

Senator Gregory S. Bell proposes the following substitute bill:

LOCAL LAND USE DEVELOPMENT AND

MANAGEMENT AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Gregory S. Bell

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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



- 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 or appropriate for the use and
484 development of land within the municipality, including ordinances, resolutions, [~~and~~] rules,
485 restrictive covenants, easements, and development agreements governing uses, density, open
486 spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and
487 public or 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 ~~[(+)]~~ 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 of a decision of a land use application or a
 507 variance.

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

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

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

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

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

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

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

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

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

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

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

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

533 (b) "Disability" does not include current illegal use of, or addiction to, any federally
534 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
535 802.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

586 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
587 highways and other transportation facilities;

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

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

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

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

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

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

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

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

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

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

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

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

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

613 ~~[(p)]~~ (i) (28) "Residential facility for elderly persons" means a single-family or
614 multiple-family dwelling unit that meets the requirements of Part ~~5~~ and any ordinance adopted

615 under authority of that part. ~~(ii) "Residential facility for elderly persons"]~~ 4, General Plan, but
616 does not include a health care facility as defined by Section 26-21-2.

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

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

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

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

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

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

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

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

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

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

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

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

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

646 agricultural, and industrial purposes.

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

648 ~~[(A)]~~ (i) a bona fide division or partition of agricultural land for the purpose of joining
649 one of the resulting separate unsubdivided parcels to a contiguous parcel of unsubdivided
650 agricultural land, if neither the resulting combined parcel nor the parcel remaining from the
651 division or partition violates an applicable ~~[zoning]~~ land use ordinance;

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

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

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

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

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

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

662 ~~[(iv)]~~ (c) The joining of a subdivided parcel of property to another parcel of property

663 that has not been subdivided does not constitute a ["subdivision["] under this Subsection

664 ~~[(1)(s)]~~ (34) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the
665 municipality's subdivision ordinance.

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

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

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

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

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

676 ~~[(c)(i)]~~ Proof that one of the two forms of notice authorized by this Subsection (2) was

677 given is prima facie evidence that notice was properly given.]

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

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

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

685 **[10-9-104]. 10-9a-104. Stricter requirements.**

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

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

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

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

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

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

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

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

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

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

699 **Part 2. Notice**

700 **10-9a-201. Required notice.**

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

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

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

706 **10-9a-202. Applicant notice.**

707 For each land use application, the municipality shall notify the applicant of the date,

708 time, and place of each public hearing and public meeting to consider the application and of
 709 any final action on a pending application.

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

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

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

715 ~~[(a) (i) "Affected entity" means each county, municipality, independent special district~~
 716 ~~under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B,~~
 717 ~~Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title~~
 718 ~~11, Chapter 13, Interlocal Cooperation Act, and specified public utility:]~~

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

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

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

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

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

732 (a) each affected entity;

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

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

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

738 ~~[(3)]~~ (2) Each notice under Subsection ~~[(2)]~~ (1) shall:

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

741 (b) describe or provide a map of the geographic area that will be affected by the general
742 plan or [~~amendments to a general plan~~] amendment;

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

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

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

746 [~~(iii) the association of governments, established pursuant to an interlocal agreement
747 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member;
748 and]~~

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

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

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

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

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

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

762 **10-9a-204. Notice of public hearings and public meetings to consider general plan.**

763 (1) Each municipality shall provide:

764 (a) notice of the date, time, and place of the first public hearing to consider the original
765 adoption or any modification of all or any portion of a general plan; and

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

767 (2) Each notice of a public hearing under Subsection (1)(a) shall be at least ten
768 calendar days before the public hearing and shall be:

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

770 (b) mailed to each affected entity; and
771 (c) posted:
772 (i) in at least three public locations within the municipality; or
773 (ii) on the municipality's official website.
774 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
775 before the meeting and shall be:
776 (a) published in a newspaper of general circulation in the area; and
777 (b) posted:
778 (i) in at least three public locations within the municipality; or
779 (ii) on the municipality's official website.
780 Section 12. Section **10-9a-205** is enacted to read:
781 **10-9a-205. Notice of public hearings and public meetings on adoption or**
782 **modification of land use ordinance.**
783 (1) Each municipality shall give:
784 (a) notice of the date, time, and place of the first public hearing to consider the
785 adoption or any modification of a land use ordinance; and
786 (b) notice of each public meeting on the subject.
787 (2) Each notice of a public hearing under Subsection (1)(a) shall be:
788 (a) mailed to each affected entity at least ten calendar days before the public hearing;
789 (b) posted:
790 (i) in at least three public locations within the municipality; or
791 (ii) on the municipality's official website; and
792 (c) (i) published in a newspaper of general circulation in the area at least ten calendar
793 days before the public hearing; or
794 (ii) mailed at least three days before the public hearing to:
795 (A) each property owner whose land is directly affected by the land use ordinance
796 change; and
797 (B) each adjacent property owner within the parameters specified by municipal
798 ordinance.
799 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
800 before the meeting and shall be posted:

801 (a) in at least three public locations within the municipality; or
802 (b) on the municipality's official website.

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

804 **10-9a-206. Third party notice.**

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

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

808 (b) post notice on the property with a sign of sufficient size, durability, print quality,
809 and location that is reasonably calculated to give notice to passers-by.

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

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

813 **10-9a-207. Notice for a proposed subdivision or amendment or a multiple unit**
814 **residential, commercial, or industrial development.**

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

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

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

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

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

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

828 **10-9a-208. Hearing and notice for proposal to vacate, alter, or amend a plat.**

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

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

863 ~~[10-9-204].~~ **10-9a-302. Planning commission powers and duties.**

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

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

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

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

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

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

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

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

879 ~~[(8) exercise any other powers:]~~

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

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

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

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

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

887 (5) application processes that:

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

891 (b) shall protect the right of each:

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

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

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

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

899 **[10-9-205]. 10-9a-303. Entrance upon land.**

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

902 (1) preparation of its general plan; or

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

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

906 **[10-9-105]. 10-9a-304. State and federal property.**

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

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

913 **[10-9-106]. 10-9a-305. Property owned by other government units -- Effect of**
914 **land use and development ordinances.**

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

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

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

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

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

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

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

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

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

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

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

949 **Part 4. General Plan**

950 ~~[10-9-301].~~ **10-9a-401. General plan required -- Content.**

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

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

954 (b) growth and development of all or any part of the land within the municipality [~~or~~
955 ~~any part of the municipality~~].

956 (2) The plan may provide for:

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

959 (b) the reduction of the waste of physical, financial, or human resources that result
960 from either excessive congestion or excessive scattering of population;

961 (c) the efficient and economical use, conservation, and production of the supply of:

962 (i) food and water; and

963 (ii) drainage, sanitary, and other facilities and resources;

964 (d) the use of energy conservation and solar and renewable energy resources;

965 (e) the protection of urban development;

966 (f) the protection or promotion of moderate income housing;

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

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

969 [~~(h)~~] (i) identifying future uses of land that are likely to require an expansion or
970 significant modification of services or facilities provided by [~~affected entities and specified~~
971 ~~public utilities, as those terms are defined in Section 10-9-301.5]~~ each affected entity; [~~and]~~
972 [~~(i) an official map, pursuant to Title 72, Chapter 5, Part 4, Transportation Corridor~~
973 ~~Preservation.~~]

974 (j) growth and development within the area that is subject to an annexation policy plan;
975 and

976 (k) an official map.

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

979 Section 23. Section **10-9a-402**, which is renumbered from Section 10-9-203 is
980 renumbered and amended to read:

981 [~~10-9-203~~]. **10-9a-402. Information and technical assistance from the state.**

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

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

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

987 ~~was gathered.]~~

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

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

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

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

997 ~~[10-9-302].~~ **10-9a-403. Plan preparation.**

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

999 (1) (a) The planning commission shall provide notice, as provided in Section
1000 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a
1001 general plan or a comprehensive general plan amendment when the planning commission
1002 initiates the process of preparing its recommendation.

1003 (b) The planning commission shall make and recommend to the legislative body a
1004 proposed general plan for the area within the municipality.

1005 ~~[(b)]~~ (c) The plan may include areas outside the boundaries of the municipality if, in
1006 the planning commission's judgment, ~~[they are related to the planning of the]~~ those areas relate
1007 to the municipality's territory.

1008 ~~[(c) Except as otherwise provided by law, when the plan of a municipality involves~~
1009 ~~territory outside the boundaries of the municipality, the municipality may not take action~~
1010 ~~affecting that territory without the concurrence of the county or other municipalities affected.]~~

1011 (2) ~~[The]~~ (a) At a minimum, the proposed general plan, with the accompanying maps,
1012 [plats,] charts, and descriptive and explanatory matter, shall [show] include the planning
1013 commission's recommendations for the [development of the territory covered by the plan, and
1014 may include, among other things] following plan elements:

1015 ~~[(a)]~~ (i) a land use element that:

1016 ~~[(i)]~~ (A) designates the long-term goals and the proposed extent, general distribution,
1017 and location ~~[and extent of uses]~~ of land for housing, business, industry, agriculture, recreation,

1018 education, public buildings and grounds, open space, and other categories of public and private
1019 uses of land as appropriate; and

1020 ~~[(i)]~~ (B) may include a statement of the projections for and standards of population
1021 density and building intensity recommended for the various land use categories covered by the
1022 plan;

1023 ~~[(b)]~~ (ii) a transportation and traffic circulation element consisting of the general
1024 location and extent of existing and proposed freeways, arterial and collector streets, mass
1025 transit, and any other modes of transportation that ~~[are]~~ the planning commission considers
1026 appropriate, all correlated with the population projections and the proposed land use element of
1027 the general plan; and

1028 (iii) for cities, an estimate of the need for the development of additional moderate
1029 income housing within the city, and a plan to provide a realistic opportunity to meet estimated
1030 needs for additional moderate income housing if long-term projections for land use and
1031 development occur.

1032 (b) In drafting the moderate income housing element, the planning commission:

1033 (i) shall consider the Legislature's determination that cities should facilitate a
1034 reasonable opportunity for a variety of housing, including moderate income housing:

1035 (A) to meet the needs of people desiring to live there; and

1036 (B) to allow persons with moderate incomes to benefit from and fully participate in all
1037 aspects of neighborhood and community life; and

1038 (ii) may include an analysis of why the recommended means, techniques, or
1039 combination of means and techniques provide a realistic opportunity for the development of
1040 moderate income housing within the planning horizon, which means or techniques may include
1041 a recommendation to:

1042 (A) rezone for densities necessary to assure the production of moderate income
1043 housing;

1044 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the
1045 construction of moderate income housing;

1046 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
1047 income housing;

1048 (D) consider general fund subsidies to waive construction related fees that are

1049 otherwise generally imposed by the city;

1050 (E) consider utilization of state or federal funds or tax incentives to promote the
1051 construction of moderate income housing;

1052 (F) consider utilization of programs offered by the Utah Housing Corporation within
1053 that agency's funding capacity; and

1054 (G) consider utilization of affordable housing programs administered by the
1055 Department of Community and Economic Development.

1056 (3) The proposed general plan may include:

1057 ~~[(c)]~~ (a) an environmental element that addresses:

1058 (i) the protection, conservation, development, and use of natural resources, including
1059 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
1060 and other natural resources; and

1061 (ii) the reclamation of land, flood control, prevention and control of the pollution of
1062 streams and other waters, regulation of the use of land on hillsides, stream channels and other
1063 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
1064 protection of watersheds and wetlands, and the mapping of known geologic hazards;

1065 ~~[(d)]~~ (b) a public services and facilities element showing general plans for sewage,
1066 water, waste disposal, drainage, ~~[local]~~ public utilities, rights-of-way, easements, and facilities
1067 for them, police and fire protection, and other public services;

1068 ~~[(e)]~~ (c) a rehabilitation, redevelopment, and conservation element consisting of plans
1069 and programs for:

1070 (i) historic preservation; and

1071 (ii) the diminution or elimination of blight; and ~~[for]~~

1072 (iii) redevelopment of land, including housing sites, business and industrial sites, and
1073 public building sites;

1074 ~~[(f)]~~ (d) an economic element composed of appropriate studies and forecasts, as well as
1075 an economic development plan ~~[that], which~~ may include review of existing and projected
1076 municipal revenue and expenditures, revenue sources, identification of base and ~~[residential]~~
1077 residential, industry, primary and secondary market areas, employment, and retail sales activity;

1078 ~~[(g)]~~ (e) recommendations for implementing ~~[the]~~ all or any portion of the general plan,
1079 including the use of ~~[zoning]~~ land use ordinances, ~~[subdivision ordinances,]~~ capital

1080 improvement plans, ~~[and]~~ community development and promotion, and any other appropriate
 1081 ~~[actions]~~ action;

1082 ~~[(h)]~~ (f) provisions addressing any of the matters listed in Subsection ~~[10-9-301]~~
 1083 10-9a-401(2); and

1084 ~~[(i)]~~ (g) any other ~~[elements]~~ element the municipality considers appropriate.

1085 Section 25. Section **10-9a-404**, which is renumbered from Section 10-9-303 is
 1086 renumbered and amended to read:

1087 ~~[10-9-303]~~. **10-9a-404. Public hearing by planning commission on proposed**
 1088 **general plan or amendment -- Notice -- Revisions to general plan or amendment --**
 1089 **Adoption or rejection by legislative body.**

1090 (1) (a) After completing its recommendation for a proposed general plan ~~[for all or part~~
 1091 ~~of the area within the municipality]~~, or proposal to amend the general plan, the planning
 1092 commission shall schedule and hold a public hearing on the proposed plan or amendment.

1093 (b) The planning commission shall provide ~~[reasonable]~~ notice of the public hearing ~~[at~~
 1094 ~~least 14 days before the date of the hearing]~~, as required by Section 10-9a-204.

1095 (c) After the public hearing, the planning commission may ~~[make changes to]~~ modify
 1096 the proposed general plan or amendment.

1097 (2) The planning commission shall ~~[then]~~ forward the proposed general plan or
 1098 amendment to the legislative body.

1099 ~~[(3)]~~ (a) ~~The legislative body shall hold a public hearing on the proposed general plan~~
 1100 ~~recommended to it by the planning commission.]~~

1101 ~~[(b)]~~ ~~The legislative body shall provide reasonable notice of the public hearing at least~~
 1102 ~~14 days before the date of the hearing.]~~

1103 ~~[(4)]~~ ~~After the public hearing, the]~~

1104 (3) The legislative body may make any ~~[modifications]~~ revisions to the proposed
 1105 general plan or amendment that it considers appropriate.

1106 ~~[(5)]~~ (4) (a) The municipal legislative body may ~~[:(a)]~~ adopt or reject the proposed
 1107 general plan ~~[without]~~ or amendment ~~[:(b) amend the]~~ either as proposed ~~[general plan and~~
 1108 ~~adopt or reject it as amended; or (c) reject]~~ by the planning commission or after making any
 1109 revision that the municipal legislative body considers appropriate.

1110 (b) If the municipal legislative body rejects the proposed general plan or amendment, it

1111 may provide suggestions to the planning commission for its consideration.

1112 [~~(6) (a) The general plan is an advisory guide for land use decisions.~~]

1113 [~~(b) The legislative body may adopt an ordinance mandating compliance with the~~
1114 ~~general plan.~~]

1115 (5) The legislative body shall adopt:

1116 (a) a land use element as provided in Subsection 10-9a-403(2)(a)(i);

1117 (b) a transportation and traffic circulation element as provided in Subsection
1118 10-9a-403(2)(a)(ii); and

1119 (c) for all cities, after considering the factors included in Subsection

1120 10-9a-403(2)(b)(ii), a plan to provide a realistic opportunity to meet estimated needs for

1121 additional moderate income housing if long-term projections for land use and development
1122 occur.

1123 Section 26. Section **10-9a-405** is enacted to read:

1124 **10-9a-405. Effect of general plan.**

1125 Except as provided in Section 10-9a-406, the general plan is an advisory guide for land
1126 use decisions, the impact of which shall be determined by ordinance.

1127 Section 27. Section **10-9a-406**, which is renumbered from Section 10-9-305 is
1128 renumbered and amended to read:

1129 **[10-9-305]. 10-9a-406. Public uses to conform to general plan.**

1130 After the legislative body has adopted a general plan [~~or any amendments to the general~~
1131 ~~plan~~], no street, park, or other public way, ground, place, or space, no publicly owned building
1132 or structure, and no public utility, whether publicly or privately owned, may be constructed or
1133 authorized until and unless[~~:(†)~~] it conforms to the current general plan[~~; or~~].

1134 [~~(2) it has been considered by the planning commission and, after receiving the advice~~
1135 ~~of the planning commission, the legislative body approves it as an amendment to the general~~
1136 ~~plan.~~]

1137 Section 28. Section **10-9a-407**, which is renumbered from Section 10-9-306 is
1138 renumbered and amended to read:

1139 **[10-9-306]. 10-9a-407. Effect of official maps.**

1140 (1) Municipalities may adopt an official map [~~in accordance with the provisions of~~
1141 ~~Title 72, Chapter 5, Part 4, Transportation Corridor Preservation~~].

1142 (2) (a) An official map does not:

1143 (i) require a landowner to dedicate and construct a street as a condition of development
1144 approval, except under circumstances provided in Subsection (2)(b)(iii); or

1145 (ii) require a municipality to immediately acquire property it has designated for
1146 eventual use as a public street.

1147 (b) This section does not prohibit a municipality from:

1148 (i) ~~[requiring a landowner to take into account]~~ recommending that an applicant
1149 consider and accommodate the location of the proposed streets in the planning of a

1150 development proposal in a manner that is consistent with Section 10-9a-508;

1151 (ii) acquiring the property through purchase, gift, voluntary dedication, or eminent
1152 domain; or

1153 (iii) requiring the dedication and improvement of a street if the street is found
1154 necessary by the municipality because of a proposed development and if the dedication and
1155 improvement are consistent with Section 10-9a-508.

1156 ~~[(3) An official map may not be used to unconstitutionally prohibit the development of~~
1157 ~~property designated for eventual use as a public street.]~~

1158 ~~[(4) An adopted official map shall be available for public inspection upon request.]~~

1159 Section 29. Section **10-9a-408**, which is renumbered from Section 10-9-307 is
1160 renumbered and amended to read:

1161 ~~[10-9-307].~~ **10-9a-408. Biennial review of moderate income housing element of**
1162 **general plan.**

1163 ~~[(1) The availability of moderate income housing is an issue of statewide concern. To~~
1164 ~~this end:]~~

1165 ~~[(a) cities should afford a reasonable opportunity for a variety of housing, including~~
1166 ~~moderate income housing, to meet the needs of people desiring to live there; and]~~

1167 ~~[(b) moderate income housing should be encouraged to allow persons with moderate~~
1168 ~~incomes to benefit from and to fully participate in all aspects of neighborhood and community~~
1169 ~~life.]~~

1170 ~~[(2) As used in this section:]~~

1171 ~~[(a) "Moderate income housing" means housing occupied or reserved for occupancy by~~
1172 ~~households with a gross household income equal to or less than 80% of the median gross~~

1173 income for households of the same size in the county in which the city is located.]

