 (B) comes from circumstances peculiar to the property, not from conditions that are
4505 general to the neighborhood.

4506 (ii) In determining whether or not enforcement of the [~~zoning~~] land use ordinance
4507 would cause unreasonable hardship under Subsection (2)(a), the [~~board of adjustment~~] appeal
4508 authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

4509 (c) In determining whether or not there are special circumstances attached to the
4510 property under Subsection (2)(a), the [~~board of adjustment~~] appeal authority may find that
4511 special circumstances exist only if the special circumstances:

4512 (i) relate to the hardship complained of; and

4513 (ii) deprive the property of privileges granted to other properties in the same [~~district~~]
4514 zone.

4515 (3) The applicant shall bear the burden of proving that all of the conditions justifying a
4516 variance have been met.

4517 (4) Variances run with the land.

4518 (5) The [~~board of adjustment and any other body~~] appeal authority may not grant a use
4519 [~~variances~~] variance.

4520 (6) In granting a variance, the [~~board of adjustment~~] appeal authority may impose
4521 additional requirements on the applicant that will:

4522 (a) mitigate any harmful affects of the variance; or

4523 (b) serve the purpose of the standard or requirement that is waived or modified.

4524 Section 136. Section **17-27a-703** is enacted to read:

4525 **17-27a-703. Standing before appeal authority.**

4526 The applicant, a board or officer of the county, or any person adversely affected by the
4527 land use authority's decision administering or interpreting a land use ordinance may, within the
4528 time period provided by ordinance, appeal that decision to the appeal authority by alleging that
4529 there is error in any order, requirement, decision, or determination made by the land use
4530 authority in the administration or interpretation of the land use ordinance.

4531 Section 137. Section **17-27a-704** is enacted to read:

4532 **17-27a-704. Time appeal.**

4533 (1) The county shall enact an ordinance establishing a reasonable time to appeal a
4534 decision of a land use authority to an appeal authority.

4535 (2) In the absence of such an ordinance, and at a minimum, an adversely affected party
4536 shall have ten calendar days to appeal.

4537 Section 138. Section **17-27a-705** is enacted to read:

4538 **17-27a-705. Burden of proof.**

4539 The appellant has the burden of proving that the land use authority erred.

4540 Section 139. Section **17-27a-706** is enacted to read:

4541 **17-27a-706. Due process.**

4542 (1) Each appeal authority shall conduct each appeal and variance request, as described
4543 by local ordinance.

4544 (2) Each appeal authority shall respect the due process rights of each of the
4545 participants.

4546 Section 140. Section **17-27a-707** is enacted to read:

4547 **17-27a-707. Standard of review for appeals.**

4548 (1) A county may, by ordinance, designate the standard of review for appeals of land
4549 use authority decisions.

4550 (2) If the county fails to designate a standard of review of factual matters, the appeal
4551 authority shall review the matter de novo.

4552 (3) The appeal authority shall determine the correctness of a decision of the land use
4553 authority in its interpretation and application of a land use ordinance.

4554 (4) Only those decisions in which a land use authority has applied a land use ordinance
 4555 to a particular application, person or parcel may be appealed an appeal authority.

4556 Section 141. Section **17-27a-708** is enacted to read:

4557 **17-27a-708. Final decision.**

4558 (1) A decision of an appeal authority takes effect on the date when the appeal authority
 4559 issues a written decision or as otherwise provided by local ordinance.

4560 (2) A written decision, or other event as provided by ordinance, constitutes a final
 4561 decision under Subsection 17-27a-802(2)(a) or a final action under Subsection 17-27a-801(4).

4562 Section 142. Section **17-27a-801**, which is renumbered from Section 17-27-1001 is
 4563 renumbered and amended to read:

4564 **Part 8. District Court Appeal**

4565 ~~[17-27-1001].~~ **17-27a-801. Appeals to district court.**

4566 (1) No person may challenge in district court a county's land use ~~[decisions]~~ decision
 4567 made under this chapter, or under [the] a regulation made under authority of this chapter until
 4568 that person has exhausted [aH] his administrative remedies as provided in Part 7, Appeal
 4569 Authority and Variances.

4570 (2) (a) Any person adversely affected by ~~[any]~~ a final decision made in the exercise of
 4571 or in violation of the provisions of this chapter may file a petition for review of the decision
 4572 with the district court within 30 days after the local land use decision is ~~[rendered]~~ final.

4573 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a
 4574 property owner files a request for arbitration of a constitutional taking issue with the property
 4575 rights ombudsman under Section 63-34-13 until 30 days after:

4576 (A) the arbitrator issues a final award; or

4577 (B) the property rights ombudsman issues a written statement under Subsection
 4578 63-34-13(4)(b) declining to arbitrate or to appoint an arbitrator.

4579 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
 4580 taking issue that is the subject of the request for arbitration filed with the property rights
 4581 ombudsman by a property owner.

4582 (iii) A request for arbitration filed with the property rights ombudsman after the time
 4583 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

4584 (3) (a) The courts shall:

- 4585 (i) presume that land use ~~[decisions]~~ ordinances and regulations are valid; ~~[and]~~
4586 (ii) presume that appeal authority decisions are valid;
4587 ~~[(it)]~~ (iii) determine only whether or not the exercise of legislative discretion or the
4588 appeal authority's decision [is] was arbitrary, capricious, or illegal[-]; and
4589 (iv) provide relief from a county's noncompliance with its ordinances only to a party
4590 who establishes that the noncompliance has prejudiced the party and that the relief requested
4591 remedies the prejudice.
- 4592 (b) A determination of illegality under Subsection (3)(a)(iii) requires a determination
4593 that the decision violates ~~[a statute, ordinance, or existing law.]~~ an existing law, statute, or
4594 ordinance.
- 4595 (4) The provisions of Subsection (2)(a) apply from the date on which the county takes
4596 final action on a land use application for any adversely affected third party, if the county
4597 conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice
4598 of the pending application on or before the date of final action.
- 4599 (5) The provisions of Subsection (2) apply from the date on which the county enacts
4600 the ordinance or general plan provision for all ordinances and general plan provisions, if the
4601 county conforms with Section 17-27a-205.
- 4602 (6) The petition is barred unless it is filed within 30 days after the appeal authority's
4603 decision is final.
- 4604 (7) (a) The appeal authority shall transmit to the reviewing court the record of its
4605 proceedings including its minutes, findings, orders and, if available, a true and correct
4606 transcript of its proceedings.
- 4607 (b) If the proceeding was tape recorded, a transcript of that tape recording is a true and
4608 correct transcript for purposes of this Subsection (7).
- 4609 (8) (a) (i) If there is a record, the district court's review is limited to the record provided
4610 by the appeal authority.
- 4611 (ii) The court may not accept or consider any evidence outside the appeal authority's
4612 record unless that evidence was offered to the appeal authority and the court determines that it
4613 was improperly excluded.
- 4614 (b) If there is no record, the court may call witnesses and take evidence.
- 4615 (9) The court shall affirm the decision of the appeal authority if the decision is

4616 supported by substantial evidence in the record.

4617 (10) (a) The filing of a petition does not stay the decision of the appeal authority.

4618 (b) (i) Before filing a petition under this section or a request for mediation or
4619 arbitration of a constitutional taking issue under Section 63-34-13, the aggrieved party may
4620 petition the appeal authority to stay its decision.

4621 (ii) Upon receipt of a petition stay, the appeal authority may order its decision stayed
4622 pending district court review if the appeal authority finds it to be in the best interest of the
4623 county.

4624 (iii) After a petition is filed under this section or a request for mediation or arbitration
4625 of a constitutional taking issue is filed under Section 63-34-13, the petitioner may seek an
4626 injunction staying the appeal authority's decision.

4627 Section 143. Section **17-27a-802**, which is renumbered from Section 17-27-1002 is
4628 renumbered and amended to read:

4629 **[17-27-1002]. 17-27a-802. Enforcement.**

4630 (1) (a) A county~~[, county attorney,]~~ or any adversely affected owner of real estate
4631 within the county in which violations of this chapter or ordinances enacted under the authority
4632 of this chapter occur or are about to occur may, in addition to other remedies provided by law,
4633 institute:

4634 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
4635 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

4636 (b) A county need only establish the violation to obtain the injunction.

4637 (2) (a) The county may enforce the ordinance by withholding building permits.

4638 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any
4639 building or other structure within a county without approval of a building permit.

4640 (c) The county may not issue a building permit unless the plans of and for the proposed
4641 erection, construction, reconstruction, alteration, or use fully conform to all regulations then in
4642 effect.

4643 Section 144. Section **17-27a-803**, which is renumbered from Section 17-27-1003 is
4644 renumbered and amended to read:

4645 **[17-27-1003]. 17-27a-803. Penalties.**

4646 (1) The county [~~legislative body~~] may, by ordinance, establish civil penalties for

4647 violations of any of the provisions of this chapter or of any ordinances adopted under the
4648 authority of this chapter.

4649 (2) Violation of any of the provisions of this chapter or of any ordinances adopted
4650 under the authority of this chapter ~~[are]~~ is punishable as a class C misdemeanor upon
4651 conviction either:

4652 (a) as a class C misdemeanor; or

4653 (b) by imposing the appropriate civil penalty adopted under the authority of this
4654 section.

4655 Section 145. Section **17-34-6** is amended to read:

4656 **17-34-6. State to indemnify county regarding refusal to site nuclear waste --**
4657 **Terms and conditions.**

4658 If a county is challenged in a court of law regarding its decision to deny siting of a
4659 storage or transfer facility for the placement of high-level nuclear waste or greater than class C
4660 radioactive waste or its refusal to provide municipal-type services regarding the operation of
4661 the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless
4662 from any claims or damages, including court costs and attorney fees that are assessed as a result
4663 of the county's action, if:

4664 (1) the county has complied with the provisions of Subsection ~~[17-27-301]~~
4665 17-27a-401(3)(b) by adopting an ordinance rejecting all proposals for the siting of a storage or
4666 transfer facility for the placement of high-level nuclear waste or greater than class C
4667 radioactive waste wholly or partially within the boundaries of the county;

4668 (2) the county has complied with Subsection 17-34-1(3) regarding refusal to provide
4669 municipal-type services; and

4670 (3) the court challenge against the county addresses the county's actions in compliance
4671 with Subsection ~~[17-27-301]~~ 17-27a-401(3)(b) or ~~[Subsection]~~ 17-34-1(3).

4672 Section 146. Section **17-50-302** is amended to read:

4673 **17-50-302. General county powers.**

4674 (1) A county may:

4675 (a) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and
4676 collect special assessments for benefits conferred; and

4677 (b) provide services, exercise powers, and perform functions that are reasonably related

4678 to the safety, health, morals, and welfare of their inhabitants, except as limited or prohibited by
4679 statute.

4680 (2) (a) A county may:

4681 (i) sue and be sued;

4682 (ii) subject to Subsection (2)(c), acquire real property by tax sale, purchase, lease,
4683 contract, or gift, and hold the real property as necessary and proper for county purposes;

4684 (iii) (A) subject to Subsection (2)(b), acquire real property by condemnation, as
4685 provided in Title 78, Chapter 34, Eminent Domain; and

4686 (B) hold the real property as necessary and proper for county purposes;

4687 (iv) as may be necessary to the exercise of its powers, acquire personal property by
4688 purchase, lease, contract, or gift, and hold such personal property; and

4689 (v) manage and dispose of its property as the interests of its inhabitants may require.

4690 (b) (i) For purposes of Subsection (2)(a)(iii), water rights that are not appurtenant to
4691 land do not constitute real property that may be acquired by the county through condemnation.

4692 (ii) Nothing in Subsection (2)(a)(iii) may be construed to authorize a county to acquire
4693 by condemnation the rights to water unless the land to which those water rights are appurtenant
4694 is acquired by condemnation.

4695 (c) (i) Except as provided in Subsection (2)(c)(iv), each county intending to acquire
4696 real property for the purpose of expanding the county's infrastructure or other facilities used for
4697 providing services that the county offers or intends to offer shall provide written notice, as
4698 provided in this Subsection (2)(c), of its intent to acquire the property if:

4699 (A) the property is located:

4700 (I) outside the boundaries of the unincorporated area of the county; and

4701 (II) in a county of the first or second class; and

4702 (B) the intended use of the property is contrary to:

4703 (I) the anticipated use of the property under the general plan of the county in whose
4704 unincorporated area or the municipality in whose boundaries the property is located; or

4705 (II) the property's current zoning designation.

4706 (ii) Each notice under Subsection (2)(c)(i) shall:

4707 (A) indicate that the county intends to acquire real property;