1174 ~~[(b) "Plan for moderate income housing" or "plan" means a written document adopted~~

1175 ~~by a city legislative body that includes:]~~

1176 ~~[(i) an estimate of the existing supply of moderate income housing located within the~~

1177 ~~city;]~~

1178 ~~[(ii) an estimate of the need for moderate income housing in the city for the next five~~

1179 ~~years as revised biennially;]~~

1180 ~~[(iii) a survey of total residential zoning;]~~

1181 ~~[(iv) an evaluation of how existing zoning densities affect opportunities for moderate~~

1182 ~~income housing; and]~~

1183 ~~[(v) a description of the city's program to encourage an adequate supply of moderate~~

1184 ~~income housing;]~~

1185 ~~[(3) The legislative body of each city shall, as part of its general plan, adopt a plan for~~

1186 ~~moderate income housing within that city.]~~

1187 ~~[(4) A plan may provide moderate income housing by any means or combination of~~

1188 ~~techniques which provide a realistic opportunity to meet estimated needs. The plan may include~~

1189 ~~an analysis of why the means or techniques selected provide a realistic opportunity to meet the~~

1190 ~~objectives of this section. Such techniques may include:]~~

1191 ~~[(a) rezoning for densities necessary to assure the economic viability of inclusionary~~

1192 ~~developments, either through mandatory set asides or density bonuses;]~~

1193 ~~[(b) infrastructure expansion and rehabilitation that will facilitate the construction of~~

1194 ~~moderate income housing;]~~

1195 ~~[(c) rehabilitation of existing uninhabitable housing stock;]~~

1196 ~~[(d) consideration of waiving construction related fees generally imposed by the city;]~~

1197 ~~[(e) utilization of state or federal funds or tax incentives to promote the construction of~~

1198 ~~moderate income housing;]~~

1199 ~~[(f) utilization of programs offered by the Utah Housing Corporation within that~~

1200 ~~agency's funding capacity; and]~~

1201 ~~[(g) utilization of affordable housing programs administered by the Department of~~

1202 ~~Community and Economic Development.]~~

1203 ~~[(5) (a) After adoption of a plan for moderate income housing under Subsection (3),~~

1204 the]

1205 (1) The legislative body of each city shall biennially:

1206 [(i)] (a) review the moderate income housing plan element of its general plan and its
1207 implementation; and

1208 [(ii)] (b) prepare a report setting forth the findings of the review.

1209 [(b)] (2) Each report under Subsection [(5)(a)(ii)] (1) shall include a description of:

1210 [(i)] (a) efforts made by the city to reduce, mitigate, or eliminate local regulatory
1211 barriers to moderate income housing;

1212 [(ii)] (b) actions taken by the city to encourage preservation of existing moderate
1213 income housing and development of new moderate income housing;

1214 [(iii)] (c) progress made within the city to provide moderate income housing, as
1215 measured by permits issued for new units of moderate income housing; and

1216 [(iv)] (d) efforts made by the city to coordinate moderate income housing plans and
1217 actions with neighboring municipalities.

1218 [(e)] (3) The legislative body of each city shall send a copy of the report under
1219 Subsection [(5)(a)(ii)] (1) to the Department of Community and Economic Development and
1220 the association of governments in which the city is located.

1221 [(6)] (4) In a civil action seeking enforcement or claiming a violation of this section or
1222 of Subsection 10-9a-404(5)(c), a plaintiff may not recover damages but may be awarded only
1223 injunctive or other equitable relief [~~only~~].

1224 Section 30. Section **10-9a-501**, which is renumbered from Section 10-9-401 is
1225 renumbered and amended to read:

Part 5. Land Use Ordinances

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

1228 The legislative body may enact [~~a zoning ordinance establishing regulations for land~~
1229 ~~use and development that furthers the intent of this chapter]~~ land use ordinances and a zoning
1230 map.

1231 Section 31. Section **10-9a-502**, which is renumbered from Section 10-9-402 is
1232 renumbered and amended to read:

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

1234 (1) The planning commission shall:

1235 (a) provide notice as required by Subsection 10-9a-205(1)(a);
 1236 (b) hold a public hearing on a proposed land use ordinance or zoning map; and
 1237 (c) prepare and recommend to the legislative body [a proposed zoning ordinance,
 1238 including both the full text of the zoning ordinance and maps, that represents the commission's
 1239 recommendations for zoning all or any part of the area within] a proposed land use ordinance
 1240 or ordinances and zoning map that represent the planning commission's recommendation for
 1241 regulating the use and development of land within all or any part of the area of the
 1242 municipality.

1243 (2) ~~[(a)]~~ The municipal legislative body shall ~~[hold a public hearing on the]~~ consider
 1244 each proposed [zoning] land use ordinance and zoning map recommended to it by the planning
 1245 commission~~[- (b) The legislative body shall provide reasonable notice of the public hearing at~~
 1246 ~~least 14 days before the date of the hearing. If a municipality mails notice of a proposed zoning~~
 1247 ~~change to property owners within that municipality within a specified distance of the property~~
 1248 ~~on which the zoning change is being proposed, it shall also mail equivalent notice to property~~
 1249 ~~owners of an adjacent municipality within the same distance of the property on which the~~
 1250 ~~zoning change is being proposed. (3) After the public hearing, the legislative body may: (a)],~~
 1251 and, after providing notice as required by Subsection 10-9a-205(1)(b) and holding a public
 1252 meeting, the legislative body may adopt or reject the [zoning] ordinance or map either as
 1253 proposed[- (b) amend the zoning ordinance and adopt or reject the zoning ordinance as
 1254 amended; or (c) reject the ordinance] by the planning commission or after making any revision
 1255 the municipal legislative body considers appropriate.

1256 Section 32. Section **10-9a-503**, which is renumbered from Section 10-9-403 is
 1257 renumbered and amended to read:

1258 ~~[10-9-403].~~ **10-9a-503. Amendments.**

1259 (1) ~~[(a)]~~ The legislative body may amend:

1260 ~~[(i)]~~ (a) the number, shape, boundaries, or area of any zoning district;

1261 ~~[(ii)]~~ (b) any regulation of or within the zoning district; or

1262 ~~[(iii)]~~ (c) any other provision of ~~[the zoning]~~ a land use ordinance.

1263 ~~[(b)]~~ (2) The legislative body may not make any amendment authorized by this
 1264 subsection unless the amendment was proposed by the planning commission or ~~[is]~~ was first
 1265 submitted to the planning commission for its ~~[approval, disapproval, or recommendations]~~

1266 recommendation.

1267 [~~(2)~~] (3) The legislative body shall comply with the procedure specified in Section
1268 [~~10-9-402~~] 10-9a-502 in preparing and adopting an amendment to [~~the zoning~~] a land use
1269 ordinance or [~~the~~] a zoning map.

1270 Section 33. Section **10-9a-504**, which is renumbered from Section 10-9-404 is
1271 renumbered and amended to read:

1272 [~~10-9-404~~]. **10-9a-504. Temporary land use regulations.**

1273 (1) (a) A municipal legislative body may, without [~~a public hearing,~~] prior
1274 consideration of or recommendation from the planning commission, enact an ordinance
1275 establishing a temporary [~~zoning~~] land use regulation for any part or all of the area within the
1276 municipality if:

1277 (i) the legislative body makes a finding of compelling, countervailing public interest;
1278 or

1279 (ii) the area is [~~unzoned~~] unregulated.

1280 (b) A temporary [~~zoning~~] land use regulation under Subsection (1)(a) may prohibit or
1281 regulate the erection, construction, reconstruction, or alteration of any building or structure or
1282 any subdivision approval.

1283 (c) A temporary [~~zoning~~] land use regulation under Subsection (1)(a) may not impose
1284 an impact fee or other financial requirement on building or development.

1285 (2) The municipal legislative body shall establish a period of limited effect for the
1286 ordinance not to exceed six months.

1287 (3) (a) A municipal legislative body may, without [~~a public hearing~~] prior planning
1288 commission consideration or recommendation, enact an ordinance establishing a temporary
1289 [~~zoning~~] land use regulation prohibiting construction, subdivision approval, and other
1290 development activities within an area that is the subject of an Environmental Impact Statement
1291 or a Major Investment Study examining the area as a proposed highway or transportation
1292 corridor.

1293 (b) A [~~zoning~~] regulation under Subsection (3)(a):

1294 (i) may not exceed six months in duration;

1295 (ii) may be renewed, if requested by the [~~Utah~~] Transportation Commission created
1296 under Section 72-1-301, for up to two additional six-month periods by ordinance enacted

1297 before the expiration of the previous [zoning] regulation; and

1298 (iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the
1299 Environmental Impact Statement or Major Investment Study is in progress.

1300 Section 34. Section **10-9a-505**, which is renumbered from Section 10-9-405 is
1301 renumbered and amended to read:

1302 ~~[10-9-405].~~ **10-9a-505. Zoning districts.**

1303 (1) (a) The legislative body may divide the territory over which it has jurisdiction into
1304 zoning districts of a number, shape, and area that it considers appropriate to carry out the
1305 purposes of this chapter.

1306 (b) Within those zoning districts, the legislative body may regulate and restrict the
1307 erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and
1308 the use of land.

1309 (2) The legislative body shall ensure that the regulations are uniform for each class or
1310 kind of buildings throughout each zoning district, but the regulations in one ~~[district]~~ zone may
1311 differ from those in other ~~[districts]~~ zones.

1312 (3) (a) There is no minimum area or diversity of ownership requirement for a zone
1313 designation.

1314 (b) Neither the size of a zoning district nor the number of landowners within the
1315 district may be used as evidence of the illegality of a zoning district or of the invalidity of a
1316 municipal decision.

1317 Section 35. Section **10-9a-506**, which is renumbered from Section 10-9-406 is
1318 renumbered and amended to read:

1319 ~~[10-9-406].~~ **10-9a-506. Regulating annexed territory.**

1320 (1) The legislative body of [a] each municipality [~~may~~] shall assign a [~~zoning~~
1321 ~~designation~~] land use zone or a variety thereof to territory annexed to the municipality at the
1322 time the territory is annexed.

1323 [~~(2) If the annexing municipality's zoning ordinance does not designate a zone for the~~
1324 ~~territory to be annexed to the municipality, or if the legislative body does not assign a zone to~~
1325 ~~territory at the time it is annexed, the territory annexed to a municipality shall be zoned~~
1326 ~~according to the zone of the annexing municipality with which it has the longest common~~
1327 ~~boundary.~~]

1328 (2) If the legislative body fails to assign a land use zone at the time the territory is
1329 annexed, all land uses within the annexed territory shall be compatible with surrounding uses
1330 within the municipality.

1331 ' Section 36. Section **10-9a-507**, which is renumbered from Section 10-9-407 is
1332 renumbered and amended to read:

1333 **[10-9-407]. 10-9a-507. Conditional uses.**

1334 (1) A [~~zoning~~] land use ordinance may [contain] include conditional uses and
1335 provisions for conditional uses that [may be allowed, allowed with conditions, or denied in
1336 designated zoning districts, based on] require compliance with standards [and criteria] set forth
1337 in [the zoning] an applicable ordinance [for those uses].

1338 [~~(2) The board of adjustments has jurisdiction to decide appeals of the approval or~~
1339 ~~denial of conditional use permits unless the legislative body has enacted an ordinance~~
1340 ~~designating the legislative body or another body as the appellate body for those appeals.]~~

1341 (2) (a) A conditional use shall be approved if reasonable conditions are proposed, or
1342 can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use
1343 in accordance with applicable standards.

1344 (b) If the reasonably anticipated detrimental effects of a proposed conditional use
1345 cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to
1346 achieve compliance with applicable standards, the conditional use may be denied.

1347 Section 37. Section **10-9a-508** is enacted to read:

1348 **10-9a-508. Regulation of exactions.**

1349 A municipality may impose an exaction or exactions on development proposed in a
1350 land use application if:

1351 (1) an essential link exists between a legitimate governmental interest and each
1352 exaction; and

1353 (2) each exaction is roughly proportionate, both in nature and extent, to the impact of
1354 the proposed development.

1355 Section 38. Section **10-9a-509** is enacted to read:

1356 **10-9a-509. Land use approval standards and vested rights.**

1357 (1) (a) An applicant is entitled to approval of a land use application if the application
1358 conforms to the requirements of an applicable land use ordinance in effect when a complete

1359 application is submitted and all fees have been paid, unless:

1360 (i) the land use authority, on the record, finds that a compelling, countervailing public
1361 interest would be jeopardized by approving the application; or

1362 (ii) in the manner provided by local ordinance and before the application is submitted,
1363 the municipality has formally initiated proceedings to amend its ordinances in a manner that
1364 would prohibit approval of the application as submitted.

1365 (b) The municipality shall process an application without regard to proceedings
1366 initiated to amend the municipality's ordinances if:

1367 (i) 180 days have passed since the proceedings were initiated; and

1368 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
1369 application as submitted.

1370 (c) An application for a land use approval is considered submitted and complete when
1371 the application is provided in a form that complies with the requirements of applicable
1372 ordinances and all applicable fees have been paid.

1373 (d) The continuing validity of an approval of a land use application is conditioned upon
1374 the applicant proceeding after approval to implement the approval with reasonable diligence.

1375 (2) A municipality is bound by the terms and standards of applicable land use
1376 ordinances and shall comply with mandatory provisions of those ordinances.

1377 Section 39. Section **10-9a-510**, which is renumbered from Section 10-9-107 is
1378 renumbered and amended to read:

1379 **~~[10-9-107].~~ 10-9a-510. Limit on plan check fees.**

1380 (1) A municipality may not impose or collect a fee for reviewing or approving the
1381 plans for a commercial or residential building that exceeds the lesser of:

1382 (a) the actual cost of performing the plan review; and

1383 (b) 65% of the amount the municipality charges for a building permit fee for that
1384 building.

1385 ~~[(2) (a) For purposes of this Subsection (2):]~~

1386 ~~[(i) "Identical plans" means building plans submitted to a municipality that:]~~

1387 ~~[(A) are substantially identical to building plans that were previously submitted to and~~
1388 ~~reviewed and approved by the municipality; and]~~

1389 ~~[(B) describe a building that is:]~~

1390 ~~[(I) located on land zoned the same as the land on which the building described in the~~
1391 ~~previously approved plans is located; and]~~

1392 ~~[(H) subject to the same geological and meteorological conditions and the same law as~~
1393 ~~the building described in the previously approved plans.]~~

1394 ~~[(ii) "Nominal fee" means a fee that reasonably reimburses a municipality only for time~~
1395 ~~spent and expenses incurred in:]~~

1396 ~~[(A) verifying that building plans are identical plans; and]~~

1397 ~~[(B) reviewing and approving those minor aspects of identical plans that differ from~~
1398 ~~the previously reviewed and approved building plans referred to in Subsection (2)(a)(i).]~~

1399 ~~[(b)]~~ (2) Subject to Subsection (1), a municipality may impose and collect only a
1400 nominal fee for reviewing and approving identical plans.

1401 Section 40. Section **10-9a-511**, which is renumbered from Section 10-9-408 is
1402 renumbered and amended to read:

1403 ~~[10-9-408].~~ **10-9a-511. Nonconforming uses and noncomplying structures.**

1404 (1) (a) Except as provided in this section, a nonconforming use or noncomplying
1405 structure may be continued by the present or by a future property owner.

1406 (b) A nonconforming use may be extended through the same building, provided no
1407 structural alteration of the building is proposed or made for the purpose of the extension.

1408 (c) For purposes of this Subsection (1), the addition of a solar energy device to a
1409 building is not a structural alteration.

1410 (2) The legislative body may provide ~~[in any zoning ordinance or amendment]~~ for:

1411 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
1412 substitution of nonconforming uses upon the terms and conditions set forth in the ~~[zoning]~~ land
1413 use ordinance;

1414 (b) the termination of all nonconforming uses, except billboards, by providing a
1415 formula establishing a reasonable time period during which the owner can recover or amortize
1416 the amount of his investment in the nonconforming use, if any; and

1417 ~~[(c) the termination of a billboard that is a nonconforming use by acquiring the~~
1418 ~~billboard and associated property rights through:]~~

1419 ~~[(i) gift;]~~

1420 ~~[(ii) purchase;]~~

1421 ~~[(iii) agreement;]~~
1422 ~~[(iv) exchange; or]~~
1423 ~~[(v) eminent domain;]~~
1424 ~~[(3) (a) A municipality is considered to have initiated the acquisition of a billboard~~
1425 ~~structure by eminent domain under Subsection (2)(c)(v) if the municipality prevents a billboard~~
1426 ~~owner from:]~~
1427 ~~[(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged~~
1428 ~~by casualty, an act of God, or vandalism; or]~~
1429 ~~[(ii) except as provided in Subsection (3)(b), relocating or rebuilding a billboard~~
1430 ~~structure, or taking other measures, to correct a mistake in the placement or erection of a~~
1431 ~~billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,~~
1432 ~~or other measure is consistent with the intent of that permit.]~~
1433 ~~[(b) A municipality's denial of a billboard owner's request to relocate or rebuild a~~
1434 ~~billboard structure, or to take other measures, in order to correct a mistake in the placement or~~
1435 ~~erection of a billboard does not constitute the initiation of acquisition by eminent domain under~~
1436 ~~Subsection (3)(a) if the mistake in placement or erection of the billboard is determined by clear~~
1437 ~~and convincing evidence to have resulted from an intentionally false or misleading statement:]~~
1438 ~~[(i) by the billboard applicant in the application; and]~~
1439 ~~[(ii) regarding the placement or erection of the billboard:]~~
1440 ~~[(4) Notwithstanding Subsections (2) and (3), a municipality may remove a billboard~~
1441 ~~without providing compensation if:]~~
1442 ~~[(a) the municipality determines:]~~
1443 ~~[(i) by clear and convincing evidence that the applicant for a permit intentionally made~~
1444 ~~a false or misleading statement in the applicant's application regarding the placement or~~
1445 ~~erection of the billboard; or]~~
1446 ~~[(ii) by substantial evidence that the billboard:]~~
1447 ~~[(A) is structurally unsafe;]~~
1448 ~~[(B) is in an unreasonable state of repair; or]~~
1449 ~~[(C) has been abandoned for at least 12 months;]~~
1450 ~~[(b) the municipality notifies the owner in writing that the owner's billboard meets one~~
1451 ~~or more of the conditions listed in Subsections (4)(a)(i) and (ii);]~~

1452 ~~[(c) the owner fails to remedy the condition or conditions within:]~~
1453 ~~[(i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's~~
1454 ~~receipt of written notice under Subsection (4)(b); or]~~
1455 ~~[(ii) if the condition forming the basis of the municipality's intention to remove the~~
1456 ~~billboard is that it is structurally unsafe, ten business days, or a longer period if necessary~~
1457 ~~because of a natural disaster, following the billboard owner's receipt of written notice under~~
1458 ~~Subsection (4)(b); and]~~
1459 ~~[(d) following the expiration of the applicable period under Subsection (4)(c) and after~~
1460 ~~providing the owner with reasonable notice of proceedings and an opportunity for a hearing,~~
1461 ~~the municipality finds:]~~
1462 ~~[(i) by clear and convincing evidence, that the applicant for a permit intentionally made~~
1463 ~~a false or misleading statement in the application regarding the placement or erection of the~~
1464 ~~billboard; or]~~
1465 ~~[(ii) by substantial evidence that the billboard is structurally unsafe, is in an~~
1466 ~~unreasonable state of repair, or has been abandoned for at least 12 months.]~~
1467 ~~[(5) A municipality may not allow a nonconforming billboard to be rebuilt for a reason~~
1468 ~~other than:]~~
1469 ~~[(a) those specified in Subsections (3) and (4);]~~
1470 ~~[(b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and]~~
1471 ~~[(c) those specified in the municipality's ordinance requiring or allowing a billboard~~
1472 ~~owner to relocate and rebuild an existing nonconforming billboard to an area within the~~
1473 ~~municipality where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5,~~
1474 ~~Utah Outdoor Advertising Act.]~~
1475 ~~[(6) A municipality may terminate the nonconforming status of school district property~~
1476 ~~when the property ceases to be used for school district purposes:]~~
1477 ~~(c) the termination of a nonconforming use due to its abandonment.~~
1478 ~~(3) (a) A municipality may not prohibit the reconstruction or restoration of a~~
1479 ~~noncomplying structure or terminate the nonconforming use of a structure that is involuntarily~~
1480 ~~destroyed in whole or in part due to fire or other calamity unless the structure or use has been~~
1481 ~~abandoned.~~
1482 ~~(b) A municipality may prohibit the reconstruction or restoration of a noncomplying~~

1483 structure or terminate the nonconforming use of a structure if:

1484 (i) the structure is allowed to deteriorate to a condition that the structure is rendered
1485 uninhabitable and is not repaired or restored within six months after written notice to the
1486 property owner that the structure is uninhabitable and that the noncomplying structure or
1487 nonconforming use will be lost if the structure is not repaired or restored within six months; or

1488 (ii) the property owner has voluntarily demolished a majority of the noncomplying
1489 structure or the building that houses the nonconforming use.

1490 (4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of
1491 legal existence for nonconforming uses, the property owner shall have the burden of
1492 establishing the legal existence of a noncomplying structure or nonconforming use.

1493 (b) Any party claiming that a nonconforming use has been abandoned shall have the
1494 burden of establishing the abandonment.

1495 (c) Abandonment may be presumed to have occurred if:

1496 (i) a majority of the primary structure associated with the nonconforming use has been
1497 voluntarily demolished without prior written agreement with the municipality regarding an
1498 extension of the nonconforming use;

1499 (ii) the use has been discontinued for a minimum of one year; or

1500 (iii) the primary structure associated with the nonconforming use remains vacant for a
1501 period of one year.

1502 (d) The property owner may rebut the presumption of abandonment under Subsection
1503 (4)(c), and shall have the burden of establishing that any claimed abandonment under
1504 Subsection (4)(c) has not in fact occurred.

1505 (5) A municipality may terminate the nonconforming status of a school district or
1506 charter school use or structure when the property associated with the school district or charter
1507 school use or structure ceases to be used for school district or charter school purposes for a
1508 period established by ordinance.

1509 Section 41. Section **10-9a-512**, which is renumbered from Section 10-9-409 is
1510 renumbered and amended to read:

1511 **~~[10-9-409].~~ 10-9a-512. Existing outdoor advertising uses.**

1512 (1) A municipality may only require termination of a billboard and associated property
1513 rights through:

- 1514 (a) gift;
- 1515 (b) purchase;
- 1516 (c) agreement;
- 1517 (d) exchange; or
- 1518 (e) eminent domain.

1519 (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent
1520 of the billboard owner.

1521 Section 42. Section **10-9a-513** is enacted to read:

1522 **10-9a-513. Nonconforming billboards.**

1523 (1) (a) A municipality is considered to have initiated the acquisition of a billboard
1524 structure by eminent domain if the municipality prevents a billboard owner from:

1525 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
1526 by casualty, an act of God, or vandalism; or

1527 (ii) except as provided in Subsection (1)(b), relocating or rebuilding a billboard
1528 structure, or taking other measures, to correct a mistake in the placement or erection of a
1529 billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,
1530 or other measure is consistent with the intent of that permit.

1531 (b) A municipality's denial of a billboard owner's request to relocate or rebuild a
1532 billboard structure, or to take other measures, in order to correct a mistake in the placement or
1533 erection of a billboard does not constitute the initiation of acquisition by eminent domain under
1534 Subsection (1)(a) if the mistake in placement or erection of the billboard is determined by clear
1535 and convincing evidence to have resulted from an intentionally false or misleading statement:

1536 (i) by the billboard applicant in the application; and

1537 (ii) regarding the placement or erection of the billboard.

1538 (2) Notwithstanding Subsection (1) and Section 10-9a-512, a municipality may remove
1539 a billboard without providing compensation if:

1540 (a) the municipality determines:

1541 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
1542 false or misleading statement in the applicant's application regarding the placement or erection
1543 of the billboard; or

1544 (ii) by substantial evidence that the billboard:

1545 (A) is structurally unsafe;
1546 (B) is in an unreasonable state of repair; or
1547 (C) has been abandoned for at least 12 months;
1548 (b) the municipality notifies the owner in writing that the owner's billboard meets one
1549 or more of the conditions listed in Subsections (2)(a)(i) and (ii);
1550 (c) the owner fails to remedy the condition or conditions within:
1551 (i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's
1552 receipt of written notice under Subsection (2)(b); or
1553 (ii) if the condition forming the basis of the municipality's intention to remove the
1554 billboard is that it is structurally unsafe, ten business days, or a longer period if necessary
1555 because of a natural disaster, following the billboard owner's receipt of written notice under
1556 Subsection (2)(b); and
1557 (d) following the expiration of the applicable period under Subsection (2)(c) and after
1558 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
1559 the municipality finds:
1560 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
1561 a false or misleading statement in the application regarding the placement or erection of the
1562 billboard; or
1563 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
1564 unreasonable state of repair, or has been abandoned for at least 12 months.
1565 (3) A municipality may not allow a nonconforming billboard to be rebuilt for a reason
1566 other than:
1567 (a) those specified in Subsections (1) and (2);
1568 (b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and
1569 (c) those specified in the municipality's ordinance requiring or allowing a billboard
1570 owner to relocate and rebuild an existing nonconforming billboard to an area within the
1571 municipality where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5,
1572 Utah Outdoor Advertising Act.
1573 Section 43. Section **10-9a-514**, which is renumbered from Section 10-9-106.5 is
1574 renumbered and amended to read:
1575 ~~[10-9-106.5].~~ **10-9a-514. Manufactured homes.**

1576 (1) For purposes of this section, a manufactured home is the same as defined in Section
1577 58-56-3, except that the manufactured home must be attached to a permanent foundation in
1578 accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection
1579 in compliance with the applicable building code. All appendages, including carports, garages,
1580 storage buildings, additions, or alterations must be built in compliance with the applicable
1581 building code.

1582 (2) A manufactured home may not be excluded from any land use zone or area in
1583 which a single-family residence would be permitted, provided the manufactured home
1584 complies with all local [~~zoning, building code, and subdivision requirements, including~~] land
1585 use ordinances, building codes, and any restrictive covenants, applicable to a single family
1586 residence within that zone or area.

1587 (3) A municipality may not:

1588 (a) adopt or enforce an ordinance or regulation that treats a proposed development that
1589 includes manufactured homes differently than one that does not include manufactured homes;
1590 or

1591 (b) reject a development plan based on the fact that the development is expected to
1592 contain manufactured homes.

1593 Section 44. Section **10-9a-515**, which is renumbered from Section 10-9-108 is
1594 renumbered and amended to read:

1595 ~~[10-9-108].~~ **10-9a-515. Regulation of amateur radio antennas.**

1596 (1) A municipality may not enact or enforce an ordinance that does not comply with
1597 the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101
1598 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R.
1599 Part 97.

1600 (2) If a municipality adopts an ordinance involving the placement, screening, or height
1601 of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance
1602 shall:

1603 (a) reasonably accommodate amateur radio communications; and

1604 (b) represent the minimal practicable regulation to accomplish the municipality's
1605 purpose.

1606 Section 45. Section **10-9a-516**, which is renumbered from Section 10-9-501 is

1607 renumbered and amended to read:

1608 ~~[10-9-501]~~. 10-9a-516. **Residential facilities for elderly persons.**

1609 (1) ~~[(a)]~~ A residential facility for elderly persons may not operate as a business.

1610 ~~[(b)]~~ (2) A residential facility for elderly persons shall:

1611 ~~[(i)]~~ (a) be owned by one of the residents or by an immediate family member of one of
1612 the residents or be a facility for which the title has been placed in trust for a resident;

1613 ~~[(ii)]~~ (b) be consistent with ~~[existing zoning of]~~ any existing, applicable land use
1614 ordinance affecting the desired location; and

1615 ~~[(iii)]~~ (c) be occupied on a 24-hour-per-day basis by eight or fewer elderly persons in a
1616 family-type arrangement.

1617 ~~[(2)]~~ (3) A residential facility for elderly persons may not be considered a business
1618 because a fee is charged for food or for actual and necessary costs of operation and
1619 maintenance of the facility.

1620 Section 46. Section **10-9a-517**, which is renumbered from Section 10-9-502 is
1621 renumbered and amended to read:

1622 ~~[10-9-502]~~. 10-9a-517. **Municipal ordinances governing elderly residential**
1623 **facilities.**

1624 (1) Each municipality shall adopt ordinances that establish that a residential facility for
1625 elderly persons is a permitted use in any area where residential dwellings are allowed, except
1626 an area zoned to permit exclusively single-family dwellings.

1627 (2) The ordinances shall establish a permit process that may require only that:

1628 (a) the facility meet ~~[all applicable]~~ each building, safety, ~~[zoning]~~ land use, and health
1629 ~~[ordinances]~~ ordinance applicable to similar dwellings;

1630 (b) adequate off-street parking space be provided;

1631 (c) the facility be capable of use as a residential facility for elderly persons without
1632 structural or landscaping alterations that would change the structure's residential character;

1633 (d) residential facilities for elderly persons be reasonably dispersed throughout the
1634 municipality;

1635 (e) no person being treated for alcoholism or drug abuse be placed in a residential
1636 facility for elderly persons; and

1637 (f) placement in a residential facility for elderly persons be on a strictly voluntary basis

1638 and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional
1639 facility.

1640 Section 47. Section **10-9a-518**, which is renumbered from Section 10-9-503 is
1641 renumbered and amended to read:

1642 ~~[10-9-503].~~ **10-9a-518. Municipal approval of elderly residential facilities.**

1643 (1) ~~[(a)]~~ Upon application for a permit to establish a residential facility for elderly
1644 persons in any area where residential dwellings are allowed, except an area zoned to permit
1645 exclusively single-family dwellings, the municipality ~~[may decide only whether or not the~~
1646 ~~residential facility for elderly persons conforms to ordinances adopted by the municipality~~
1647 ~~under this part. (b) If the municipality determines that the residential facility for elderly~~
1648 ~~persons complies with the ordinances, it]~~ shall grant the requested permit to ~~[that facility:]~~ the
1649 facility if the facility is proposed outside of a zone regulated exclusively for single-family
1650 homes and shall otherwise comply with Section 10-9a-519 if the facility is proposed in a land
1651 use zone regulated exclusively for single-family homes.

1652 (2) The use granted and permitted by this section is nontransferable and terminates if
1653 the structure is devoted to a use other than a residential facility for elderly persons or if the
1654 structure fails to comply with the ordinances adopted under this ~~[part]~~ section.

1655 (3) If a municipality has not adopted ordinances under this ~~[part]~~ section at the time an
1656 application for a permit to establish a residential facility for elderly persons is made, the
1657 municipality shall grant the permit if it is established that the criteria set forth in this part have
1658 been met by the facility.

1659 Section 48. Section **10-9a-519**, which is renumbered from Section 10-9-504 is
1660 renumbered and amended to read:

1661 ~~[10-9-504].~~ **10-9a-519. Elderly residential facilities in areas zoned exclusively**
1662 **for single-family dwellings.**

1663 (1) For purposes of this section:

1664 (a) no person who is being treated for alcoholism or drug abuse may be placed in a
1665 residential facility for elderly persons; and

1666 (b) placement in a residential facility for elderly persons shall be on a strictly voluntary
1667 basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a
1668 correctional institution.

1669 (2) Subject to the granting of a conditional use permit, a residential facility for elderly
1670 persons shall be allowed in any [~~municipal zoning district~~] zone that is [~~zoned~~] regulated to
1671 permit exclusively single-family dwelling use, if that facility:

1672 (a) conforms to all applicable health, safety, [~~zoning~~] land use, and building codes;

1673 (b) is capable of use as a residential facility for elderly persons without structural or
1674 landscaping alterations that would change the structure's residential character; and

1675 (c) conforms to the municipality's criteria, adopted by ordinance, governing the
1676 location of residential facilities for elderly persons in areas zoned to permit exclusively
1677 single-family dwellings.

1678 (3) A municipality may, by ordinance, provide that no residential facility for elderly
1679 persons be established within three-quarters mile of another existing residential facility for
1680 elderly persons or residential facility for persons with a disability[~~, as defined by Section~~
1681 ~~10-9-605~~].

1682 (4) The use granted and permitted by this section is nontransferable and terminates if
1683 the structure is devoted to a use other than as a residential facility for elderly persons or if the
1684 structure fails to comply with applicable health, safety, and building codes.

1685 (5) (a) Municipal ordinances shall prohibit discrimination against elderly persons and
1686 against residential facilities for elderly persons.

1687 (b) The decision of a municipality regarding the application for a permit by a
1688 residential facility for elderly persons must be based on legitimate land use criteria and may not
1689 be based on the age of the facility's residents.

1690 (6) The requirements of this section that a residential facility for elderly persons obtain
1691 a conditional use permit or other permit do not apply if the facility meets the requirements of
1692 existing [~~zoning~~] land use ordinances that allow a specified number of unrelated persons to live
1693 together.

1694 Section 49. Section **10-9a-520**, which is renumbered from Section 10-9-605 is
1695 renumbered and amended to read:

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

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

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

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

1700 ~~[(i) in which more than one person with a disability resides; and]~~
1701 ~~[(ii) (A) is licensed or certified by the Department of Human Services under Title 62A,~~
1702 ~~Chapter 2, Licensure of Programs and Facilities; or]~~
1703 ~~[(B) is licensed or certified by the Department of Health under Title 26, Chapter 21,~~
1704 ~~Health Care Facility Licensing and Inspection Act.]~~
1705 ~~[(2)]~~ (1) Each municipality shall adopt an ordinance for residential facilities for persons
1706 with a disability.
1707 ~~[(3)]~~ (2) Each ordinance under Subsection ~~[(2)]~~ (1) shall:
1708 (a) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair
1709 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and
1710 (b) to the extent required by federal law, provide that a residential facility for persons
1711 with a disability is a permitted use in any ~~[zoning area]~~ zone where similar residential
1712 dwellings that are not residential facilities for persons with a disability are allowed.
1713 ~~[(4)]~~ (3) Subject to Subsection ~~[(3)]~~ (2), an ordinance under Subsection ~~[(2)]~~ (1) may:
1714 (a) require residential facilities for persons with a disability:
1715 (i) to be reasonably dispersed throughout the municipality;
1716 (ii) to be limited by number of occupants;
1717 (iii) for residential facilities for persons with a disability that are substance abuse
1718 facilities and are located within 500 feet of a school, to provide, in accordance with rules
1719 established by the Department of Human Services under Title 62A, Chapter 2, Licensure of
1720 Programs and Facilities:
1721 (A) a security plan satisfactory to local law enforcement authorities;
1722 (B) 24-hour supervision for residents; and
1723 (C) other 24-hour security measures; and
1724 (iv) to obtain permits that verify compliance with the same building, safety, and health
1725 regulations as are applicable in the same ~~[zoning area]~~ zone to similar uses that are not
1726 residential facilities for persons with a disability; and
1727 (b) provide that a residential facility for persons with a disability that would likely
1728 create a fundamental change in the character of a residential neighborhood may be excluded
1729 from a ~~[zoning area]~~ zone.
1730 ~~[(5)]~~ (4) The responsibility to license programs or entities that operate facilities for

1731 persons with a disability, as well as to require and monitor the provision of adequate services to
1732 persons residing in those facilities, shall rest with:

1733 (a) for programs or entities licensed or certified by the Department of Human Services,
1734 the Department of Human Services as provided in Title 62A, Chapter 5, Services to People
1735 with Disabilities; and

1736 (b) for programs or entities licensed or certified by the Department of Health, the
1737 Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and
1738 Inspection Act.

1739 Section 50. Section **10-9a-601**, which is renumbered from Section 10-9-801 is
1740 renumbered and amended to read:

1741 **Part 6. Subdivisions**

1742 **~~[10-9-801].~~ 10-9a-601. Enactment of subdivision ordinance.**

1743 (1) The legislative body of ~~[any]~~ a municipality may enact ~~[a subdivision ordinance]~~
1744 ordinances requiring that a subdivision plat comply with the provisions of the ~~[subdivision]~~
1745 ordinance and ~~[be approved as required by]~~ this part before:

1746 ~~[(+)]~~ (a) it may be filed or recorded in the county recorder's office; and

1747 ~~[(2)]~~ (b) lots may be sold.

1748 (2) If the legislative body fails to enact a subdivision ordinance, the municipality may
1749 regulate subdivisions only to the extent provided in this part.

1750 Section 51. Section **10-9a-602**, which is renumbered from Section 10-9-802 is
1751 renumbered and amended to read:

1752 **~~[10-9-802].~~ 10-9a-602. Preparation -- Adoption and amendment.**

1753 (1) The planning commission shall:

1754 (a) prepare and recommend a proposed ~~[subdivision]~~ ordinance to the legislative body
1755 that regulates the subdivision of land ~~[in the municipality];~~

1756 ~~[(b) hold a public hearing on the proposed subdivision ordinance before making its~~
1757 ~~final recommendation to the legislative body; and]~~

1758 (b) prepare and recommend or consider and recommend a proposed ordinance that
1759 amends the regulation of the subdivision of the land in the municipality;

1760 (c) provide ~~[reasonable]~~ notice ~~[of the public hearing at least 14 days before the date of~~
1761 ~~the hearing.]~~ consistent with Section 10-9a-205; and

1762 ~~[(2) The legislative body shall:]~~
 1763 ~~[(a) hold a public hearing on the proposed subdivision ordinance recommended to it by~~
 1764 ~~the planning commission; and]~~
 1765 ~~[(b) provide reasonable notice of the public hearing at least 14 days before the date of~~
 1766 ~~the hearing.]~~
 1767 ~~[(3) After the public hearing, the]~~
 1768 (d) hold a public hearing on the proposed ordinance before making its final
 1769 recommendation to the legislative body.