4708 (B) identify the real property; and

- 4709 (C) be sent to:
- 4710 (I) each county in whose unincorporated area and each municipality in whose
4711 boundaries the property is located; and
- 4712 (II) each affected entity.
- 4713 (iii) A notice under this Subsection (2)(c) is a protected record as provided in
4714 Subsection 63-2-304(7).
- 4715 (iv) (A) The notice requirement of Subsection (2)(c)(i) does not apply if the county
4716 previously provided notice under Section [~~17-27-301.5~~] 17-27a-203 identifying the general
4717 location within the municipality or unincorporated part of the county where the property to be
4718 acquired is located.
- 4719 (B) If a county is not required to comply with the notice requirement of Subsection
4720 (2)(c)(i) because of application of Subsection (2)(c)(iv)(A), the county shall provide the notice
4721 specified in Subsection (2)(c)(i) as soon as practicable after its acquisition of the real property.
4722 Section 147. Section **17B-4-402** is amended to read:
- 4723 **17B-4-402. Process for adopting project area plan -- Prerequisites -- Restrictions.**
- 4724 (1) In order to adopt a project area plan, after adopting a resolution under Subsection
4725 17B-4-401(1) the agency shall:
- 4726 (a) prepare a draft of a project area plan and conduct any examination, investigation,
4727 and negotiation regarding the project area plan that the agency considers appropriate;
- 4728 (b) request input on the draft project area plan from the planning commission of the
4729 community in which the proposed project area is located;
- 4730 (c) make the draft project area plan available to the public at the agency's offices during
4731 normal business hours;
- 4732 (d) provide notice of the plan hearing as provided in Sections 17B-4-702 and
4733 17B-4-704;
- 4734 (e) hold a public hearing on the draft project area plan and, at that public hearing:
- 4735 (i) allow public comment on:
- 4736 (A) the draft project area plan; and
- 4737 (B) whether the draft project area plan should be revised, approved, or rejected; and
- 4738 (ii) receive all written and hear all oral objections to the draft project area plan;
- 4739 (f) before holding the plan hearing, provide an opportunity for the State Board of

4740 Education and each taxing entity that levies a tax on property within the proposed project area
4741 to consult with the agency regarding the draft project area plan;

4742 (g) if applicable, hold the election required under Subsection 17B-4-406(3);

4743 (h) for a redevelopment project area plan:

4744 (i) comply with the requirements of Part 6, Blight Determination in Redevelopment
4745 Project Areas;

4746 (ii) before providing notice of the plan hearing, hold at least one public hearing to:

4747 (A) inform the public about each area being considered for a redevelopment project
4748 area; and

4749 (B) allow public input into agency deliberations on proposing each redevelopment
4750 project area;

4751 (iii) select one or more project areas comprising part or all of the survey area; and

4752 (iv) before sending the first notice to assessment owners of property for a public input
4753 hearing, blight hearing, or combined public input and blight hearing, prepare and adopt
4754 guidelines setting forth and governing the reasonable opportunities of record property owners
4755 and tenants to participate in the redevelopment;

4756 (i) after holding the plan hearing, at the same meeting or at a subsequent meeting
4757 consider:

4758 (i) the oral and written objections to the draft project area plan and evidence and
4759 testimony for or against adoption of the draft project area plan; and

4760 (ii) whether to revise, approve, or reject the draft project area plan;

4761 (j) approve the draft project area plan, with or without revisions, as the project area
4762 plan by a resolution that complies with Section 17B-4-407; and

4763 (k) submit the project area plan to the community legislative body for adoption.

4764 (2) An agency may not propose a project area plan under Subsection (1) unless the
4765 community in which the proposed project area is located:

4766 (a) has a planning commission; and

4767 (b) has adopted a general plan under:

4768 (i) if the community is a city or town, Title 10, Chapter [9] 9a, Part [3] 4, General Plan;

4769 or

4770 (ii) if the community is a county, Title 17, Chapter [27] 27a, Part [3] 4, General Plan.

4771 (3) (a) Subject to Subsection (3)(b), an agency board may not approve a project area
4772 plan more than one year after:

4773 (i) for a redevelopment project area plan involving the use of eminent domain,
4774 adoption of a resolution making a finding of blight under Subsection 17B-4-601(4)(b); or
4775 (ii) for an economic development or education housing development project area plan,
4776 the date of the plan hearing.

4777 (b) If a project area plan is submitted to an election under Subsection 17B-4-406(3),
4778 the time between the plan hearing and the date of the election does not count for purposes of
4779 calculating the year period under Subsection (3)(a).

4780 (4) (a) Except as provided in Subsection (4)(b), a draft project area plan may not be
4781 modified to add real property to the proposed project area unless the board holds a plan hearing
4782 to consider the addition and gives notice of the plan hearing as required under Sections
4783 17B-4-702 and 17B-4-704.

4784 (b) The notice and hearing requirements under Subsection (4)(a) do not apply to a draft
4785 project area plan being modified to add real property to the proposed project area if:

4786 (i) the property is contiguous to the property already included in the proposed project
4787 area under the draft project area plan;

4788 (ii) the record owner of the property consents to adding the real property to the
4789 proposed project area; and

4790 (iii) for a redevelopment project area, the property is located within the survey area.

4791 Section 148. Section **57-3-101** is amended to read:

4792 **57-3-101. Certificate of acknowledgment, proof of execution, jurat, or other**
4793 **certificate required -- Notarial acts affecting real property -- Right to record documents**
4794 **unaffected by subdivision ordinances.**

4795 (1) A certificate of the acknowledgment of any document, or of the proof of the
4796 execution of any document, or a jurat as defined in Section 46-1-2, or other notarial certificate
4797 containing the words "subscribed and sworn" or their substantial equivalent, that is signed and
4798 certified by the officer taking the acknowledgment, proof, or jurat, as provided in this title,
4799 entitles the document and the certificate to be recorded in the office of the recorder of the
4800 county where the real property is located.

4801 (2) Notarial acts affecting real property in this state shall also be performed in

4802 conformance with Title 46, Chapter 1, Notaries Public Reform Act.

4803 (3) Nothing in the provisions of Title 10, Chapter [9] 9a, Part [8] 6, Subdivisions, and
4804 Title 17, Chapter [27] 27a, Part [8] 6, Subdivisions, shall prohibit the recording of a document
4805 which is otherwise entitled to be recorded under the provisions of this chapter.

4806 Section 149. Section 57-8-35 is amended to read:

4807 **57-8-35. Effect of other laws -- Compliance with ordinances and codes --**
4808 **Approval of projects by municipality or county.**

4809 (1) The provisions of this chapter shall be in addition and supplemental to all other
4810 provisions of law, statutory or judicially declared, provided that wherever the application of the
4811 provisions of this chapter conflict with the application of such other provisions, this chapter
4812 shall prevail: provided further, for purposes of Sections [~~10-9-805, 10-9-811, and 17-27-804~~]
4813 10-9a-604, 10-9a-611, and 17-27a-603 and provisions of similar import and any law or
4814 ordinance adopted pursuant thereto, a condominium project shall be considered to be a
4815 subdivision, and a condominium plat or supplement thereto prepared pursuant to this chapter
4816 shall be considered to be a subdivision map or plat, only with respect to:

4817 (a) such real property or improvements, if any, as are intended to be dedicated to the
4818 use of the public in connection with the creation of the condominium project or portion thereof
4819 concerned; and

4820 (b) those units, if any, included in the condominium project or portion thereof
4821 concerned which are not contained in existing or proposed buildings.

4822 (2) Nothing in this chapter shall be interpreted to state or imply that a condominium
4823 project, unit, association or unit owners, or management committee is exempt by this chapter
4824 from compliance with the zoning ordinance, building and sanitary codes, and similar
4825 development regulations which have been adopted by a municipality or county. No
4826 condominium project or any use within said project or any unit or parcel or parcel of land
4827 indicated as a separate unit or any structure within said project shall be permitted which is not
4828 in compliance with said ordinances and codes.

4829 (3) From and after the time a municipality or county shall have established a planning
4830 commission, no condominium project or any condominium plat, declaration, or other material
4831 as required for recordation under this chapter shall be recorded in the office of the county
4832 recorder unless and until the following mentioned attributes of said condominium project shall

4833 have been approved by the municipality or county in which it is located. In order to more fully
4834 avail itself of this power, the legislative body of a municipality or county may provide by
4835 ordinance for the approval of condominium projects proposed within its limits. This ordinance
4836 may include and shall be limited to a procedure for approval of condominium projects, the
4837 standards and the criteria for the geographical layout of a condominium project, facilities for
4838 utility lines and roads which shall be constructed, the percentage of the project which must be
4839 devoted to common or recreational use, and the content of the declaration with respect to the
4840 standards which must be adhered to concerning maintenance, upkeep, and operation of any
4841 roads, utility facilities, recreational areas, and open spaces included in the project.

4842 (4) Any ordinance adopted by the legislative body of a municipality or county which
4843 outlines the procedures for approval of a condominium project shall provide for:

4844 (a) a preliminary approval, which, among other things, will then authorize the
4845 developer of the condominium project to proceed with the project; and

4846 (b) a final approval which will certify that all of the requirements set forth in the
4847 preliminary approval either have been accomplished or have been assured of accomplishment
4848 by bond or other appropriate means. No declaration or condominium plat shall be recorded in
4849 the office of the county recorder until a final approval has been granted.

4850 Section 150. Section **58-56-4** is amended to read:

4851 **58-56-4. Definitions -- Adoption of building codes -- Amendments -- Approval of**
4852 **other codes -- Exemptions.**

4853 (1) As used in this section:

4854 (a) "agricultural use" means a use that relates to the tilling of soil and raising of crops,
4855 or keeping or raising domestic animals;

4856 (b) "not for human occupancy" means use of a structure for purposes other than
4857 protection or comfort of human beings, but allows people to enter the structure for:

4858 (i) maintenance and repair; and

4859 (ii) the care of livestock, crops, or equipment intended for agricultural use which are
4860 kept there; and

4861 (c) "residential area" means land that is not used for an agricultural use and is:

4862 (i) (A) within the boundaries of a city or town; and

4863 (B) less than five contiguous acres;

4864 (ii) (A) within a subdivision for which the county has approved a subdivision plat
4865 under Title 17, Chapter [27] 27a, Part [8] 6, Subdivisions; and

4866 (B) less than two contiguous acres; or

4867 (iii) not located in whole or in part in an agricultural protection area created under Title
4868 17, Chapter 41, Agriculture Protection Area.

4869 (2) (a) Subject to the provisions of Subsections (4) and (5), the following codes, each
4870 of which must be promulgated by a nationally recognized code authority, shall be adopted, in
4871 the manner described in Subsection (2)(b), as the construction codes which the state and each
4872 political subdivision of the state shall follow in the circumstances described in Subsection (3):

4873 (i) a building code;

4874 (ii) the National Electrical Code promulgated by the National Fire Protection
4875 Association;

4876 (iii) a residential one and two family dwelling code;

4877 (iv) a plumbing code;

4878 (v) a mechanical code;

4879 (vi) a fuel gas code;

4880 (vii) an energy conservation code; and

4881 (viii) a manufactured housing installation standard code.

4882 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4883 division, in collaboration with the commission, shall adopt by rule specific editions of the
4884 codes described in Subsection (2)(a), and may adopt by rule successor editions of any adopted
4885 code.

4886 (c) The division, in collaboration with the commission, may, in accordance with
4887 Section 58-56-7, adopt amendments to the codes adopted under Subsection (2)(a), to be
4888 applicable to the entire state or within one or more political subdivisions.

4889 (3) Subject to the provisions of Subsections (4) and (5), the codes and amendments
4890 adopted under Subsection (2) shall be followed when:

4891 (a) new construction is involved;

4892 (b) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

4893 (i) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,

4894 conservation, or reconstruction of the building; or

4895 (ii) changing the character or use of the building in a manner which increases the
4896 occupancy loads, other demands, or safety risks of the building.

4897 (4) (a) The division, in collaboration with the commission, has discretion to approve,
4898 without adopting, certain codes in addition to those described in Subsection (2)(a), including
4899 specific editions of the codes, for use by a compliance agency.

4900 (b) If the applicable code is one which the division has approved under Subsection
4901 (4)(a), a compliance agency has the discretion to:

4902 (i) adopt an ordinance requiring removal, demolition, or repair of a building, according
4903 to a code;

4904 (ii) adopt, by ordinance or rule, a dangerous building code; or

4905 (iii) adopt, by ordinance or rule, a building rehabilitation code.

4906 (5) (a) Except in a residential area, a structure used solely in conjunction with
4907 agriculture use, and not for human occupancy, is exempted from the permit requirements of
4908 any code adopted by the division.

4909 (b) Notwithstanding Subsection (5)(a), unless otherwise exempted, plumbing,
4910 electrical, and mechanical permits may be required when that work is included in the structure.

4911 Section 151. Section **59-2-301.2** is amended to read:

4912 **59-2-301.2. Definitions -- Assessment of property subject to a minimum parcel**
4913 **size -- Other factors affecting fair market value.**

4914 (1) "Minimum parcel size" means the minimum size that a parcel of property may be
4915 divided into under a zoning ordinance adopted by a:

4916 (a) county in accordance with Title 17, Chapter [27] 27a, Part [4] 5, [~~Zoning~~
4917 ~~Ordinance~~] Land Use Ordinances; or

4918 (b) city or town in accordance with Title 10, Chapter [9] 9a, Part [4] 5, [~~Zoning~~] Land
4919 Use Ordinances.

4920 (2) In assessing the fair market value of a parcel of property that is subject to a
4921 minimum parcel size of one acre or more, a county assessor shall include as part of the
4922 assessment:

4923 (a) that the parcel of property may not be subdivided into parcels of property smaller
4924 than the minimum parcel size; and

4925 (b) any effects Subsection (2)(a) may have on the fair market value of the parcel of

4926 property.

4927 (3) This section does not prohibit a county assessor from including as part of an
4928 assessment of the fair market value of a parcel of property any other factor affecting the fair
4929 market value of the parcel of property.

4930 Section 152. Section **59-2-502** is amended to read:

4931 **59-2-502. Definitions.**

4932 As used in this part:

4933 (1) "Actively devoted to agricultural use" means that the land in agricultural use
4934 produces in excess of 50% of the average agricultural production per acre:

4935 (a) as determined under Section 59-2-503; and

4936 (b) for:

4937 (i) the given type of land; and

4938 (ii) the given county or area.

4939 (2) "Conservation easement rollback tax" means the tax imposed under Section
4940 59-2-506.5.