1770 (2) The municipal legislative body may~~[:(a)]~~ adopt or reject the [subdivision]
 1771 ordinance either as proposed~~[:(b) amend the subdivision ordinance and adopt or reject it as~~
 1772 ~~amended; or (c) reject the ordinance]~~ by the planning commission or after making any revision
 1773 the legislative body considers appropriate.

1774 Section 52. Section **10-9a-603**, which is renumbered from Section 10-9-804 is
 1775 renumbered and amended to read:

1776 ~~[10-9-804].~~ **10-9a-603. Plats required.**

1777 (1) Unless exempt under Section ~~[10-9-806]~~ 10-9a-605 or ~~[not included in]~~ excluded
 1778 from the definition of subdivision under Subsection ~~[10-9-103(1)]~~ 10-9a-103(34), whenever
 1779 any ~~[lands are]~~ land is laid out and platted, the owner of ~~[those lands]~~ the land shall provide an
 1780 accurate plat that describes or specifies:

1781 (a) a name or designation of the subdivision that is distinct from any plat already
 1782 recorded in the county recorder's office;

1783 ~~[(a)]~~ (b) the boundaries, course, and dimensions of ~~[the parcels of ground;]~~ all of the
 1784 parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes
 1785 that any parcel of ground is intended to be used as a street or for any other public use, and
 1786 whether any such area is reserved or proposed for dedication for a public purpose;

1787 ~~[(b) whether the parcels of ground are intended to be used as streets or for other public~~
 1788 ~~uses, and whether any areas are reserved for public purposes;]~~

1789 (c) the lot or unit reference, ~~[the]~~ block or building reference, ~~[the]~~ street or site
 1790 address, ~~[the]~~ street name or coordinate address, ~~[the]~~ acreage or square footage for all parcels,
 1791 units, or lots, and ~~[the]~~ length and width of the blocks and lots intended for sale; and

1792 (d) every existing right-of-way and easement ~~[grants]~~ grant of record for underground

1793 facilities, as defined in Section 54-8a-2, and for other utility facilities.

1794 (2) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's
1795 ordinances and this part and has been approved by the culinary water authority and the sanitary
1796 sewer authority, the municipality shall approve the plat.

1797 (3) The municipality may withhold an otherwise valid plat approval until the owner of
1798 the land provides the legislative body with a tax clearance indicating that all taxes, interest, and
1799 penalties owing on the land have been paid.

1800 ~~[(2)]~~ (4) (a) The owner of the land shall acknowledge the plat before an officer
1801 authorized by law to take the acknowledgement of conveyances of real estate and shall obtain
1802 the signature of each individual designated by the municipality.

1803 (b) The surveyor making the plat shall certify ~~[it:]~~ that the surveyor:

1804 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
1805 Professional Land Surveyors Licensing Act;

1806 (ii) has completed a survey of the property described on the plat in accordance with
1807 Section 17-23-17 and has verified all measurements; and

1808 (iii) has placed monuments as represented on the plat.

1809 (c) ~~[The]~~ As applicable, the owner or operator of the underground and utility facilities
1810 shall approve the ~~[plat of its property interest if it specifies]:~~

1811 (i) ~~[the]~~ boundary, course, dimensions, and intended use of the right-of-way and
1812 easement grants of record;

1813 (ii) ~~[the]~~ location of existing underground and utility facilities; and

1814 (iii) ~~[any]~~ conditions or restrictions governing the location of the facilities within the
1815 right-of-way, and easement grants of records, and utility facilities within the subdivision.

1816 ~~[(d) The legislative body shall approve the plat as provided in this part. Before the~~
1817 ~~legislative body may approve a plat, the owner of the land shall provide the legislative body~~
1818 ~~with a tax clearance indicating that all taxes, interest, and penalties owing on the land have~~
1819 ~~been paid.]~~

1820 ~~[(3)]~~ (5) (a) After the plat has been acknowledged, certified, and approved, the owner
1821 of the land shall, ~~[subject to Subsection (3)(b), record it]~~ within the time period designated by
1822 ordinance, record the plat in the county recorder's office in the county in which the lands
1823 platted and laid out are situated.

1824 ~~[(b) An owner of land may not submit for recording a plat that gives the subdivision~~
1825 ~~described in the plat the same name as a subdivision in a plat already recorded in the county~~
1826 ~~recorder's office.]~~

1827 (b) An owner's failure to record a plat within the time period designated by ordinance
1828 renders the plat voidable.

1829 Section 53. Section **10-9a-604**, which is renumbered from Section 10-9-805 is
1830 renumbered and amended to read:

1831 **[10-9-805]. 10-9a-604. Subdivision approval procedure.**

1832 (1) A person may not submit a ~~[plat of a]~~ subdivision plat to the county recorder's
1833 office for recording unless a recommendation has been received from the planning commission
1834 and:

1835 (a) the plat has been approved by:

1836 (i) the ~~[legislative body]~~ land use authority of the municipality in which the
1837 ~~[subdivision]~~ land described in the plat is located; ~~[or]~~ and

1838 (ii) other officers that the ~~[municipal legislative body]~~ municipality designates in ~~[an]~~
1839 its ordinance; and

1840 (b) ~~[the approval is]~~ all approvals are entered in writing on the plat by the ~~[mayor or~~
1841 ~~chairperson of the legislative body or by the other officers]~~ designated ~~[in the ordinance]~~
1842 officers.

1843 ~~[(2) In municipalities under the council-mayor form of government, Section~~
1844 ~~10-3-1219.5 governs.]~~

1845 ~~[(3)]~~ (2) A subdivision plat recorded without the ~~[approval]~~ signatures required under
1846 this section is void.

1847 (3) A transfer of land pursuant to a void plat is voidable.

1848 Section 54. Section **10-9a-605**, which is renumbered from Section 10-9-806 is
1849 renumbered and amended to read:

1850 **[10-9-806]. 10-9a-605. Exemptions from plat requirement.**

1851 ~~[(1) (a) Notwithstanding Sections 10-9-804 and 10-9-805, a person may submit to the~~
1852 ~~county recorder's office for recording a document that subdivides property by metes and~~
1853 ~~bounds into less than ten lots, without the necessity of recording a plat, if:]~~

1854 ~~[(i) the planning commission, if required by municipal ordinance, has given the~~

1855 ~~municipal legislative body its recommendation, whether favorable or not; and]~~
1856 ~~[(ii) the document contains a certificate or written approval from:]~~
1857 ~~[(A) the legislative body of the municipality in which the property is located; or]~~
1858 ~~[(B) other officers that the municipal legislative body designates in an ordinance.]~~
1859 ~~[(b) By indicating its approval on a document under Subsection (1)(a), the municipal~~
1860 ~~legislative body or other officer designated by the municipal legislative officer certifies that:]~~
1861 ~~[(i) the planning commission:]~~
1862 ~~[(A) has given its recommendation to the municipal legislative body; or]~~
1863 ~~[(B) is not required by municipal ordinance to give its recommendation;]~~
1864 (1) Notwithstanding Sections 10-9a-603 and 10-9a-604, the land use authority may
1865 approve a subdivision of ten lots or less without a plat, by certifying in writing that:
1866 (a) the municipality has provided notice as required by ordinance and Sections
1867 10-9a-206 and 10-9a-207; and
1868 ~~[(ii)]~~ (b) the proposed subdivision:
1869 (i) is not traversed by the mapped lines of a proposed street as shown in the general
1870 plan and does not require the dedication of any land for street or other public purposes; and
1871 ~~[(iii) if the subdivision is located in a zoned area, each lot in the subdivision meets the~~
1872 ~~frontage, width, and area requirements of the zoning ordinance or has been granted a variance~~
1873 ~~from those requirements by the board of adjustment.]~~
1874 ~~[(2) Municipalities under the council-mayor form of government shall comply with~~
1875 ~~Section 10-3-1219.5:]~~
1876 (ii) has been approved by the culinary water authority and the sanitary sewer authority;
1877 (iii) is located in a zoned area; and
1878 (iv) conforms to all applicable land use ordinances or has properly received a variance
1879 from the requirements of an otherwise conflicting and applicable land use ordinance.
1880 ~~[(3)]~~ (2) (a) Subject to Subsection [(3)(b)] (1), a lot or parcel resulting from a division
1881 of agricultural land is exempt from the plat requirements of Section [10-9-804] 10-9a-603 if
1882 the lot or parcel:
1883 (i) qualifies as land in agricultural use under Title 59, Chapter 2, Part 5, Farmland
1884 Assessment Act;
1885 (ii) meets the minimum size requirement of applicable [zoning] land use ordinances;

1886 and

1887 (iii) is not used and will not be used for any nonagricultural purpose.

1888 (b) The boundaries of each lot or parcel exempted under Subsection [~~(3)(a)~~] (1) shall
1889 be graphically illustrated on a record of survey map that, after receiving the same approvals as
1890 are required for a plat under Section [~~10-9-805~~] 10-9a-604, shall be recorded with the county
1891 recorder.

1892 (c) If a lot or parcel exempted under Subsection [~~(3)(a)~~] (2)(a) is used for a
1893 nonagricultural purpose, the municipality [~~in which the lot or parcel is located~~] may require the
1894 lot or parcel to comply with the requirements of Section [~~10-9-804~~] 10-9a-603.

1895 [~~(4)~~] (3) (a) Documents recorded in the county recorder's office that divide property by
1896 a metes and bounds description do not create [a] an approved subdivision allowed by this part
1897 unless the land use authority's certificate of written approval required by Subsection (1)[~~(a)(ii)~~]
1898 is attached to the document.

1899 (b) The absence of the certificate or written approval required by Subsection (1)[~~(a)(ii)~~]
1900 does not affect the validity of a recorded document.

1901 (c) A document [~~recorded under Subsection (1)(a)~~] which does not meet the
1902 requirements of Subsection (1)[~~(a)(ii)~~] may be corrected [~~to comply with Subsection (1)(a)(ii)~~]
1903 by the recording of an affidavit to which the required certificate or written approval is attached
1904 in accordance with Section 57-3-106.

1905 Section 55. Section **10-9a-606**, which is renumbered from Section 10-9-806.5 is
1906 renumbered and amended to read:

1907 **[~~10-9-806.5~~]. 10-9a-606. Common area parcels on a plat -- No separate**
1908 **ownership -- Ownership interest equally divided among other parcels on plat and**
1909 **included in description of other parcels.**

1910 (1) A parcel designated as common area on a plat recorded in compliance with this part
1911 may not be separately owned or conveyed independent of the other parcels created by the plat.

1912 (2) The ownership interest in a parcel described in Subsection (1) shall:

1913 (a) for purposes of assessment, be divided equally among all parcels created by the
1914 plat, unless a different division of interest for assessment purposes is indicated on the plat or an
1915 accompanying recorded document; and

1916 (b) be considered to be included in the description of each instrument describing a

1917 parcel on the plat by its identifying plat number, even if the common area interest is not
 1918 explicitly stated in the instrument.

1919 Section 56. Section **10-9a-607**, which is renumbered from Section 10-9-807 is
 1920 renumbered and amended to read:

1921 ~~[10-9-807]~~. **10-9a-607. Dedication of streets.**

1922 (1) Plats, when made, acknowledged, and recorded according to the procedures
 1923 specified in this part, operate as a dedication of all streets and other public places, and vest the
 1924 fee of those parcels of land in the municipality for the public for the uses named or intended in
 1925 those plats.

1926 (2) The dedication established by this section does not impose liability upon the
 1927 municipality for streets and other public places that are dedicated in this manner but are
 1928 unimproved.

1929 Section 57. Section **10-9a-608**, which is renumbered from Section 10-9-808 is
 1930 renumbered and amended to read:

1931 ~~[10-9-808]~~. **10-9a-608. Vacating or changing a subdivision plat.**

1932 (1) (a) Subject to ~~[Subsection (2), the legislative body of a municipality or any other~~
 1933 ~~officer that the legislative body designates by ordinance]~~ Section 10-9a-610, and provided that
 1934 notice has been given pursuant to local ordinance and Section 10-9a-208, the land use authority
 1935 may, with or without a petition, consider and resolve any proposed vacation, alteration, or
 1936 amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley
 1937 contained in a subdivision plat ~~[at a public hearing]~~.

1938 (b) If a petition is filed, the ~~[responsible body or officer]~~ land use authority shall hold
 1939 ~~[the]~~ a public hearing within 45 days after receipt of the planning commission's
 1940 recommendation under Subsection (2) if:

- 1941 (i) the plat change includes the vacation of a public street or alley;
 1942 (ii) any owner within the plat notifies the municipality of their objection in writing
 1943 within ten days of mailed notification; or
 1944 (iii) a public hearing is required because all of the owners in the subdivision have not
 1945 signed the revised plat.

1946 (2) (a) ~~[Before the legislative body or officer designated by the legislative body may~~
 1947 ~~consider]~~ The planning commission shall consider and provide a recommendation for a

1948 proposed vacation, alteration, or amendment under Subsection (1)(a) or (6)~~]; the legislative~~
1949 ~~body or officer shall refer the proposal to the planning commission for its recommendation]~~
1950 before the land use authority takes final action.

1951 (b) The planning commission shall give its recommendation within 30 days after the
1952 proposed vacation, alteration, or amendment is referred to it, or as that time period is extended
1953 by agreement with the applicant.

1954 (3) Any fee owner, as shown on the last county assessment rolls, of land within the
1955 subdivision that has been laid out and platted as provided in this part may, in writing, petition
1956 ~~[the legislative body]~~ to have the plat, any portion of it, or any street or lot contained in it,
1957 vacated, altered, or amended as provided in this section.

1958 (4) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street
1959 or lot contained in a plat shall include:

1960 (a) the name and address of all owners of record of the land contained in the entire plat;

1961 (b) the name and address of all owners of record of land adjacent to any street that is
1962 proposed to be vacated, altered, or amended; and

1963 (c) the signature of each of these owners who consents to the petition.

1964 (5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may
1965 not be scheduled for consideration at a public hearing before the ~~[legislative body]~~ planning
1966 commission until the notice required by [this part is given] Section 10-9a-207 or 10-9a-208, as
1967 applicable, is given.

1968 (b) The petitioner shall pay the cost of the notice.

1969 (6) Subject to Subsection (2), if the ~~[responsible body or officer]~~ applicant proposes to
1970 vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat,
1971 ~~[they]~~ the planning commission shall consider the issue at a public hearing after giving the
1972 notice required by ~~[this part]~~ Section 10-9a-207 or 10-9a-208, as applicable.

1973 (7) (a) The owners of record of adjacent parcels that are described by either a metes
1974 and bounds description or a recorded plat may exchange title to portions of those parcels if the
1975 exchange of title is approved by the ~~[planning commission, or such other person or board as the~~
1976 ~~municipal legislative body may designate;]~~ land use authority in accordance with Subsection
1977 (7)(b).

1978 (b) The ~~[planning commission, or such other person or board as the municipal~~

1979 ~~legislative body may designate,]~~ land use authority shall approve an exchange of title under
1980 Subsection (7)(a) if:

1981 (i) no new dwelling lot or housing unit will result from the exchange of title; and

1982 (ii) the exchange of title will not result in a violation of [~~applicable zoning~~

1983 ~~requirements]~~ any land use ordinance.

1984 (c) If an exchange of title is approved under Subsection (7)(b), a notice of approval
1985 shall be recorded [~~by the planning commission, or such other person or board as the municipal~~
1986 ~~legislative body may designate,]~~ in the office of the county recorder which:

1987 (i) is executed by each owner included in the exchange and by the [~~planning~~
1988 ~~commission, or such other person or board as the municipal legislative body may designate]~~

1989 land use authority;

1990 (ii) contains an acknowledgment for each party executing the notice in accordance with
1991 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

1992 (iii) recites the descriptions of both the original parcels and the parcels created by the
1993 exchange of title.

1994 (d) A notice of approval recorded under this Subsection (7) does not act as a
1995 conveyance of title to real property and is not required for the recording of a document
1996 purporting to convey title to real property.

1997 (8) (a) The name of a recorded subdivision may be changed by recording an amended
1998 plat making that change, as provided in this section and subject to Subsection (8)(c).

1999 (b) The surveyor [~~making~~ preparing] the amended plat shall certify [~~it.~~] that the
2000 surveyor:

2001 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
2002 Professional Land Surveyors Licensing Act;

2003 (ii) has completed a survey of the property described on the plat in accordance with
2004 Section 17-23-17 and has verified all measurements; and

2005 (iii) has placed monuments as represented on the plat.

2006 (c) An owner of land may not submit for recording an amended plat that gives the
2007 subdivision described in the amended plat the same name as a subdivision in a plat already
2008 recorded in the county recorder's office.

2009 (d) Except as provided in Subsection (8)(a), the recording of a declaration or other

2010 document that purports to change the name of a recorded plat is ~~[void]~~ voidable.

2011 ~~[(9) Municipalities operating under the council-mayor form of government shall~~
2012 ~~comply with Section 10-3-1219.5.]~~

2013 Section 58. Section **10-9a-609**, which is renumbered from Section 10-9-810 is
2014 renumbered and amended to read:

2015 ~~[10-9-810].~~ **10-9a-609. Grounds for vacating or changing a plat.**

2016 (1) ~~[(a)]~~ Within 30 days after the public hearing required by this part, ~~[the responsible~~
2017 ~~body or officer]~~ or as that time period may be extended by agreement of the parties, the land
2018 use authority shall consider the petition to vacate or change a plat.

2019 ~~[(b)]~~ (2) If the ~~[responsible body or officer]~~ land use authority is satisfied that neither
2020 the public interest nor any person will be materially injured by the proposed vacation,
2021 alteration, or amendment, and that there is good cause for the vacation, alteration, or
2022 amendment, the ~~[legislative body, by ordinance,]~~ land use authority may vacate, alter, or amend
2023 the plat, any portion of the plat, or any street or lot.

2024 ~~[(c)]~~ (3) The ~~[responsible body or officer]~~ land use authority may approve the vacation,
2025 alteration, or amendment by ~~[ordinance]~~ resolution, amended plat, administrative order, or deed
2026 containing a stamp or mark indicating approval by the ~~[responsible body or officer]~~ land use
2027 authority.

2028 ~~[(d)]~~ (4) The ~~[responsible body or officer]~~ land use authority shall ensure that the
2029 vacation, alteration, or amendment is recorded in the office of the county recorder in which the
2030 land is located.

2031 ~~[(2) An aggrieved party may appeal the responsible body's or officer's decision to~~
2032 ~~district court as provided in Section 10-9-1001.]~~

2033 ~~[(3) Municipalities operating in a council-mayor form of government shall comply with~~
2034 ~~Section 10-3-1219.5.]~~

2035 (5) The action of the land use authority vacating or narrowing a street or alley that has
2036 been dedicated to public use shall operate to the extent to which it is vacated or narrowed, upon
2037 the effective date of the vacating ordinance, as a revocation of the acceptance thereof, and the
2038 relinquishment of the city's fee therein, but the right-of-way and easements therein, if any, of
2039 any lot owner and the franchise rights of any public utility may not be impaired thereby.