4941 (3) "Identical legal ownership" means legal ownership held by:

4942 (a) identical legal parties; or

4943 (b) identical legal entities.

4944 (4) "Land in agricultural use" means:

4945 (a) land devoted to the raising of useful plants and animals with a reasonable
4946 expectation of profit, including:

4947 (i) forages and sod crops;

4948 (ii) grains and feed crops;

4949 (iii) livestock as defined in Section 59-2-102;

4950 (iv) trees and fruits; or

4951 (v) vegetables, nursery, floral, and ornamental stock; or

4952 (b) land devoted to and meeting the requirements and qualifications for payments or
4953 other compensation under a crop-land retirement program with an agency of the state or federal
4954 government.

4955 (5) "Other eligible acreage" means land that is:

4956 (a) five or more contiguous acres;

- 4957 (b) eligible for assessment under this part; and
- 4958 (c) (i) located in the same county as land described in Subsection 59-2-503(1)(a); or
- 4959 (ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as
- 4960 provided in Section 59-2-512.
- 4961 (6) "Platted" means land in which:
- 4962 (a) parcels of ground are laid out and mapped by their boundaries, course, and extent;
- 4963 and
- 4964 (b) the plat has been approved as provided in Section [~~10-9-805 or 17-27-805~~]
- 4965 10-9a-604 or 17-27a-604.
- 4966 (7) "Rollback tax" means the tax imposed under Section 59-2-506.
- 4967 (8) "Withdrawn from this part" means that land that has been assessed under this part is
- 4968 no longer assessed under this part or eligible for assessment under this part for any reason
- 4969 including that:
- 4970 (a) an owner voluntarily requests that the land be withdrawn from this part;
- 4971 (b) the land is no longer actively devoted to agricultural use;
- 4972 (c) (i) the land has a change in ownership; and
- 4973 (ii) (A) the new owner fails to apply for assessment under this part as required by
- 4974 Section 59-2-509; or
- 4975 (B) (I) an owner applies for assessment under this part as required by Section
- 4976 59-2-509; and
- 4977 (II) the land does not meet the requirements of this part to be assessed under this part;
- 4978 (d) (i) the legal description of the land changes; and
- 4979 (ii) (A) an owner fails to apply for assessment under this part as required by Section
- 4980 59-2-509; or
- 4981 (B) (I) an owner applies for assessment under this part as required by Section
- 4982 59-2-509; and
- 4983 (II) the land does not meet the requirements of this part to be assessed under this part;
- 4984 (e) if required by the county assessor, the owner of the land:
- 4985 (i) fails to file a new application as provided in Subsection 59-2-508(4); or
- 4986 (ii) fails to file a signed statement as provided in Subsection 59-2-508(4); or
- 4987 (f) except as provided in Section 59-2-503, the land fails to meet a requirement of

4988 Section 59-2-503.

4989 Section 153. Section **59-2-511** is amended to read:

4990 **59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback**
4991 **tax -- One-time in lieu fee payment -- Passage of title.**

4992 (1) For purposes of this section, "governmental entity" means:

4993 (a) the United States;

4994 (b) the state;

4995 (c) a political subdivision of the state, including:

4996 (i) a county;

4997 (ii) a city;

4998 (iii) a town;

4999 (iv) a school district; or

5000 (v) a special district; or

5001 (d) an entity created by the state or the United States, including:

5002 (i) an agency;

5003 (ii) a board;

5004 (iii) a bureau;

5005 (iv) a commission;

5006 (v) a committee;

5007 (vi) a department;

5008 (vii) a division;

5009 (viii) an institution;

5010 (ix) an instrumentality; or

5011 (x) an office.

5012 (2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental
5013 entity is subject to the rollback tax imposed by this part if:

5014 (i) prior to the governmental entity acquiring the land, the land is assessed under this
5015 part; and

5016 (ii) after the governmental entity acquires the land, the land does not meet the
5017 requirements of Section 59-2-503 for assessment under this part.

5018 (b) A person dedicating a public right-of-way to a governmental entity shall pay the

5019 rollback tax imposed by this part if:

5020 (i) a portion of the public right-of-way is located within a subdivision as defined in
5021 Section [~~10-9-103~~] 10-9a-103; or

5022 (ii) in exchange for the dedication, the person dedicating the public right-of-way
5023 receives:

5024 (A) money; or

5025 (B) other consideration.

5026 (3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is
5027 not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee
5028 payment as provided in Subsection (3)(b), if:

5029 (i) the governmental entity acquires the land by eminent domain;

5030 (ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

5031 (B) the governmental entity provides written notice of the proceedings to the owner; or

5032 (iii) the land is donated to the governmental entity.

5033 (b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the
5034 governmental entity shall make a one-time in lieu fee payment:

5035 (A) to the county treasurer of the county in which the land is located; and

5036 (B) in an amount equal to the amount of rollback tax calculated under Section
5037 59-2-506.

5038 (ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the
5039 governmental entity shall make a one-time in lieu fee payment:

5040 (A) to the county treasurer of the county in which the land is located; and

5041 (B) (I) if the land remaining after the acquisition by the governmental entity meets the
5042 requirements of Section 59-2-503, in an amount equal to the rollback tax under Section
5043 59-2-506 on the land acquired by the governmental entity; or

5044 (II) if the land remaining after the acquisition by the governmental entity is less than
5045 five acres, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired
5046 by the governmental entity and the land remaining after the acquisition by the governmental
5047 entity.

5048 (iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the
5049 governmental entity" includes other eligible acreage that is used in conjunction with the land

5050 remaining after the acquisition by the governmental entity.

5051 (c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute
5052 the revenues generated by the payment:

5053 (i) to the taxing entities in which the land is located; and

5054 (ii) in the same proportion as the revenue from real property taxes is distributed.

5055 (4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity
5056 is made subject to a conservation easement in accordance with Section 59-2-506.5:

5057 (a) the land is not subject to the rollback tax imposed by this part; and

5058 (b) the governmental entity acquiring the land is not required to make an in lieu fee
5059 payment under Subsection (3)(b).

5060 (5) If a governmental entity acquires land subject to assessment under this part, title to
5061 the land may not pass to the governmental entity until the following are paid to the county
5062 treasurer:

5063 (a) any tax due under this part;

5064 (b) any one-time in lieu fee payment due under this part; and

5065 (c) any interest due under this part.

5066 Section 154. Section **62A-6-101** is amended to read:

5067 **62A-6-101. Definitions.**

5068 As used in this chapter:

5069 (1) "Informed consent" means consent that is voluntary and based on an understanding
5070 by the person to be sterilized of the nature and consequences of sterilization, the reasonably
5071 foreseeable risks and benefits of sterilization, and the available alternative methods of
5072 contraception.

5073 (2) "Institutionalized" means residing in the Utah State Developmental Center, the
5074 Utah State Hospital, a residential facility for persons with a disability as defined in Sections
5075 [~~10-9-605 and 17-27-605~~] 10-9a-103 and 17-27a-103, a group home for disabled persons, a
5076 nursing home, or a foster care home or facility.

5077 (3) "Sterilization" means any medical procedure, treatment, or operation rendering an
5078 individual permanently incapable of procreation.

5079 Section 155. Section **63A-5-206** is amended to read:

5080 **63A-5-206. Construction, alteration, and repair of state facilities -- Powers of**

5081 **director -- Exceptions -- Expenditure of appropriations -- Notification to local**
5082 **governments for construction or modification of certain facilities.**

5083 (1) As used in this section:

5084 (a) "Analysis" means an economic assessment of competing design and maintenance
5085 alternatives, the object of which is to reduce cost and conserve energy.

5086 (b) "Capital developments" and "capital improvements" have the same meaning as
5087 provided in Section 63A-5-104.

5088 (c) "Compliance agency" has the same meaning as provided in Subsection 58-56-3(4).

5089 (d) (i) "Facility" means any building, structure, or other improvement that is
5090 constructed on property owned by the state, its departments, commissions, institutions, or
5091 agencies.

5092 (ii) "Facility" does not mean an unoccupied structure that is a component of the state
5093 highway system.

5094 (e) "Life cycle cost-effective" means the lowest cost of owning and operating a facility
5095 over a 25-year period, including the initial cost, energy costs, operation and maintenance costs,
5096 repair costs, and the costs of energy conservation and renewable energy systems.

5097 (f) "Local government" means the county, municipality, or local school district that
5098 would have jurisdiction to act as the compliance agency if the property on which the project is
5099 being constructed were not owned by the state.

5100 (g) "Renewable energy system" means a system designed to use solar, wind,
5101 geothermal power, wood, or other replenishable energy source to heat, cool, or provide
5102 electricity to a building.

5103 (2) (a) Except as provided in Subsections (3) and (4), the director shall exercise direct
5104 supervision over the design and construction of all new facilities, and all alterations, repairs,
5105 and improvements to existing facilities if the total project construction cost, regardless of the
5106 funding source, is greater than \$100,000.

5107 (b) The director shall prepare or have prepared by private firms or individuals designs,
5108 plans, and specifications for the projects administered by the division.

5109 (c) Before proceeding with construction, the director and the officials charged with the
5110 administration of the affairs of the particular department, commission, institution, or agency
5111 shall approve the location, design, plans, and specifications.

5112 (3) Projects for the construction of new facilities and alterations, repairs, and
5113 improvements to existing facilities are not subject to Subsection (2) if the project:

5114 (a) occurs on property under the jurisdiction of the State Capitol Preservation Board;

5115 (b) is within a designated research park at the University of Utah or Utah State

5116 University;

5117 (c) occurs within the boundaries of This is the Place State Park and is administered by

5118 This is the Place Foundation except that This is the Place Foundation may request the director

5119 to administer the design and construction; or

5120 (d) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah

5121 Percent-for-Art [~~Program~~] Act.

5122 (4) (a) (i) The State Building Board may authorize the delegation of control over

5123 design, construction, and all other aspects of any project to entities of state government on a

5124 project-by-project basis or for projects within a particular dollar range and a particular project

5125 type.

5126 (ii) The state entity to whom control is delegated shall assume fiduciary control over

5127 project finances, shall assume all responsibility for project budgets and expenditures, and shall

5128 receive all funds appropriated for the project, including any contingency funds contained in the

5129 appropriated project budget.

5130 (iii) Delegation of project control does not exempt the state entity from complying with

5131 the codes and guidelines for design and construction adopted by the division and the State

5132 Building Board.

5133 (iv) State entities that receive a delegated project may not access, for the delegated

5134 project, the division's statewide contingency reserve and project reserve authorized in Section

5135 63A-5-209.

5136 (b) For facilities that will be owned, operated, maintained, and repaired by an entity

5137 that is not a state agency or institution and that are located on state property, the State Building

5138 Board may authorize the owner to administer the design and construction of the project instead

5139 of the division.

5140 (5) Notwithstanding any other provision of this section, if a donor donates land to an

5141 eligible institution of higher education and commits to build a building or buildings on that

5142 land, and the institution agrees to provide funds for the operations and maintenance costs from

5143 sources other than state funds, and agrees that the building or buildings will not be eligible for
5144 state capital improvement funding, the higher education institution may:

5145 (a) oversee and manage the construction without involvement, oversight, or
5146 management from the division; or

5147 (b) arrange for management of the project by the division.

5148 (6) (a) The role of compliance agency as provided in Title 58, Chapter 56, Utah
5149 Uniform Building Standards Act, shall be provided by:

5150 (i) the director, for projects administered by the division;

5151 (ii) the entity designated by the State Capitol Preservation Board, for projects under
5152 Subsection (3)(a);

5153 (iii) the local government, for projects exempt from the division's administration under
5154 Subsection (3)(b) or administered by This is the Place Foundation under Subsection (3)(c);

5155 (iv) the state entity or local government designated by the State Building Board, for
5156 projects under Subsection (4); or

5157 (v) the institution, for projects exempt from the division's administration under
5158 Subsection (5)(a).

5159 (b) For the installation of art under Subsection (3)(d), the role of compliance agency
5160 shall be provided by the entity that is acting in this capacity for the balance of the project as
5161 provided in Subsection (6)(a).

5162 (c) The local government acting as the compliance agency under Subsection (6)(a)(iii)
5163 may:

5164 (i) only review plans and inspect construction to enforce the building codes as adopted
5165 by the Uniform Building Codes Commission; and

5166 (ii) charge a building permit fee of no more than the amount it could have charged if
5167 the land upon which the improvements are located were not owned by the state.

5168 (d) (i) The use of state property and any improvements constructed on state property,
5169 including improvements constructed by nonstate entities, is not subject to the zoning authority
5170 of local governments as provided in Section [~~10-9-105~~] 10-9a-304.

5171 (ii) The state entity controlling the use of the state property shall consider any input
5172 received from the local government in determining how the property shall be used.

5173 (7) Before construction may begin, the director shall review the design of projects

5174 exempted from the division's administration under Subsection (4) to determine if the design:

5175 (a) complies with any restrictions placed on the project by the State Building Board;

5176 and

5177 (b) is appropriate for the purpose and setting of the project.

5178 (8) (a) The director shall ensure that state-owned facilities, except for facilities under
5179 the control of the State Capitol Preservation Board, are life cycle cost-effective.

5180 (b) The estimated cost of the analysis shall be included in each program budget
5181 document and in the project funding request submitted to the State Building Board, the
5182 governor, and the Legislature.

5183 (c) The final cost estimate shall reflect the most life cycle cost-effective building.