2040 Section 59. Section **10-9a-610**, which is renumbered from Section 10-9-901 is

2041 renumbered and amended to read:

2042 ~~[10-9-901].~~ **10-9a-610. Restrictions for solar and other energy devices.**

2043 ~~[(1) The legislative body, in order to protect and ensure access to sunlight for solar~~
2044 ~~energy devices, may adopt regulations governing legislative subdivision development plans~~
2045 ~~that relate to the use of restrictive covenants or solar easements, height restrictions, side yard~~
2046 ~~and setback requirements, street and building orientation and width requirements, height and~~
2047 ~~location of vegetation with respect to property boundary lines, and other permissible forms of~~
2048 ~~land use controls.]~~

2049 ~~[(2) The [legislative body] land use authority may refuse to approve or renew any plat~~
2050 ~~[or], subdivision plan, or dedication of any street or other ground, if [the] deed restrictions,~~
2051 ~~covenants, or similar binding agreements running with the land for the lots or parcels covered~~
2052 ~~by the plat or subdivision prohibit or have the effect of prohibiting reasonably sited and~~
2053 ~~designed solar collectors, clotheslines, or other energy devices based on renewable resources~~
2054 ~~from being installed on buildings erected on lots or parcels covered by the plat or subdivision.~~

2055 Section 60. Section **10-9a-611**, which is renumbered from Section 10-9-811 is
2056 renumbered and amended to read:

2057 ~~[10-9-811].~~ **10-9a-611. Prohibited acts.**

2058 (1) (a) An owner of any land located in a subdivision~~[, as defined in this chapter,]~~ who
2059 transfers or sells any land in that subdivision before a plat of the subdivision has been approved
2060 and recorded violates this part for each lot or parcel transferred or sold.

2061 (b) The description by metes and bounds in ~~[the]~~ an instrument of transfer or other
2062 documents used in the process of selling or transferring does not exempt the transaction from
2063 being a violation of Subsection (1)(a) or from the penalties or remedies provided in this
2064 chapter.

2065 (c) Notwithstanding any other provision of this Subsection (1), the recording of an
2066 instrument of transfer or other document used in the process of selling or transferring real
2067 property that violates this part:

2068 (i) does not affect the validity of the instrument or other document; and

2069 (ii) does not affect whether the property that is the subject of the instrument or other
2070 document complies with applicable municipal ordinances on land use and development.

2071 (2) (a) A municipality may bring an action against an owner to require the property to

2072 conform to the provisions of this part or an ordinance enacted under the authority of this part.

2073 (b) An action under this Subsection (2) may include an injunction, abatement, merger
2074 of title, or any other appropriate action or proceeding to prevent, enjoin, or abate the violation.

2075 (c) A municipality need only establish the violation to obtain the injunction.

2076 Section 61. Section **10-9a-701** is enacted to read:

2077 **Part 7. Appeal Authority and Variances**

2078 **10-9a-701. Appeal authority -- Condition precedent to judicial review -- Appeal**
2079 **authorities.**

2080 (1) Each municipality adopting a land use ordinance shall, by ordinance, establish one
2081 or more appeal authorities to hear and decide:

2082 (a) requests for variances from the terms of the land use ordinances; and

2083 (b) appeals from decisions applying the land use ordinances.

2084 (2) As a condition precedent to judicial review, each adversely affected person shall
2085 timely and specifically challenge a land use authority's decision, in accordance with local
2086 ordinance.

2087 (3) An appeal authority:

2088 (a) shall:

2089 (i) act in a quasi-judicial manner; and

2090 (ii) serve as the final arbiter of issues involving the interpretation or application of land
2091 use ordinances; and

2092 (b) may not entertain an appeal of a matter in which the appeal authority, or any
2093 participating member, had first acted as the land use authority.

2094 (4) By ordinance, a municipality may:

2095 (a) designate a separate appeal authority to hear requests for variances than the appeal
2096 authority it designates to hear appeals;

2097 (b) designate one or more separate appeal authorities to hear distinct types of appeals
2098 of land use authority decisions;

2099 (c) require an adversely affected party to present to an appeal authority every theory of
2100 relief that it can raise in district court;

2101 (d) not require an adversely affected party to pursue duplicate or successive appeals
2102 before the same or separate appeal authorities as a condition of the adversely affected party's

2103 duty to exhaust administrative remedies; and

2104 (e) provide that specified types of land use decisions may be appealed directly to the
2105 district court.

2106 (5) If the municipality establishes or, prior to the effective date of this chapter, has
2107 established a multiperson board, body, or panel to act as an appeal authority, at a minimum the
2108 board, body, or panel shall:

2109 (a) notify each of its members of any meeting or hearing of the board, body, or panel;

2110 (b) provide each of its members with the same information and access to municipal
2111 resources as any other member;

2112 (c) convene only if a quorum of its members is present; and

2113 (d) act only upon the vote of a majority of its convened members.

2114 Section 62. Section **10-9a-702**, which is renumbered from Section 10-9-707 is
2115 renumbered and amended to read:

2116 ~~[10-9-707]~~. **10-9a-702. Variances.**

2117 (1) Any person or entity desiring a waiver or modification of the requirements of [~~the~~
2118 ~~zoning~~] a land use ordinance as applied to a parcel of property that he owns, leases, or in which
2119 he holds some other beneficial interest may apply to the [~~board of adjustment~~] applicable
2120 appeal authority for a variance from the terms of the [~~zoning~~] ordinance.

2121 (2) (a) The [~~board of adjustment~~] appeal authority may grant a variance only if:

2122 (i) literal enforcement of the [~~zoning~~] ordinance would cause an unreasonable hardship
2123 for the applicant that is not necessary to carry out the general purpose of the [~~zoning ordinance~~]
2124 land use ordinances;

2125 (ii) there are special circumstances attached to the property that do not generally apply
2126 to other properties in the same [~~district~~] zone;

2127 (iii) granting the variance is essential to the enjoyment of a substantial property right
2128 possessed by other property in the same [~~district~~] zone;

2129 (iv) the variance will not substantially affect the general plan and will not be contrary
2130 to the public interest; and

2131 (v) the spirit of the [~~zoning~~] land use ordinance is observed and substantial justice
2132 done.

2133 (b) (i) 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 unless the alleged hardship:

2136 (A) is located on or associated with the property for which the variance is sought; and

2137 (B) comes from circumstances peculiar to the property, not from conditions that are
2138 general to the neighborhood.

2139 (ii) In determining whether or not enforcement of the ~~[zoning]~~ land use ordinance
2140 would cause unreasonable hardship under Subsection (2)(a), the ~~[board of adjustment]~~ appeal
2141 authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

2142 (c) In determining whether or not there are special circumstances attached to the
2143 property under Subsection (2)(a), the ~~[board of adjustment]~~ appeal authority may find that
2144 special circumstances exist only if the special circumstances:

2145 (i) relate to the hardship complained of; and

2146 (ii) deprive the property of privileges granted to other properties in the same ~~[district]~~
2147 zone.

2148 (3) The applicant shall bear the burden of proving that all of the conditions justifying a
2149 variance have been met.

2150 (4) Variances run with the land.

2151 (5) The ~~[board of adjustment and any other body]~~ appeal authority may not grant a use
2152 ~~[variances]~~ variance.

2153 (6) In granting a variance, the ~~[board of adjustment]~~ appeal authority may impose
2154 additional requirements on the applicant that will:

2155 (a) mitigate any harmful affects of the variance; or

2156 (b) serve the purpose of the standard or requirement that is waived or modified.

2157 Section 63. Section **10-9a-703** is enacted to read:

2158 **10-9a-703. Standing before appeal authority.**

2159 The applicant, a board or officer of the municipality, or any person adversely affected
2160 by the land use authority's decision administering or interpreting a land use ordinance may,
2161 within the time period provided by ordinance, appeal that decision to the appeal authority by
2162 alleging that there is error in any order, requirement, decision, or determination made by the
2163 land use authority in the administration or interpretation of the land use ordinance.

2164 Section 64. Section **10-9a-704** is enacted to read:

2165 **10-9a-704. Time to appeal.**

2166 (1) The municipality shall enact an ordinance establishing a reasonable time to appeal a
2167 decision of a land use authority to an appeal authority.

2168 (2) In the absence of such an ordinance and at a minimum, an adversely affected party
2169 shall have ten calendar days to appeal.

2170 Section 65. Section **10-9a-705** is enacted to read:

2171 **10-9a-705. Burden of proof.**

2172 The appellant has the burden of proving that the land use authority erred.

2173 Section 66. Section **10-9a-706** is enacted to read:

2174 **10-9a-706. Due process.**

2175 (1) Each appeal authority shall conduct each appeal and variance request as provided in
2176 local ordinance.

2177 (2) Each appeal authority shall respect the due process rights of each of the
2178 participants.

2179 Section 67. Section **10-9a-707** is enacted to read:

2180 **10-9a-707. Standard of review for appeals.**

2181 (1) A municipality may, by ordinance, designate the standard of review for appeals of
2182 land use authority decisions.

2183 (2) If the municipality fails to designate a standard of review of factual matters, the
2184 appeal authority shall review the matter de novo.

2185 (3) The appeal authority shall determine the correctness of a decision of the land use
2186 authority in its interpretation and application of a land use ordinance.

2187 (4) Only those decisions in which a land use authority has applied a land use ordinance
2188 to a particular application, person, or parcel may be appealed to an appeal authority.

2189 Section 68. Section **10-9a-708** is enacted to read:

2190 **10-9a-708. Final decision.**

2191 (1) A decision of an appeal authority takes effect on the date when the appeal authority
2192 issues a written decision, or as otherwise provided by ordinance.

2193 (2) A written decision, or other event as provided by ordinance, constitutes a final
2194 decision under Subsection 10-9a-802(2)(a) or a final action under Subsection 10-9a-801(4).

2195 Section 69. Section **10-9a-801**, which is renumbered from Section 10-9-1001 is

2196 renumbered and amended to read:

2197 **Part 8. District Court Appeal**

2198 ~~[10-9-1001].~~ **10-9a-801. Appeals to district court.**

2199 (1) No person may challenge in district court a municipality's land use ~~[decisions]~~
2200 decision made under this chapter, or under ~~[the]~~ a regulation made under authority of this
2201 chapter, until that person has exhausted ~~[his]~~ the person's administrative remedies as provided
2202 in Part 7, Appeal Authority and Variances, if applicable.

2203 (2) (a) Any person adversely affected by ~~[any]~~ a final decision made in the exercise of
2204 or in violation of the provisions of this chapter may file a petition for review of the decision
2205 with the district court within 30 days after the local land use decision is ~~[rendered]~~ final.

2206 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a
2207 property owner files a request for arbitration of a constitutional taking issue with the property
2208 rights ombudsman under Section 63-34-13 until 30 days after:

2209 (A) the arbitrator issues a final award; or

2210 (B) the property rights ombudsman issues a written statement under Subsection
2211 63-34-13(4)(b) declining to arbitrate or to appoint an arbitrator.

2212 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
2213 taking issue that is the subject of the request for arbitration filed with the property rights
2214 ombudsman by a property owner.

2215 (iii) A request for arbitration filed with the property rights ombudsman after the time
2216 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

2217 (3) (a) The courts shall:

2218 ~~[(a)]~~ (i) presume that land use ~~[decisions]~~ ordinances and regulations are valid; ~~[and]~~

2219 (ii) presume that appeal authority decisions are valid;

2220 ~~[(b)]~~ (iii) determine only whether or not:

2221 (A) the ~~[decision is]~~ exercise of legislative discretion was reasonably debatable; or

2222 (B) the appeal authority's decision was arbitrary, capricious, or, subject to Subsection
2223 (3)(b), illegal[-]; and

2224 (iv) provide relief from a municipality's noncompliance with its ordinances only to a
2225 party who establishes that the noncompliance has prejudiced the party and that the relief
2226 requested remedies the prejudice.

2227 (b) A determination of illegality under Subsection (3)(a)(iii)(B) requires a
2228 determination that the decision violates an existing law, statute, or ordinance.

2229 (4) The provisions of Subsection (2)(a) apply from the date on which the municipality
2230 takes final action on a land use application for any adversely affected third party, if the
2231 municipality conformed with the notice provisions of Part 2, Notice, or for any person who had
2232 actual notice of the pending decision.

2233 (5) If the municipality has complied with Section 10-9a-205, a challenge to the
2234 enactment of a land use ordinance or general plan may not be filed with the district court more
2235 than 30 days after the enactment.

2236 (6) The petition is barred unless it is filed within 30 days after the appeal authority's
2237 decision is final.

2238 (7) (a) The appeal authority shall transmit to the reviewing court the record of its
2239 proceedings, including its minutes, findings, orders, and, if available, a true and correct
2240 transcript of its proceedings.

2241 (b) If the proceeding was tape recorded, a transcript of that tape recording is a true and
2242 correct transcript for purposes of this Subsection (7).

2243 (8) (a) (i) If there is a record, the district court's review is limited to the record provided
2244 by the appeal authority.

2245 (ii) The court may not accept or consider any evidence outside the appeal authority's
2246 record unless that evidence was offered to the appeal authority and the court determines that it
2247 was improperly excluded.

2248 (b) If there is no record, the court may call witnesses and take evidence.

2249 (9) The court shall affirm the decision of the appeal authority if the decision is
2250 supported by substantial evidence in the record.

2251 (10) (a) The filing of a petition does not stay the decision of the appeal authority.

2252 (b) (i) Before filing a petition under this section or a request for mediation or
2253 arbitration of a constitutional taking issue under Section 63-34-13, the aggrieved party may
2254 petition the appeal authority to stay its decision.

2255 (ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed
2256 pending district court review if the appeal authority finds it to be in the best interest of the
2257 municipality.

2258 (iii) After a petition is filed under this section or a request for mediation or arbitration
2259 of a constitutional taking issue is filed under Section 63-34-13, the petitioner may seek an
2260 injunction staying the appeal authority's decision.

2261 Section 70. Section **10-9a-802**, which is renumbered from Section 10-9-1002 is
2262 renumbered and amended to read:

2263 ~~[10-9-1002].~~ **10-9a-802. Enforcement.**

2264 (1) (a) A municipality or any adversely affected owner of real estate within the
2265 municipality in which violations of this chapter or ordinances enacted under the authority of
2266 this chapter occur or are about to occur may, in addition to other remedies provided by law,
2267 institute:

2268 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
2269 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

2270 (b) A municipality need only establish the violation to obtain the injunction.

2271 (2) (a) The municipality may enforce the ordinance by withholding building permits.

2272 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any
2273 building or other structure within a municipality without approval of a building permit.

2274 (c) The municipality may not issue a building permit unless the plans of and for the
2275 proposed erection, construction, reconstruction, alteration, or use fully conform to all
2276 regulations then in effect.

2277 Section 71. Section **10-9a-803**, which is renumbered from Section 10-9-1003 is
2278 renumbered and amended to read:

2279 ~~[10-9-1003].~~ **10-9a-803. Penalties.**

2280 (1) The ~~[municipal legislative body]~~ municipality may, by ordinance, establish civil
2281 penalties for violations of any of the provisions of this chapter or of any ordinances adopted
2282 under the authority of this chapter.

2283 (2) Violation of any of the provisions of this chapter or of any ordinances adopted
2284 under the authority of this chapter ~~[are]~~ is punishable as a class C misdemeanor upon
2285 conviction either:

2286 (a) as a class C misdemeanor; or

2287 (b) by imposing the appropriate civil penalty adopted under the authority of this
2288 section.

2289 Section 72. Section **11-36-201** is amended to read:

2290 **11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan --**
2291 **Summary -- Exemptions.**

2292 (1) (a) Each local political subdivision and private entity shall comply with the
2293 requirements of this chapter before establishing or modifying any impact fee.

2294 (b) A local political subdivision may not:

2295 (i) establish any new impact fees that are not authorized by this chapter; or

2296 (ii) impose or charge any other fees as a condition of development approval unless
2297 those fees are a reasonable charge for the service provided.

2298 (c) Notwithstanding any other requirements of this chapter, each local political
2299 subdivision shall ensure that each existing impact fee that is charged for any public facility not
2300 authorized by Subsection 11-36-102(12) is repealed by July 1, 1995.

2301 (d) (i) Existing impact fees for public facilities authorized in Subsection 11-36-102(12)
2302 that are charged by local political subdivisions need not comply with the requirements of this
2303 chapter until July 1, 1997.

2304 (ii) By July 1, 1997, each local political subdivision shall:

2305 (A) review any impact fees in existence as of the effective date of this act, and prepare
2306 and approve the analysis required by this section for each of those impact fees; and

2307 (B) ensure that the impact fees comply with the requirements of this chapter.

2308 (2) (a) Before imposing impact fees, each local political subdivision shall prepare a
2309 capital facilities plan.

2310 (b) (i) As used in this Subsection (2)(b):

2311 (A) (I) "Affected entity" means each county, municipality, independent special district
2312 under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B,
2313 Chapter 2, Local Districts, school district, interlocal cooperation entity established under
2314 Chapter 13, Interlocal Cooperation Act, and specified public utility:

2315 (Aa) whose services or facilities are likely to require expansion or significant
2316 modification because of the facilities proposed in the proposed capital facilities plan; or

2317 (Bb) that has filed with the local political subdivision or private entity a copy of the
2318 general or long-range plan of the county, municipality, independent special district, local
2319 district, school district, interlocal cooperation entity, or specified public utility.

2320 (II) "Affected entity" does not include the local political subdivision or private entity
2321 that is required under this Subsection (2) to provide notice.

2322 (B) "Specified public utility" means an electrical corporation, gas corporation, or
2323 telephone corporation, as those terms are defined in Section 54-2-1.

2324 (ii) Before preparing a capital facilities plan for facilities proposed on land located
2325 within a county of the first or second class, each local political subdivision and each private
2326 entity shall provide written notice, as provided in this Subsection (2)(b), of its intent to prepare
2327 a capital facilities plan.

2328 (iii) Each notice under Subsection (2)(b)(ii) shall:

2329 (A) indicate that the local political subdivision or private entity intends to prepare a
2330 capital facilities plan;

2331 (B) describe or provide a map of the geographic area where the proposed capital
2332 facilities will be located;

2333 (C) be sent to:

2334 (I) each county in whose unincorporated area and each municipality in whose
2335 boundaries is located the land on which the proposed facilities will be located;

2336 (II) each affected entity;

2337 (III) the Automated Geographic Reference Center created in Section 63A-6-202;

2338 (IV) the association of governments, established pursuant to an interlocal agreement
2339 under Title 11, Chapter 13, Interlocal Cooperation Act, in which the facilities are proposed to
2340 be located; and

2341 (V) the state planning coordinator appointed under Section 63-38d-202; and

2342 (D) with respect to the notice to affected entities, invite the affected entities to provide
2343 information for the local political subdivision or private entity to consider in the process of
2344 preparing, adopting, and implementing a capital facilities plan concerning:

2345 (I) impacts that the facilities proposed in the capital facilities plan may have on the
2346 affected entity; and

2347 (II) facilities or uses of land that the affected entity is planning or considering that may
2348 conflict with the facilities proposed in the capital facilities plan.

2349 (c) The plan shall identify:

2350 (i) demands placed upon existing public facilities by new development activity; and

2351 (ii) the proposed means by which the local political subdivision will meet those
2352 demands.

2353 (d) Municipalities and counties need not prepare a separate capital facilities plan if the
2354 general plan required by Sections 10-9-301 and 17-27-301 contains the elements required by
2355 Subsection (2)(c).

2356 (e) (i) If a local political subdivision prepares an independent capital facilities plan
2357 rather than including a capital facilities element in the general plan, the local political
2358 subdivision shall, before adopting the capital facilities plan:

2359 (A) give public notice of the plan according to this Subsection (2)(e);

2360 (B) at least 14 days before the date of the public hearing:

2361 (I) make a copy of the plan, together with a summary designed to be understood by a
2362 lay person, available to the public; and

2363 (II) place a copy of the plan and summary in each public library within the local
2364 political subdivision; and

2365 (C) hold a public hearing to hear public comment on the plan.

2366 (ii) Municipalities shall comply with the notice and hearing requirements of, and,
2367 except as provided in Subsection 11-36-401(4)(f), receive the protections of [~~Subsections~~
2368 ~~10-9-103(2) and 10-9-402(2)~~] Sections 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2).

2369 (iii) Counties shall comply with the notice and hearing requirements of, and, except as
2370 provided in Subsection 11-36-401(4)(f), receive the protections of [~~Subsections 17-27-103(2)~~
2371 ~~and 17-27-402(2)~~] Sections 17-27a-205 and 17-27a-801 and Subsection 17-27a-502(2).

2372 (iv) Special districts and private entities shall comply with the notice and hearing
2373 requirements of, and receive the protections of, Section 17A-1-203.

2374 (v) Nothing contained in this Subsection (2)(e) or in the subsections referenced in
2375 Subsections (2)(e)(ii) and (iii) may be construed to require involvement by a planning
2376 commission in the capital facilities planning process.

2377 (f) (i) Local political subdivisions with a population or serving a population of less
2378 than 5,000 as of the last federal census need not comply with the capital facilities plan
2379 requirements of this part, but shall ensure that the impact fees imposed by them are based upon
2380 a reasonable plan.

2381 (ii) Subsection (2)(f)(i) does not apply to private entities.

2382 (3) In preparing the plan, each local political subdivision shall generally consider all
2383 revenue sources, including impact fees, to finance the impacts on system improvements.

2384 (4) A local political subdivision may only impose impact fees on development
2385 activities when its plan for financing system improvements establishes that impact fees are
2386 necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the
2387 future, in comparison to the benefits already received and yet to be received.

2388 (5) (a) Each local political subdivision imposing impact fees shall prepare a written
2389 analysis of each impact fee that:

2390 (i) identifies the impact on system improvements required by the development activity;

2391 (ii) demonstrates how those impacts on system improvements are reasonably related to
2392 the development activity;

2393 (iii) estimates the proportionate share of the costs of impacts on system improvements
2394 that are reasonably related to the new development activity; and

2395 (iv) based upon those factors and the requirements of this chapter, identifies how the
2396 impact fee was calculated.

2397 (b) In analyzing whether or not the proportionate share of the costs of public facilities
2398 are reasonably related to the new development activity, the local political subdivision shall
2399 identify, if applicable:

2400 (i) the cost of existing public facilities;

2401 (ii) the manner of financing existing public facilities, such as user charges, special
2402 assessments, bonded indebtedness, general taxes, or federal grants;

2403 (iii) the relative extent to which the newly developed properties and the other
2404 properties in the municipality have already contributed to the cost of existing public facilities,
2405 by such means as user charges, special assessments, or payment from the proceeds of general
2406 taxes;

2407 (iv) the relative extent to which the newly developed properties and the other
2408 properties in the municipality will contribute to the cost of existing public facilities in the
2409 future;

2410 (v) the extent to which the newly developed properties are entitled to a credit because
2411 the municipality is requiring their developers or owners, by contractual arrangement or
2412 otherwise, to provide common facilities, inside or outside the proposed development, that have

2413 been provided by the municipality and financed through general taxation or other means, apart
2414 from user charges, in other parts of the municipality;

2415 (vi) extraordinary costs, if any, in servicing the newly developed properties; and

2416 (vii) the time-price differential inherent in fair comparisons of amounts paid at
2417 different times.

2418 (c) Each local political subdivision that prepares a written analysis under this
2419 Subsection (5) on or after July 1, 2000 shall also prepare a summary of the written analysis,
2420 designed to be understood by a lay person.

2421 (6) Each local political subdivision that adopts an impact fee enactment under Section
2422 11-36-202 on or after July 1, 2000 shall, at least 14 days before adopting the enactment, submit
2423 to each public library within the local political subdivision:

2424 (a) a copy of the written analysis required by Subsection (5)(a); and

2425 (b) a copy of the summary required by Subsection (5)(c).

2426 (7) Nothing in this chapter may be construed to repeal or otherwise eliminate any
2427 impact fee in effect on the effective date of this act that is pledged as a source of revenues to
2428 pay bonded indebtedness that was incurred before the effective date of this act.

2429 Section 73. Section **11-36-202** is amended to read:

2430 **11-36-202. Impact fees -- Enactment -- Required provisions.**

2431 (1) (a) Each local political subdivision wishing to impose impact fees shall pass an
2432 impact fee enactment.

2433 (b) The impact fee imposed by that enactment may not exceed the highest fee justified
2434 by the impact fee analysis performed pursuant to Section 11-36-201.

2435 (c) In calculating the impact fee, each local political subdivision may include:

2436 (i) the construction contract price;

2437 (ii) the cost of acquiring land, improvements, materials, and fixtures;

2438 (iii) the cost for planning, surveying, and engineering fees for services provided for and
2439 directly related to the construction of the system improvements; and

2440 (iv) debt service charges, if the political subdivision might use impact fees as a revenue
2441 stream to pay the principal and interest on bonds, notes, or other obligations issued to finance
2442 the costs of the system improvements.

2443 (d) In enacting an impact fee enactment:

- 2444 (i) municipalities shall:
- 2445 (A) make a copy of the impact fee enactment available to the public at least 14 days
- 2446 before the date of the public hearing; and
- 2447 (B) comply with the notice and hearing requirements of, and, except as provided in
- 2448 Subsection 11-36-401(4)(f), receive the protections of~~[, Subsections 10-9-103(2) and~~
- 2449 ~~10-9-802(2)]~~ Sections 10-9a-207 and 10-9a-801;
- 2450 (ii) counties shall:
- 2451 (A) make a copy of the impact fee enactment available to the public at least 14 days
- 2452 before the date of the public hearing; and
- 2453 (B) comply with the notice and hearing requirements of, and, except as provided in
- 2454 Subsection 11-36-401(4)(f), receive the protections of~~[, Subsections 17-27-103(2) and~~
- 2455 ~~17-27-802(2)]~~ Sections 17-27a-207 and 17-27a-801; and
- 2456 (iii) special districts shall:
- 2457 (A) make a copy of the impact fee enactment available to the public at least 14 days
- 2458 before the date of the public hearing; and
- 2459 (B) comply with the notice and hearing requirements of, and receive the protections of,
- 2460 Section 17A-1-203.
- 2461 (e) Nothing contained in Subsection (1)(d) or in the subsections referenced in
- 2462 Subsections (1)(d)(i)(B) and (ii)(B) may be construed to require involvement by a planning
- 2463 commission in the impact fee enactment process.
- 2464 (2) The local political subdivision shall ensure that the impact fee enactment contains:
- 2465 (a) a provision establishing one or more service areas within which it shall calculate
- 2466 and impose impact fees for various land use categories;
- 2467 (b) either:
- 2468 (i) a schedule of impact fees for each type of development activity that specifies the
- 2469 amount of the impact fee to be imposed for each type of system improvement; or
- 2470 (ii) the formula that the local political subdivision will use to calculate each impact fee;
- 2471 (c) a provision authorizing the local political subdivision to adjust the standard impact
- 2472 fee at the time the fee is charged to:
- 2473 (i) respond to unusual circumstances in specific cases; and
- 2474 (ii) ensure that the impact fees are imposed fairly; and

2475 (d) a provision governing calculation of the amount of the impact fee to be imposed on
2476 a particular development that permits adjustment of the amount of the fee based upon studies
2477 and data submitted by the developer.

2478 (3) The local political subdivision may include a provision in the impact fee enactment
2479 that:

2480 (a) exempts low income housing and other development activities with broad public
2481 purposes from impact fees and establishes one or more sources of funds other than impact fees
2482 to pay for that development activity;

2483 (b) imposes an impact fee for public facility costs previously incurred by a local
2484 political subdivision to the extent that new growth and development will be served by the
2485 previously constructed improvement; and

2486 (c) allows a credit against impact fees for any dedication of land for, improvement to,
2487 or new construction of, any system improvements provided by the developer if the facilities:

2488 (i) are identified in the capital facilities plan; and

2489 (ii) are required by the local political subdivision as a condition of approving the
2490 development activity.

2491 (4) Except as provided in Subsection (3)(b), the local political subdivision may not
2492 impose an impact fee to cure deficiencies in public facilities serving existing development.

2493 (5) Notwithstanding the requirements and prohibitions of this chapter, a local political
2494 subdivision may impose and assess an impact fee for environmental mitigation when:

2495 (a) the local political subdivision has formally agreed to fund a Habitat Conservation
2496 Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec 1531, et seq.
2497 or other state or federal environmental law or regulation;

2498 (b) the impact fee bears a reasonable relationship to the environmental mitigation
2499 required by the Habitat Conservation Plan; and

2500 (c) the legislative body of the local political subdivision adopts an ordinance or
2501 resolution:

2502 (i) declaring that an impact fee is required to finance the Habitat Conservation Plan;

2503 (ii) establishing periodic sunset dates for the impact fee; and

2504 (iii) requiring the legislative body to:

2505 (A) review the impact fee on those sunset dates;

2506 (B) determine whether or not the impact fee is still required to finance the Habitat
2507 Conservation Plan; and

2508 (C) affirmatively reauthorize the impact fee if the legislative body finds that the impact
2509 fee must remain in effect.

2510 (6) Each political subdivision shall ensure that any existing impact fee for
2511 environmental mitigation meets the requirements of Subsection (5) by July 1, 1995.

2512 (7) Notwithstanding any other provision of this chapter, municipalities imposing
2513 impact fees to fund fire trucks as of the effective date of this act may impose impact fees for
2514 fire trucks until July 1, 1997.

2515 (8) Notwithstanding any other provision of this chapter, a local political subdivision
2516 may impose and collect impact fees on behalf of a school district if authorized by Section
2517 53A-20-100.5.

2518 Section 74. Section **11-36-401** is amended to read:

2519 **11-36-401. Impact fees -- Challenges -- Appeals.**

2520 (1) Any person or entity residing in or owning property within a service area, and any
2521 organization, association, or corporation representing the interests of persons or entities owning
2522 property within a service area, may file a declaratory judgment action challenging the validity
2523 of the fee.

2524 (2) (a) Any person or entity required to pay an impact fee who believes the fee does not
2525 meet the requirements of law may file a written request for information with the local political
2526 subdivision who established the fee.

2527 (b) Within two weeks of the receipt of the request for information, the local political
2528 subdivision shall provide the person or entity with the written analysis required by Section
2529 11-36-201, the capital facilities plan, and with any other relevant information relating to the
2530 impact fee.

2531 (3) (a) Any local political subdivision may establish, by ordinance, an administrative
2532 appeals procedure to consider and decide challenges to impact fees.

2533 (b) If the local political subdivision establishes an administrative appeals procedure,
2534 the local political subdivision shall ensure that the procedure includes a requirement that the
2535 local political subdivision make its decision no later than 30 days after the date the challenge to
2536 the impact fee is filed.

2537 (4) (a) In addition to the method of challenging an impact fee under Subsection (1), a
2538 person or entity that has paid an impact fee that was imposed by a local political subdivision
2539 may challenge:

2540 (i) if the impact fee enactment was adopted on or after July 1, 2000:

2541 (A) whether the local political subdivision complied with the notice requirements of
2542 this chapter with respect to the imposition of the impact fee; and

2543 (B) whether the local political subdivision complied with other procedural
2544 requirements of this chapter for imposing the impact fee; and

2545 (ii) except as limited by Subsection (4)(a)(i), the impact fee.

2546 (b) A challenge under Subsection (4)(a) may not be initiated unless it is initiated
2547 within:

2548 (i) for a challenge under Subsection (4)(a)(i)(A), 30 days after the person or entity pays
2549 the impact fee;

2550 (ii) for a challenge under Subsection (4)(a)(i)(B), 180 days after the person or entity
2551 pays the impact fee; or

2552 (iii) for a challenge under Subsection (4)(a)(ii), one year after the person or entity pays
2553 the impact fee.

2554 (c) A challenge under Subsection (4)(a) is initiated by filing:

2555 (i) if the local political subdivision has established an administrative appeals procedure
2556 under Subsection (3), the necessary document, under the administrative appeals procedure, for
2557 initiating the administrative appeal;

2558 (ii) a request for arbitration as provided in Subsection 11-36-402(1); or

2559 (iii) an action in district court.

2560 (d) (i) The sole remedy for a challenge under Subsection (4)(a)(i)(A) is the equitable
2561 remedy of requiring the local political subdivision to correct the defective notice and repeat the
2562 process.

2563 (ii) The sole remedy for a challenge under Subsection (4)(a)(i)(B) is the equitable
2564 remedy of requiring the local political subdivision to correct the defective process.

2565 (iii) The sole remedy for a challenge under Subsection (4)(a)(ii) is a refund of the
2566 difference between what the person or entity paid as an impact fee and the amount the impact
2567 fee should have been if it had been correctly calculated.

2568 (e) Nothing in this Subsection (4) may be construed as requiring a person or entity to
2569 exhaust administrative remedies with the local political subdivision before filing an action in
2570 district court under this Subsection (4).

2571 (f) The protections given to a municipality under [~~Subsection 10-9-103(2)~~] Section
2572 10-9a-801 and to a county under [~~Subsection 17-27-103(2)~~] Section 17-27a-801 do not apply in
2573 a challenge under Subsection (4)(a)(i)(A).

2574 (5) The judge may award reasonable attorneys' fees and costs to the prevailing party in
2575 any action brought under this section.

2576 (6) Nothing in this chapter may be construed as restricting or limiting any rights to
2577 challenge impact fees that were paid before the effective date of this chapter.

2578 Section 75. Section **17-27a-101**, which is renumbered from Section 17-27-101 is
2579 renumbered and amended to read:

2580 **CHAPTER 27a. COUNTY LAND USE, DEVELOPMENT, AND MANAGEMENT ACT**

2581 **Part 1. General Provisions**

2582 [~~17-27-101~~]. **17-27a-101. Title.**

2583 This chapter [~~shall be~~] is known as the "County Land Use, Development, and
2584 Management Act."

2585 Section 76. Section **17-27a-102**, which is renumbered from Section 17-27-102 is
2586 renumbered and amended to read:

2587 [~~17-27-102~~]. **17-27a-102. Purposes -- General land use authority.**

2588 [~~(1) To accomplish the purpose~~]

2589 (1) (a) The purposes of this chapter[~~and in order~~] are to provide for the health, safety,
2590 and welfare, and promote the prosperity, improve the morals, peace and good order, comfort,
2591 convenience, and aesthetics of [~~the~~] each county and its present and future inhabitants and
2592 businesses, to protect the tax base, to secure economy in governmental expenditures, to foster
2593 the state's agricultural and other industries, to protect both urban and nonurban development, to
2594 protect and ensure access to sunlight for solar energy devices, and to protect property values[~~;~~].

2595 (b) To accomplish the purposes of this chapter, counties may enact all ordinances,
2596 resolutions, and rules and may enter into other forms of land use controls and development
2597 agreements that they consider necessary or appropriate for the use and development of land
2598 within the unincorporated area of the county, including ordinances, resolutions, [~~and~~] rules,

2599 restrictive covenants, easements, and development agreements governing uses, density, open
 2600 spaces, structures, buildings, energy-efficiency, light and air, air quality, transportation and
 2601 public or alternative transportation, infrastructure, street and building orientation and width
 2602 requirements, public facilities, and height and location of vegetation, [~~and~~] trees, and
 2603 landscaping, unless [~~those ordinances, resolutions, or rules are~~] expressly prohibited by law.

2604 (2) [~~A~~] Each county shall comply with the mandatory provisions of this part before any
 2605 agreement or contract to provide goods, services, or municipal-type services to any storage
 2606 facility or transfer facility for high-level nuclear waste, or greater than class C radioactive
 2607 waste, may be executed or implemented.

2608 Section 77. Section **17-27a-103**, which is renumbered from Section 17-27-103 is
 2609 renumbered and amended to read:

2610 [~~17-27-103~~]. **17-27a-103. Definitions.**

2611 [~~(+)~~] As used in this chapter:

2612 (1) "Affected entity" means a county, municipality, independent special district under
 2613 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
 2614 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
 2615 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of
 2616 Transportation, if:

2617 (a) the entity's services or facilities are likely to require expansion or significant
 2618 modification because of an intended use of land;

2619 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
 2620 or

2621 (c) the entity's boundaries or facilities are within one mile of land that is the subject of
 2622 a general plan amendment or land use ordinance change.

2623 (2) "Appeal authority" means the person, board, commission, agency, or other body
 2624 designated by ordinance to decide an appeal of a decision of a land use application or a
 2625 variance.

2626 [~~(a)~~] (3) "Billboard" means a freestanding ground sign located on industrial,
 2627 commercial, or residential property if the sign is designed or intended to direct attention to a
 2628 business, product, or service that is not sold, offered, or existing on the property where the sign
 2629 is located.

2630 ~~[(b)]~~ (4) "Chief executive officer" means the person or body that exercises the
2631 executive powers of the county.

2632 ~~[(c)]~~ (5) "Conditional use" means a land use that, because of its unique characteristics
2633 or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
2634 compatible in some areas or may be compatible only if certain conditions are required that
2635 mitigate or eliminate the detrimental impacts.

2636 ~~[(d)]~~ (6) "Constitutional taking" ~~[has the meaning as defined in Section 63-34-13.]~~
2637 means a governmental action that results in a taking of private property so that compensation to
2638 the owner of the property is required by the:

2639 ~~[(e)]~~ "County" ~~means the unincorporated area of the county.]~~

2640 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

2641 (b) Utah Constitution Article I, Section 22.

2642 (7) "Culinary water authority" means the department, agency, or public entity with
2643 responsibility to review and approve the feasibility of the culinary water system and sources for
2644 the subject property.

2645 (8) (a) "Disability" means a physical or mental impairment that substantially limits one
2646 or more of a person's major life activities, including a person having a record of such an
2647 impairment or being regarded as having such an impairment.

2648 (b) "Disability" does not include current illegal use of, or addiction, any federally
2649 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
2650 802.

2651 ~~[(f)]~~ (9) "Elderly person" means a person who is 60 years old or older, who desires or
2652 needs to live with other elderly persons in a group setting, but who is capable of living
2653 independently.

2654 ~~[(g)]~~ (10) "Gas corporation" has the same meaning as defined in Section 54-2-1.

2655 ~~[(h)]~~(i) (11) "General plan" means a document that a county adopts that sets forth
2656 general guidelines for proposed future development of the unincorporated land within the
2657 county~~[, as set forth in Sections 17-27-301 and 17-27-302].~~

2658 ~~[(ii)]~~ "General plan" ~~includes what is also commonly referred to as a "master plan."~~

2659 (12) "Identical plans" means building plans submitted to a county that are substantially
2660 identical building plans that were previously submitted and reviewed and approved by the

2661 county and describe a building that is:

2662 (a) located on land zoned the same as the land on which the building described in the
2663 previously approved plans is located; and

2664 (b) subject to the same geological and meteorological conditions and the same law as
2665 the building described in the previously approved plans.

2666 ~~(i)~~ (13) "Interstate pipeline company" means a person or entity engaged in natural gas
2667 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
2668 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

2669 ~~(j)~~ (14) "Intrastate pipeline company" means a person or entity engaged in natural gas
2670 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
2671 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

2672 (15) "Land use application" means an application required by a county's land use
2673 ordinance.

2674 (16) "Land use authority" means a person, board, commission, agency, or other body
2675 designated by the local legislative body to act upon a land use application.

2676 (17) "Land use ordinance" means a planning, zoning, development, or subdivision
2677 ordinance of the county, but does not include the general plan.

2678 ~~(k)~~ (18) "Legislative body" means the county legislative body, or for a county that has
2679 adopted an alternative form of government, the body exercising legislative powers.

2680 ~~(l)~~ (19) "Lot line adjustment" means the relocation of the property boundary line in a
2681 subdivision between two adjoining lots with the consent of the owners of record.

2682 ~~(m) "Municipality" means a city or town.]~~

2683 ~~(n) "Nonconforming]~~

2684 (20) "Moderate income housing" means housing occupied or reserved for occupancy
2685 by households with a gross household income equal or less than 80% of the median gross
2686 income for households of the same size in the county in which the housing is located.

2687 (21) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
2688 and expenses incurred in:

2689 (a) verifying that building plans are identical plans; and

2690 (b) reviewing and approving those minor aspects of identical plans that differ from the
2691 previously reviewed and approved building plans.

2692 (22) "Noncomplying structure" means a structure that:
2693 [(†)] (a) legally existed before its current [zoning] land use designation; and
2694 [(††)] (b) because of one or more subsequent [zoning] land use ordinance changes, does
2695 not conform [with] to the [zoning regulation's] setback, height restrictions, or other regulations
2696 [that] , excluding those regulations that govern the [structure] use of land.
2697 ~~[(⊖)]~~ (23) "Nonconforming use" means a use of land that:
2698 [(†)] (a) legally existed before its current [zoning] land use designation;
2699 [(††)] (b) has been maintained continuously since the time the [zoning] land use
2700 ordinance regulation governing the land changed; and
2701 [(†††)] (c) because of one or more subsequent [zoning] land use ordinance changes, does
2702 not conform [with] to the [zoning] regulations that now govern the use of the land.
2703 ~~[(p)] "Official map" has the same meaning as provided in Section 72-5-401.]~~
2704 (24) "Official map" means a map drawn by county authorities and recorded in the
2705 county recorder's office that:
2706 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
2707 highways and other transportation facilities;
2708 (b) provides a basis for restricting development in designated rights-of-way or between
2709 designated setbacks to allow the government authorities time to purchase or otherwise reserve
2710 the land; and
2711 (c) has been adopted as an element of the county's general plan.
2712 ~~[(q)]~~ (25) "Person" means an individual, corporation, partnership, organization,
2713 association, trust, governmental agency, or any other legal entity.
2714 (26) "Plan for moderate income housing" means a written document adopted by a
2715 county legislative body that includes:
2716 (a) an estimate of the existing supply of moderate income housing located within the
2717 county;
2718 (b) an estimate of the need for moderate income housing in the county for the next five
2719 years as revised biennially;
2720 (c) a survey of total residential land use;
2721 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
2722 income housing; and

2723 (e) a description of the county's program to encourage an adequate supply of moderate
2724 income housing.

2725 ~~[(†)]~~ (27) "Plat" means a map or other graphical representation of lands being laid out
2726 and prepared in accordance with Section ~~[17-27-804]~~ 17-27a-603, 17-23-17, or 57-8-13.

2727 (28) "Public hearing" means a hearing at which members of the public are provided a
2728 reasonable opportunity to comment on the subject of the hearing.

2729 (29) "Public meeting" means a meeting that is required to be open to the public under
2730 Title 52, Chapter 4, Open and Public Meetings.

2731 ~~[(s)]~~ (30) "Record of survey map" means a map of a survey of land prepared in
2732 accordance with Section 17-23-17.

2733 ~~[(t)-(†)]~~ (31) "Residential facility for elderly persons" means a single-family or
2734 multiple-family dwelling unit that meets the requirements of Part ~~[5 and any ordinance adopted~~
2735 under authority of that part. (ii) "Residential facility for elderly persons"] 4, General Plan, but
2736 does not include a health care facility as defined by Section 26-21-2.

2737 (32) "Residential facility for persons with a disability" means a residence:

2738 (a) in which more than one person with a disability resides; and

2739 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
2740 Chapter 2, Licensure of Programs and Facilities; or

2741 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
2742 Health Care Facility Licensing and Inspection Act.

2743 (33) "Sanitary sewer authority" means the department, agency, or public entity with
2744 responsibility to review and approve the feasibility of sanitary sewer services or onsite
2745 wastewater systems.

2746 ~~[(u)]~~ (34) "Special district" means ~~[all entities]~~ any entity established under the
2747 authority of Title 17A, Special Districts, and any other governmental or quasi-governmental
2748 entity that is not a county, municipality, school district, or unit of the state.

2749 ~~[(v)]~~ "Street" means public rights-of-way, including highways, avenues, boulevards,
2750 parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements,
2751 and other ways.]

2752 (35) "Specified public utility" means an electrical corporation, gas corporation, or
2753 telephone corporation, as those terms are defined in Section 54-2-1.

2754 (36) "Street" means a public right-of-way, including a highway, avenue, boulevard,
2755 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
2756 way.

2757 ~~(w)~~ ~~(i)~~ (37) "Subdivision" means any land that is divided, resubdivided or proposed
2758 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
2759 purpose, whether immediate or future, for offer, sale, lease, or development either on the
2760 installment plan or upon any and all other plans, terms, and conditions.

2761 ~~(i)~~ (a) "Subdivision" includes:

2762 (i) the division or development of land whether by deed, metes and bounds description,
2763 devise and testacy, ~~lease,~~ map, plat, or other recorded instrument~~[-]; and~~

2764 (ii) except as provided in Subsection (37)(b), divisions of land for residential and
2765 nonresidential uses, including land used or to be used for commercial, agricultural, and
2766 industrial purposes.

2767 ~~(iii)~~ (b) "Subdivision" does not include:

2768 ~~(A)~~ (i) a bona fide division or partition of agricultural land for ~~agricultural purposes;~~
2769 ~~(B)~~ the purpose of joining one of the resulting separate unsubdivided parcels to a contiguous
2770 parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel
2771 remaining from the division or partition violates an applicable land use ordinance;

2772 (ii) a recorded agreement between owners of adjoining properties adjusting their
2773 mutual boundary if:

2774 ~~(F)~~ (A) no new lot is created; and

2775 ~~(H)~~ (B) the adjustment does not ~~result in a violation of~~ violate applicable ~~zoning~~
2776 land use ordinances; or

2777 ~~(E)~~ (iii) a recorded document, executed by the owner of record~~[-];~~

2778 (A) revising the legal description of more than one contiguous unsubdivided parcel of
2779 property into one legal description encompassing all such parcels of property; or

2780 (B) joining a subdivided parcel of property to another parcel of property that has not
2781 been subdivided, if the joinder does not violate applicable land use ordinances; or

2782 ~~(D)~~ (iv) a bona fide division or partition of land in a county other than a first class
2783 county for the purpose of siting, on one or more of the resulting separate parcels:

2784 ~~(F)~~ (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas

2785 corporation, interstate pipeline company, or intrastate pipeline company; or

2786 ~~[(H)]~~ (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
2787 utility service regeneration, transformation, retransmission, or amplification facility.

2788 ~~[(iv)]~~ (c) The joining of a subdivided parcel of property to another parcel of property
2789 that has not been subdivided does not constitute a ["subdivision"] under this Subsection
2790 ~~[(+)(w)]~~ (37) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the
2791 county's subdivision ordinance.

2792 (38) "Township" means a contiguous, geographically defined portion of the
2793 unincorporated area of a county, established under this part or reconstituted or reinstated under
2794 Section 17-27a-307, with planning and zoning functions as exercised through the township
2795 planning commission, as provided in this chapter, but with no legal or political identity
2796 separate from the county and no taxing authority, except that "township" means a former
2797 township under Chapter 308, Laws of Utah 1996 where the context so indicates.

2798 ~~[(x)]~~ (39) "Unincorporated" means the area outside of the incorporated [~~boundaries of~~
2799 ~~cities and towns]~~ area of a municipality.

2800 ~~[(2)(a) A county meets the requirements of reasonable notice required by this chapter~~
2801 ~~if it:]~~

2802 ~~[(i) posts notice of the hearing or meeting in at least three public places within the~~
2803 ~~jurisdiction and publishes notice of the hearing or meeting in a newspaper of general~~
2804 ~~circulation in the jurisdiction, if one is available; or]~~

2805 ~~[(ii) gives actual notice of the hearing or meeting:]~~

2806 ~~[(b) A county legislative body may enact an ordinance establishing stricter notice~~
2807 ~~requirements than those required by this Subsection (2).]~~

2808 ~~[(c) (i) Proof that one of the two forms of notice authorized by this Subsection (2) was~~
2809 ~~given is prima facie evidence that notice was properly given.]~~

2810 ~~[(ii) If notice given under authority of this section is not challenged as provided in~~
2811 ~~Section 17-27-1001 within 30 days from the date of the meeting for which the notice was~~
2812 ~~given, the notice is considered adequate and proper.]~~

2813 (40) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
2814 land use zones, overlays, or districts.

2815 Section 78. Section **17-27a-104**, which is renumbered from Section 17-27-104 is

2816 renumbered and amended to read:

2817 ~~[17-27-104].~~ **17-27a-104. Stricter requirements.**

2818 (1) Except as provided in Subsection (2), ~~[counties]~~ a county may enact ~~[ordinances]~~
2819 an ordinance imposing stricter requirements or higher standards than are required by this
2820 chapter.

2821 (2) A county may not impose stricter requirements or higher standards than are
2822 required by:

2823 (a) Section ~~[17-27-105]~~ 17-27a-305;

2824 (b) Section ~~[17-27-105.5]~~ 17-27a-513;

2825 ~~[(c) Part 5, Residential Facilities for Elderly; and]~~

2826 ~~[(d) Part 6, Residential Facilities for Persons with a Disability.]~~

2827 (c) Section 17-27a-515; and

2828 (d) Section 17-27a-519.

2829 Section 79. Section **17-27a-201** is enacted to read:

2830 **Part 2. Notice**

2831 **17-27a-201. Required notice.**

2832 (1) At a minimum, each county shall provide actual notice or the notice required by
2833 this part.

2834 (2) A county may by ordinance require greater notice than required under this part.

2835 Section 80. Section **17-27a-202** is enacted to read:

2836 **17-27a-202. Applicant notice.**

2837 For each land use application, the county shall notify the applicant of the date, time, and
2838 place of each public hearing and public meeting to consider the application and of any final
2839 action on a pending application.

2840 Section 81. Section **17-27a-203**, which is renumbered from Section 17-27-301.5 is
2841 renumbered and amended to read:

2842 ~~[17-27-301.5].~~ **17-27a-203. Notice of intent to prepare a general plan or**
2843 **amendments to a general plan in certain counties.**

2844 ~~[(1) As used in this section:]~~

2845 ~~[(a) (i) "Affected entity" means each county, municipality, independent special district~~
2846 ~~under Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B;~~

2847 Chapter 2, Local Districts, school district, interlocal cooperation entity established under Title
2848 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:]

2849 [~~(A) whose services or facilities are likely to require expansion or significant~~
2850 ~~modification because of an intended use of land; or]~~

2851 [~~(B) that has filed with the county a copy of the entity's general or long-range plan.]~~

2852 [~~(ii) "Affected entity" does not include the county that is required under this section to~~
2853 ~~provide notice.]~~

2854 [~~(b) "Specified public utility" means an electrical corporation, gas corporation, or~~
2855 ~~telephone corporation, as those terms are defined in Section 54-2-1.]~~

2856 [~~(2)~~] (1) Before preparing a proposed general plan or [~~amendments to an existing~~] a
2857 comprehensive general plan amendment, each county of the first or second class shall provide
2858 [~~written~~] ten calendar days notice[~~, as provided in this section,~~] of its intent to prepare a
2859 proposed general plan or [~~amendments to~~] a comprehensive general plan[~~;~~] amendment to:

2860 (a) each affected entity;

2861 (b) the Automated Geographic Reference Center created in Section 63A-6-202;

2862 (c) the association of governments, established pursuant to an interlocal agreement
2863 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and

2864 (d) the state planning coordinator appointed under Section 63-38d-202.

2865 [~~(3)~~] (2) Each notice under Subsection [~~(2)~~] (1) shall:

2866 (a) indicate that the county intends to prepare a general plan or [~~amendments to a~~] a
2867 comprehensive general plan amendment, as the case may be;

2868 (b) describe or provide a map of the geographic area that will be affected by the general
2869 plan or [~~amendments to a general plan~~] amendment;

2870 (c) be sent [~~to~~] by mail, e-mail, or other effective means;

2871 [~~(i) each affected entity;~~]

2872 [~~(ii) the Automated Geographic Reference Center created in Section 63A-6-202;~~]

2873 [~~(iii) the association of governments, established pursuant to an interlocal agreement~~
2874 ~~under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and]~~

2875 [~~(iv) the state planning coordinator appointed under Section 63-38d-202;~~]

2876 (d) [~~with respect to the notice to affected entities,~~] invite the affected entities to provide
2877 information for the county to consider in the process of preparing, adopting, and implementing

2878 a general plan or [~~amendments to a general plan~~] amendment concerning:

2879 (i) impacts that the use of land proposed in the proposed general plan or [~~amendments~~
2880 ~~to a general plan~~] amendment may have [~~on the affected entity~~]; and

2881 (ii) uses of land within the county that the affected entity is [~~planning or~~] considering
2882 that may conflict with the proposed general plan or [~~amendments to the general plan~~]
2883 amendment; and

2884 (e) include the address of an Internet website, if the county has one, and the name and
2885 telephone number of a person where more information can be obtained concerning the county's
2886 proposed general plan or [~~amendments to a general plan~~] amendment.

2887 Section 82. Section **17-27a-204** is enacted to read:

2888 **17-27a-204. Notice of public hearings and public meetings to consider general**
2889 **plan or amendments.**

2890 (1) A county shall provide:

2891 (a) notice of the date, time, and place of the first public hearing to consider the original
2892 adoption or any modification of all or any portion of a general plan; and

2893 (b) notice of each public meeting on the subject.

2894 (2) Each notice of a public hearing under Subsection (1)(a) shall be at least ten
2895 calendar days before the public hearing and shall be:

2896 (a) published in a newspaper of general circulation in the area;

2897 (b) mailed to each affected entity; and

2898 (c) posted:

2899 (i) in at least three public locations within the county; or

2900 (ii) on the county's official website.

2901 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
2902 before the meeting and shall be:

2903 (a) published in a newspaper of general circulation in the area; and

2904 (b) posted:

2905 (i) in at least three public locations within the county; or

2906 (ii) on the county's official website.

2907 Section 83. Section **17-27a-205** is enacted to read:

2908 **17-27a-205. Notice of public hearings and public meetings on adoption or**

2909 **modification of land use ordinance.**

2910 (1) Each county shall give:

2911 (a) notice of the date, time, and place of the first public hearing to consider the
2912 adoption or modification of a land use ordinance; and

2913 (b) notice of each public meeting on the subject.

2914 (2) Each notice of a public hearing under Subsection (1)(a) shall be:

2915 (a) mailed to each affected entity at least ten calendar days before the public hearing;

2916 (b) posted:

2917 (i) in at least three public locations within the county; or

2918 (ii) on the county's official website; and

2919 (c) (i) published in a newspaper of general circulation in the area at least ten calendar
2920 days before the public hearing; or

2921 (ii) mailed at least three days before the public hearing to:

2922 (A) each property owner whose land is directly affected by the land use ordinance
2923 change; and

2924 (B) each adjacent property owner within the parameters specified by county ordinance.

2925 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
2926 before the hearing and shall be posted:

2927 (a) in at least three public locations within the county; or

2928 (b) on the county's official website.

2929 Section 84. Section **17-27a-206** is enacted to read:

2930 **17-27a-206. Third party notice.**

2931 (1) If a county requires notice to adjacent property owners, the county shall:

2932 (a) mail notice to the record owner of each parcel within parameters specified by
2933 county ordinance; or

2934 (b) post notice on the property with a sign of sufficient size, durability, print quality,
2935 and location that is reasonably calculated to give notice to passers-by.

2936 (2) If a county mails notice to third party property owners under Subsection (1), it shall
2937 mail equivalent notice to property owners within an adjacent jurisdiction.

2938 Section 85. Section **17-27a-207** is enacted to read:

2939 **17-27a-207. Subdivision notice without vacation, alteration, or amendment of a**

2940 street.

2941 (1) For a proposed subdivision or an amendment to a subdivision, each county shall
2942 provide notice of the date, time, and place of a public hearing that is:

2943 (a) mailed not less than three calendar days before the public hearing and addressed to
2944 the record owner of each parcel within specified parameters of that property; or

2945 (b) posted not less than three calendar days before the public hearing, on the property
2946 proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and
2947 print quality that is reasonably calculated to give notice to passers-by.

2948 (2) Each county shall mail notice to each affected entity of a public hearing to consider
2949 a preliminary plat describing a multiple-unit residential development or a commercial or
2950 industrial development.

2951 (3) Each county shall provide notice as required by Section 17-27a-208 for a
2952 subdivision that involves a vacation, alteration, or amendment of a street.

2953 Section 86. Section **17-27a-208** is enacted to read:

2954 **17-27a-208. Subdivision notice with vacation, alteration, or amendment of a**
2955 **street.**

2956 For any proposal to vacate, alter, or amend a platted street, the land use authority shall
2957 hold a public hearing and shall give notice of the date, place, and time of the hearing by:

2958 (1) mailing notice as required in Section 17-27a-207;

2959 (2) mailing notice to each affected entity; and

2960 (3) (a) publishing notice once a week for four consecutive weeks before the hearing in
2961 a newspaper of general circulation in the county in which the land subject to the petition is
2962 located; or

2963 (b) if there is no newspaper of general circulation in the county, posting the property
2964 and posting notice in three public places for four consecutive weeks before the hearing.

2965 Section 87. Section **17-27a-209** is enacted to read:

2966 **17-27a-209. Notice challenge.**

2967 If notice given under authority of this part is not challenged under Section 17-27a-801
2968 within 30 days after the meeting or action for which notice is given, the notice is considered
2969 adequate and proper.

2970 Section 88. Section **17-27a-301**, which is renumbered from Section 17-27-201 is

2971 renumbered and amended to read:

2972 **Part 3. Planning Commission**

2973 ~~[17-27-201]~~. **17-27a-301. Appointment term, vacancy, and compensation.**

2974 (1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
2975 establishing a countywide planning commission for the unincorporated areas of the county not
2976 within a township.

2977 (b) Subsection (1)(a) does not apply if all of the county is included within any
2978 combination of:

2979 (i) municipalities; and

2980 (ii) townships with their own planning commissions.

2981 (2) The ordinance [~~establishing a countywide planning commission~~] shall define:

2982 (a) the number and terms of the members and, if the county chooses, alternate
2983 members;

2984 (b) the mode of appointment;

2985 (c) the procedures for filling vacancies and removal from office; [~~and~~]

2986 (d) the authority of the planning commission; and

2987 [~~(d)~~] (e) other details relating to the organization and procedures of the planning
2988 commission.

2989 (3) (a) If the county establishes a township planning [~~commissions~~] commission, the
2990 county legislative body shall enact an ordinance defining appointment procedures, procedures
2991 for filling vacancies and removing members from office, and other details relating to the
2992 organization and procedures of each township planning commission.

2993 (b) The planning commission for each township shall consist of seven members who,
2994 except as provided in Subsection (3)(e), shall be appointed by:

2995 (i) in a county operating under a form of government in which the executive and
2996 legislative functions of the governing body are separated, the county executive with the advice
2997 and consent of the county legislative body; or

2998 (ii) in a county operating under a form of government in which the executive and
2999 legislative functions of the governing body are not separated, the county legislative body.

3000 (c) (i) Members shall serve four-year terms and until their successors are appointed or,
3001 as provided in Subsection (3)(e), elected and qualified.

3002 (ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in
3003 Subsection (3)(e), members of the first planning commissions shall be appointed so that, for
3004 each commission, the terms of at least one member and no more than two members expire each
3005 year.

3006 (d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township planning
3007 commission shall be a registered voter residing within the township.

3008 (ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission
3009 of a township reconstituted under Chapter 389, Laws of Utah 1997, or reinstated or established
3010 under Subsection [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) may be an appointed member who is a
3011 registered voter residing outside the township if that member:

3012 (I) is an owner of real property located within the township; and

3013 (II) resides within the county in which the township is located.

3014 (B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township
3015 planning commission from a list of three persons submitted by the county legislative body.

3016 (II) If the township planning commission has not notified the county legislative body of
3017 its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning
3018 commission's receipt of the list, the county legislative body may appoint one of the three
3019 persons on the list or a registered voter residing within the township as a member of the
3020 township planning commission.

3021 (e) (i) The legislative body of each county in which a township reconstituted under
3022 Chapter 389, Laws of Utah 1997, or reinstated or established under Subsection
3023 [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) is located shall enact an ordinance that provides for the
3024 election of at least three members of the planning commission of that township.

3025 (ii) The election of planning commission members under Subsection (3)(e)(i) shall
3026 coincide with the election of other county officers during even-numbered years.
3027 Approximately half the elected planning commission members shall be elected every four years
3028 during elections held on even-numbered years, and the remaining elected members shall be
3029 elected every four years on alternating even-numbered years.

3030 (f) (i) (A) The legislative body of each county in which a township reconstituted under
3031 Chapter 389, Laws of Utah 1997, or reinstated or established under Subsection
3032 [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) is located shall enact an ordinance appointing each

3033 elected member of the planning and zoning board of the former township, established under
3034 Chapter 308, Laws of Utah 1996, as a member of the planning commission of the reconstituted
3035 or reinstated township. Each member appointed under this subsection shall be considered an
3036 elected member.

3037 (B) (I) Except as provided in Subsection (3)(f)(i)(B)(II), the term of each member
3038 appointed under Subsection (3)(f)(i)(A) shall continue until the time that the member's term as
3039 an elected member of the former township planning and zoning board would have expired.

3040 (II) Notwithstanding Subsection (3)(f)(i)(B)(I), the county legislative body may adjust
3041 the terms of the members appointed under Subsection (3)(f)(i)(A) so that the terms of those
3042 members coincide with the schedule under Subsection (3)(e)(ii) for elected members.

3043 (ii) Subject to Subsection (3)(f)(iii), the legislative body of a county in which a
3044 township reconstituted under Chapter 389, Laws of Utah 1997, or reinstated or established
3045 under Subsection [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i) is located may enact an ordinance
3046 allowing each appointed member of the planning and zoning board of the former township,
3047 established under Chapter 308, Laws of Utah 1996, to continue to hold office as a member of
3048 the planning commission of the reconstituted or reinstated township until the time that the
3049 member's term as a member of the former township's planning and zoning board would have
3050 expired.

3051 (iii) If a planning commission of a township reconstituted under Chapter 389, Laws of
3052 Utah 1997, or reinstated or established under Subsection [~~17-27-200.5(2)~~] 17-27a-306(1)(e)(i)
3053 has more than one appointed member who resides outside the township, the legislative body of
3054 the county in which that township is located shall, within 15 days of the effective date of this
3055 Subsection (3)(f)(iii), dismiss all but one of the appointed members who reside outside the
3056 township, and a new member shall be appointed under Subsection (3)(b) no later than August
3057 16, 1997, to fill the position of each dismissed member.

3058 (g) (i) Except as provided in Subsection (3)(g)(ii), upon the appointment or election of
3059 all members of a township planning commission, each township planning commission under
3060 this section shall begin to exercise the powers and perform the duties provided in Section
3061 [~~17-27-204~~] 17-27a-302 with respect to all matters then pending that previously had been under
3062 the jurisdiction of the countywide planning commission or township planning and zoning
3063 board.

3064 (ii) Notwithstanding Subsection (3)(g)(i), if the members of a former township
 3065 planning and zoning board continue to hold office as members of the planning commission of
 3066 the township planning district under an ordinance enacted under Subsection (3)(f), the
 3067 township planning commission shall immediately begin to exercise the powers and perform the
 3068 duties provided in Section ~~[17-27-204]~~ 17-27a-302 with respect to all matters then pending that
 3069 had previously been under the jurisdiction of the township planning and zoning board.

3070 (4) The legislative body may fix per diem compensation for the members of the
 3071 planning commission, based on necessary and reasonable expenses and on meetings actually
 3072 attended.

3073 Section 89. Section **17-27a-302**, which is renumbered from Section 17-27-204 is
 3074 renumbered and amended to read:

3075 ~~[17-27-204].~~ **17-27a-302. Planning commission powers and duties.**

3076 (1) Each countywide or township planning commission shall, with respect to the
 3077 unincorporated area of the county, or the township, ~~[as the case may be: (a) prepare and~~
 3078 ~~recommend]~~ make a recommendation to the county legislative body for:

3079 (a) a general plan and amendments to the general plan [to the county legislative body
 3080 as provided in this chapter];

3081 ~~[(b) recommend zoning ordinances and maps, and amendments to zoning ordinances~~
 3082 ~~and maps, to the county legislative body as provided in this chapter;]~~

3083 ~~[(c) administer provisions of the zoning ordinance, if specifically provided for in the~~
 3084 ~~zoning ordinance adopted by the county legislative body;]~~

3085 ~~[(d) recommend subdivision regulations and amendments to those regulations to the~~
 3086 ~~county legislative body as provided in this chapter;]~~

3087 ~~[(e) recommend approval or denial of subdivision applications as provided in this~~
 3088 ~~chapter;]~~

3089 ~~[(f) advise the county legislative body on matters as the county legislative body~~
 3090 ~~directs;]~~

3091 ~~[(g) hear or decide any matters that the county legislative body designates, including~~
 3092 ~~the approval or denial of, or recommendations to approve or deny, conditional use permits;]~~

3093 ~~[(h) exercise any other powers delegated to it by the county legislative body; and]~~

3094 ~~[(i) exercise any other powers that are necessary to enable it to perform its functions.]~~

3095 (b) land use ordinances, zoning maps, official maps, and amendments;
3096 (c) an appropriate delegation of power to at least one designated land use authority to
3097 hear and act on a land use application;
3098 (d) an appropriate delegation of power to at least one appeal authority to hear and act
3099 on an appeal from a decision of the land use authority; and
3100 (e) application processes that:
3101 (i) may include a designation of routine land use matters that, upon application and
3102 proper notice, will receive informal streamlined review and action if the application is
3103 uncontested; and
3104 (ii) shall protect the right of each:
3105 (A) applicant and third party to require formal consideration of any application by a
3106 land use authority;
3107 (B) applicant, adversely affected party, or county officer or employee to appeal a land
3108 use authority's decision to a separate appeal authority; and
3109 (C) participant to be heard in each public hearing on a contested application.
3110 (2) The planning commission of a township under this part may recommend to the
3111 legislative body of the county in which the township is located:
3112 (a) that the [county] legislative body support or oppose a proposed incorporation of an
3113 area located within the township, as provided in Subsection 10-2-105(4); or
3114 (b) that the [county] legislative body file a protest to a proposed annexation of an area
3115 located within the township, as provided in Subsection 10-2-407(1)(b).
3116 Section 90. Section **17-27a-303**, which is renumbered from Section 17-27-205 is
3117 renumbered and amended to read:
3118 **[17-27-205]. 17-27a-303. Entrance upon land.**
3119 A [~~planning commission or its authorized agents~~] county may enter upon any land at
3120 reasonable times to make examinations and surveys[?] pertinent to the:
3121 (1) preparation of its general plan; or
3122 (2) preparation or enforcement of its land use ordinances.
3123 Section 91. Section **17-27a-304**, which is renumbered from Section 17-27-104.5 is
3124 renumbered and amended to read:
3125 **[17-27-104.5]. 17-27a-304. State and federal property.**

3126 Unless otherwise provided by law, nothing contained in [~~Parts 4 and 8 of~~] this chapter
3127 may be construed as giving [~~the planning commission or the legislative body~~] a county
3128 jurisdiction over [~~properties~~] property owned by the state or the United States [~~government~~].

3129 Section 92. Section **17-27a-305**, which is renumbered from Section 17-27-105 is
3130 renumbered and amended to read:

3131 [~~17-27-105~~]. **17-27a-305. Property owned by other government units --**
3132 **Effect of land use and development ordinances.**

3133 (1) (a) Each county, municipality, school district, special district, and political
3134 subdivision of [~~Utah~~] the state shall conform to [~~the~~] any applicable land use [~~and development~~
3135 ~~ordinances~~] ordinance of any county when installing, constructing, operating, or otherwise
3136 using any area, land, or building situated within [~~that county only in a manner or for a purpose~~
3137 ~~that conforms to that county's ordinances~~] the unincorporated portion of the county.

3138 (b) In addition to any other remedies provided by law, when a county's land use [~~and~~
3139 ~~development ordinances are being~~] ordinance is violated or about to be violated by another
3140 political subdivision, that county may institute an injunction, mandamus, abatement, or other
3141 appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation,
3142 improvement, or use.

3143 (2) A school district is subject to a county's land use [~~regulations under this chapter~~]
3144 ordinances, except that a county may not:

3145 (a) impose requirements for landscaping, fencing, aesthetic considerations,
3146 construction methods or materials, building codes, building use for educational purposes, or the
3147 placement or use of temporary classroom facilities on school property;

3148 (b) require a school district to participate in the cost of any roadway or sidewalk not
3149 reasonably necessary for the safety of school children and not located on or contiguous to
3150 school property, unless the roadway or sidewalk is required to connect an otherwise isolated
3151 school site to an existing roadway;

3152 (c) require a district to pay fees not authorized by this section;

3153 (d) provide for inspection of school construction or assess a fee or other charges for
3154 inspection, unless the school district is unable to provide for inspection by an inspector, other
3155 than the project architect or contractor, who is qualified under criteria established by the state
3156 superintendent;

3157 (e) require a school district to pay any impact fee for an improvement project that is
3158 not reasonably related to the impact of the project upon the need that the improvement is to
3159 address; or

3160 (f) impose regulations upon the location of a project except as necessary to avoid
3161 unreasonable risks to health or safety.

3162 (3) Subject to Section 53A-20-108, a school district shall coordinate the siting of a new
3163 school with the county in which the school is to be located, to avoid or mitigate existing and
3164 potential traffic hazards to maximize school safety.

3165 Section 93. Section **17-27a-306**, which is renumbered from Section 17-27-200.5 is
3166 renumbered and amended to read:

3167 ~~[17-27-200.5].~~ **17-27a-306. Townships.**

3168 ~~[(1) As used in this part:]~~

3169 ~~[(a) "Township" means a contiguous, geographically defined portion of the~~
3170 ~~unincorporated area of a county, established under this part or reconstituted or reinstated under~~
3171 ~~Subsection 17-27-200.5(2)(c) of this part, with planning and zoning functions as exercised~~
3172 ~~through the township planning commission, as provided in this part, but with no legal or~~
3173 ~~political identity separate from the county and no taxing authority, except that "township"~~
3174 ~~means a former township under Chapter 308, Laws of Utah 1996, where the context so~~
3175 ~~indicates.]~~

3176 ~~[(b) "Unincorporated" means not within a municipality.]~~

3177 ~~[(2)]~~ (1) (a) (i) Subject to Subsection ~~[(2)]~~ (1)(a)(ii), a county legislative body may
3178 enact an ordinance establishing a township within the unincorporated county or dividing the
3179 unincorporated county into townships.

3180 (ii) Before enacting an ordinance under Subsection ~~[(2)]~~ (1)(a)(i), the county legislative
3181 body shall, after providing reasonable advance notice, hold a public hearing on the proposal to
3182 establish a township or to divide the unincorporated county into townships.

3183 (b) If 25% of the private real property owners in a contiguous area of the
3184 unincorporated county petition the county legislative body to establish a township for that area,
3185 the county legislative body shall:

3186 (i) hold a public hearing to discuss the petition;

3187 (ii) at least one week before the public hearing, publish notice of the petition and the

3188 time, date, and place of the public hearing at least once in a newspaper of general circulation in
3189 the county; and

3190 (iii) at the public hearing, consider oral and written testimony from the public and vote
3191 on the question of whether or not to establish a township.

3192 (c) If the county legislative body establishes a township pursuant to a petition, the
3193 members of the township planning commission shall be appointed as provided in Subsection
3194 [~~17-27-201~~] 17-27a-301(3)(b) to perform the duties established in this part for the township.

3195 (d) Except as provided in Subsection [~~2~~] 1(e), each township shall contain:

3196 (i) in a county of the first, second, or third class:

3197 (A) at least 20% but not more than 80% of:

3198 (I) the total private land area in the unincorporated county; or

3199 (II) the total value of locally assessed taxable property in the unincorporated county; or

3200 (B) at least 5% of the total population of the unincorporated county; or

3201 (ii) in a county of the fourth, fifth, or sixth class:

3202 (A) at least 20% but not more than 80% of:

3203 (I) the total private land area in the unincorporated county; or

3204 (II) the total value of locally assessed taxable property in the unincorporated county;

3205 and

3206 (B) at least 25% of the total population of the unincorporated county.

3207 (e) (i) (A) A township that was dissolved under Chapter 389, Laws of Utah 1997, is
3208 reinstated as a township under this part with the same boundaries and name as before the
3209 dissolution, if the former township consisted of a single, contiguous land area.

3210 (B) Notwithstanding Subsection [~~2~~] 1(e)(i)(A), a county legislative body may enact
3211 an ordinance establishing as a township under this part a former township that was dissolved
3212 under Chapter 389, Laws of Utah 1997, even though the former township does not qualify to be
3213 reinstated under Subsection [~~2~~] 1(e)(i)(A).

3214 (C) A township reinstated under Subsection [~~2~~] 1(e)(i)(A) or established under
3215 Subsection [~~2~~] 1(e)(i)(B) shall be subject to the provisions of this part.

3216 (ii) Each planning district established under Chapter 225, Laws of Utah 1995, and each
3217 township planning district established under Chapter 389, Laws of Utah 1997, shall continue in
3218 existence as a township, subject to the provisions of this part.

3219 (f) (i) After May 1, 2002, the legislative body of each county in which a township that
3220 has been reconstituted under Chapter 389, Laws of Utah 1997, or reinstated under Subsection
3221 [~~2~~] (1)(e)(i) is located shall review the township and determine whether its continued
3222 existence is advisable.

3223 (ii) In conducting the review required under Subsection [~~2~~] (1)(f)(i), the county
3224 legislative body shall hold a public hearing with reasonable, advance, published notice of the
3225 hearing and the purpose of the hearing.

3226 (iii) Each township that has been reconstituted under Chapter 389, Laws of Utah 1997,
3227 or reinstated or established under Subsection [~~2~~] (1)(e)(i) and its planning commission shall
3228 continue in effect, unless, within 90 days after conducting the review and public hearing
3229 required under Subsections [~~2~~] (1)(f)(i) and (ii), the county legislative body by ordinance
3230 dissolves the township and its planning commission.

3231 (g) A township established under this section on or after May 5, 1997, may use the
3232 word "township" in its name.

3233 [~~3~~] (2) (a) If the county legislative body establishes a township without having
3234 received a petition, the county legislative body may:

3235 (i) assign to the countywide planning commission the duties established in this part that
3236 would have been assumed by a township planning commission designated under Subsection
3237 [~~3~~] (2)(a)(ii); or

3238 (ii) designate a planning commission for the township.

3239 (b) (i) If the county legislative body fails to designate a planning commission for a
3240 township, 40% of the private real property owners in the area proposed to be included in the
3241 township, as shown by the last county assessment roll, may petition the county legislative body
3242 to designate and appoint a planning commission for the township.

3243 (ii) If the county legislative body determines that the petition is validly signed by 40%
3244 of the private real property owners in the township, as shown by the last county assessment
3245 roll, it shall designate and appoint a planning commission for the township.

3246 [~~4~~] (3) (a) Except as provided in Subsection [~~2~~] (1)(f)(iii), a county legislative body
3247 may dissolve township planning commissions created under the authority of this section only
3248 by following the procedures and requirements of this Subsection [~~4~~] (3).

3249 (b) If 20% of the private real property owners in the county petition the county

3250 legislative body to dissolve township planning commissions and to appoint a countywide
 3251 planning commission, the county legislative body shall:
 3252 (i) hold a public hearing to discuss the petition;
 3253 (ii) at least one week before the public hearing, publish notice of the petition and the
 3254 time, date, and place of the public hearing at least once in a newspaper of general circulation in
 3255 the county; and

3256 (iii) at the public hearing, consider oral