5184 (d) The State Building Board, in consultation with the director and the State Energy
5185 Manager, shall make rules to implement this Subsection (8) by following the procedures and
5186 requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

5187 (e) The State Building Board may exempt a facility from being life cycle cost-effective
5188 pursuant to rules, after reviewing and concurring with a written request and justification from
5189 the director.

5190 (9) The director may expend appropriations for statewide projects from funds provided
5191 by the Legislature for those specific purposes and within guidelines established by the State
5192 Building Board.

5193 (10) (a) The director, with the approval of the Office of Legislative Fiscal Analyst,
5194 shall develop standard forms to present capital development and capital improvement cost
5195 summary data.

5196 (b) The director shall:

5197 (i) within 30 days after the completion of each capital development project, submit cost
5198 summary data for the project on the standard form to the Office of Legislative Fiscal Analyst;
5199 and

5200 (ii) upon request, submit cost summary data for a capital improvement project to the
5201 Office of Legislative Fiscal Analyst on the standard form.

5202 (11) Notwithstanding the requirements of Title 63, Chapter 38, Budgetary Procedures
5203 Act, the director may:

5204 (a) accelerate the design of projects funded by any appropriation act passed by the

5205 Legislature in its annual general session;

5206 (b) use any unencumbered existing account balances to fund that design work; and

5207 (c) reimburse those account balances from the amount funded for those projects when
5208 the appropriation act funding the project becomes effective.

5209 (12) (a) The director, his designee, or the state entity to whom control has been
5210 designated under Subsection (4), shall notify in writing the elected representatives of local
5211 government entities directly and substantively affected by any diagnostic, treatment, parole,
5212 probation, or other secured facility project exceeding \$250,000, if:

5213 (i) the nature of the project has been significantly altered since prior notification;

5214 (ii) the project would significantly change the nature of the functions presently
5215 conducted at the location; or

5216 (iii) the project is new construction.

5217 (b) At the request of either the state entity or the local government entity,
5218 representatives from the state entity and the affected local entity shall conduct or participate in
5219 a local public hearing or hearings to discuss these issues.

5220 Section 156. Section **72-5-401** is amended to read:

5221 **72-5-401. Definitions.**

5222 As used in this part:

5223 (1) "Corridor" means the path or proposed path of a transportation facility that exists or
5224 that may exist in the future. A corridor may include the land occupied or to be occupied by a
5225 transportation facility, and any other land that may be needed for expanding a transportation
5226 facility or for controlling access to it.

5227 (2) "Corridor preservation" means planning or acquisition processes intended to:

5228 (a) protect or enhance the capacity of existing corridors; and

5229 (b) protect the availability of proposed corridors in advance of the need for and the
5230 actual commencement of the transportation facility construction.

5231 (3) "Development" means:

5232 (a) the subdividing of land;

5233 (b) the construction of improvements, expansions, or additions; or

5234 (c) any other action that will appreciably increase the value of and the future
5235 acquisition cost of land.

5236 (4) "Official map" means a map, drawn by government authorities and recorded in
5237 county recording offices that:

5238 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
5239 highways and other transportation facilities;

5240 (b) provides a basis for restricting development in designated rights-of-way or between
5241 designated setbacks to allow the government authorities time to purchase or otherwise reserve
5242 the land; and

5243 (c) for counties and municipalities may be adopted as an element of the general plan,
5244 pursuant to Title 17, Chapter [27] 27a, Part [3] 4, General Plan, or Title 10, Chapter [9] 9a, Part
5245 [3] 4, General Plan.

5246 (5) "Taking" means an act or regulation, either by exercise of eminent domain or other
5247 police power, whereby government puts private property to public use or restrains use of
5248 private property for public purposes, and that requires compensation to be paid to private
5249 property owners.

5250 Section 157. Section **72-7-502** is amended to read:

5251 **72-7-502. Definitions.**

5252 As used in this part:

5253 (1) "Commercial or industrial activities" means those activities generally recognized as
5254 commercial or industrial by zoning authorities in this state, except that none of the following
5255 are commercial or industrial activities:

5256 (a) agricultural, forestry, grazing, farming, and related activities, including wayside
5257 fresh produce stands;

5258 (b) transient or temporary activities;

5259 (c) activities not visible from the main-traveled way;

5260 (d) activities conducted in a building principally used as a residence; and

5261 (e) railroad tracks and minor sidings.

5262 (2) "Commercial or industrial zone" means only:

5263 (a) those areas within the boundaries of cities or towns that are used or reserved for
5264 business, commerce, or trade, or zoned as a highway service zone, under enabling state
5265 legislation or comprehensive local zoning ordinances or regulations;

5266 (b) those areas within the boundaries of urbanized counties that are used or reserved for

5267 business, commerce, or trade, or zoned as a highway service zone, under enabling state
5268 legislation or comprehensive local zoning ordinances or regulations;

5269 (c) those areas outside the boundaries of urbanized counties and outside the boundaries
5270 of cities and towns that:

5271 (i) are used or reserved for business, commerce, or trade, or zoned as a highway service
5272 zone, under comprehensive local zoning ordinances or regulations or enabling state legislation;
5273 and

5274 (ii) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured
5275 from the nearest point of the beginning or ending of the pavement widening at the exit from or
5276 entrance to the main-traveled way; or

5277 (d) those areas outside the boundaries of urbanized counties and outside the boundaries
5278 of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp, or turnoff
5279 as measured from the nearest point of the beginning or ending of the pavement widening at the
5280 exit from or entrance to the main-traveled way that are reserved for business, commerce, or
5281 trade under enabling state legislation or comprehensive local zoning ordinances or regulations,
5282 and are actually used for commercial or industrial purposes.

5283 (3) "Commercial or industrial zone" does not mean areas zoned for the sole purpose of
5284 allowing outdoor advertising.

5285 (4) "Comprehensive local zoning ordinances or regulations" means a municipality's
5286 comprehensive plan required by Section ~~[10-9-301]~~ 10-9a-401, the municipal zoning plan
5287 authorized by Section ~~[10-9-401]~~ 10-9a-501, and the county master plan authorized by Sections
5288 ~~[17-27-301]~~ 17-27a-401 and ~~[17-27-401]~~ 17-27a-501. Property that is rezoned by
5289 comprehensive local zoning ordinances or regulations is rebuttably presumed to have not been
5290 zoned for the sole purpose of allowing outdoor advertising.

5291 (5) "Directional signs" means signs containing information about public places owned
5292 or operated by federal, state, or local governments or their agencies, publicly or privately
5293 owned natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas
5294 of natural scenic beauty or naturally suited for outdoor recreation, that the department considers
5295 to be in the interest of the traveling public.

5296 (6) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach, create,
5297 paint, draw, or in any other way bring into being.

5298 (b) "Erect" does not include any activities defined in Subsection (6)(a) if they are
5299 performed incident to the change of an advertising message or customary maintenance of a
5300 sign.

5301 (7) "Highway service zone" means a highway service area where the primary use of the
5302 land is used or reserved for commercial and roadside services other than outdoor advertising to
5303 serve the traveling public.

5304 (8) "Information center" means an area or site established and maintained at rest areas
5305 for the purpose of informing the public of:

5306 (a) places of interest within the state; or

5307 (b) any other information that the department considers desirable.

5308 (9) "Interchange or intersection" means those areas and their approaches where traffic
5309 is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration lanes,
5310 or feeder systems, from or to another federal, state, county, city, or other route.

5311 (10) "Maintain" means to allow to exist, subject to the provisions of this chapter.

5312 (11) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an existing
5313 sign structure safe and in a state suitable for use, including signs destroyed by vandalism or an
5314 act of God.

5315 (12) "Main-traveled way" means the through traffic lanes, including auxiliary lanes,
5316 acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads and
5317 ramps. For a divided highway, there is a separate main-traveled way for the traffic in each
5318 direction.

5319 (13) "Official signs and notices" means signs and notices erected and maintained by
5320 public agencies within their territorial or zoning jurisdictions for the purpose of carrying out
5321 official duties or responsibilities in accordance with direction or authorization contained in
5322 federal, state, or local law.

5323 (14) "Off-premise signs" means signs located in areas zoned industrial, commercial, or
5324 H-1 and in areas determined by the department to be unzoned industrial or commercial.

5325 (15) "On-premise signs" means signs used to advertise the major activities conducted
5326 on the property where the sign is located.

5327 (16) "Outdoor advertising" means any outdoor advertising structure or outdoor
5328 structure used in combination with an outdoor advertising sign or outdoor sign.

5329 (17) "Outdoor advertising corridor" means a strip of land 350 feet wide, measured
5330 perpendicular from the edge of a controlled highway right-of-way.

5331 (18) "Outdoor advertising structure" or "outdoor structure" means any sign structure,
5332 including any necessary devices, supports, appurtenances, and lighting that is part of or
5333 supports an outdoor sign.

5334 (19) "Point of widening" means the point of the gore or the point where the intersecting
5335 lane begins to parallel the other lanes of traffic, but the point of widening may never be greater
5336 than 2,640 feet from the center line of the intersecting highway of the interchange or
5337 intersection at grade.

5338 (20) "Public assembly facility" means a convention facility as defined under Section
5339 59-12-602 and that:

5340 (a) is wholly or partially funded by public moneys; and

5341 (b) requires a person attending an event at the public assembly facility to purchase a
5342 ticket or that otherwise charges for the use of the public assembly facility as part of its regular
5343 operation.

5344 (21) "Relocation" includes the removal of a sign from one situs together with the
5345 erection of a new sign upon another situs in a commercial or industrial zoned area as a
5346 substitute.

5347 (22) "Relocation and replacement" means allowing all outdoor advertising signs or
5348 permits the right to maintain outdoor advertising along the interstate, federal aid primary
5349 highway existing as of June 1, 1991, and national highway system highways to be maintained
5350 in a commercial or industrial zoned area to accommodate the displacement, remodeling, or
5351 widening of the highway systems.

5352 (23) "Remodel" means the upgrading, changing, alteration, refurbishment,
5353 modification, or complete substitution of a new outdoor advertising structure for one permitted
5354 pursuant to this part and that is located in a commercial or industrial area.

5355 (24) "Rest area" means an area or site established and maintained within or adjacent to
5356 the right-of-way by or under public supervision or control for the convenience of the traveling
5357 public.

5358 (25) "Scenic or natural area" means an area determined by the department to have
5359 aesthetic value.

5360 (26) "Traveled way" means that portion of the roadway used for the movement of
5361 vehicles, exclusive of shoulders and auxiliary lanes.

5362 (27) (a) "Unzoned commercial or industrial area" means:

5363 (i) those areas not zoned by state law or local law, regulation, or ordinance that are
5364 occupied by one or more industrial or commercial activities other than outdoor advertising
5365 signs;

5366 (ii) the lands along the highway for a distance of 600 feet immediately adjacent to
5367 those activities; and

5368 (iii) lands covering the same dimensions that are directly opposite those activities on
5369 the other side of the highway, if the department determines that those lands on the opposite side
5370 of the highway do not have scenic or aesthetic value.

5371 (b) In measuring the scope of the unzoned commercial or industrial area, all
5372 measurements shall be made from the outer edge of the regularly used buildings, parking lots,
5373 storage, or processing areas of the activities and shall be along or parallel to the edge of
5374 pavement of the highway.

5375 (c) All signs located within an unzoned commercial or industrial area become
5376 nonconforming if the commercial or industrial activity used in defining the area ceases for a
5377 continuous period of 12 months.

5378 (28) "Urbanized county" means a county with a population of at least 125,000 persons.

5379 Section 158. **Repealer.**

5380 This bill repeals:

5381 Section **10-8-8.1, Request for action to vacate, narrow, or change name of street or**
5382 **alley -- Hearing -- Ordinance.**

5383 Section **10-8-8.2, Action to vacate, narrow, or change name of alley or street**
5384 **without request from lot owner -- Ordinance.**

5385 Section **10-8-8.3, Notice required -- Exception.**

5386 Section **10-8-8.4, Notice -- How given.**

5387 Section **10-9-103.5, Notice to nearby entities.**

5388 Section **10-9-202, Organization and procedures.**

5389 Section **10-9-304, Amendment of plan.**

5390 Section **10-9-701, Board of adjustment -- Appointment -- Term -- Vacancy.**

- 5391 Section 10-9-702, Organization -- Procedures.
- 5392 Section 10-9-703, Powers and duties.
- 5393 Section 10-9-704, Appeals.
- 5394 Section 10-9-705, Routine and uncontested matters.
- 5395 Section 10-9-706, Special exceptions.
- 5396 Section 10-9-708, District court review of board of adjustment decision.
- 5397 Section 10-9-803, Amendments to subdivision ordinance.
- 5398 Section 10-9-809, Notice of hearing for plat change.
- 5399 Section 17-27-103.5, Notice to nearby entities.
- 5400 Section 17-27-202, Organization and procedures.
- 5401 Section 17-27-304, Amendment of plan.
- 5402 Section 17-27-701, Board of adjustment -- Appointment -- Term -- Vacancy.
- 5403 Section 17-27-702, Organization -- Procedures.
- 5404 Section 17-27-703, Powers and duties.
- 5405 Section 17-27-704, Appeals.
- 5406 Section 17-27-705, Routine and uncontested matters.
- 5407 Section 17-27-706, Special exceptions.
- 5408 Section 17-27-708, District court review of board of adjustment decision.
- 5409 Section 17-27-803, Amendments to subdivision ordinance.
- 5410 Section 17-27-809, Notice of hearing for plat change.

Legislative Review Note
as of 2-4-05 10:26 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0060

Local Land Use Development and Management Amendments

17-Feb-05

12:19 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst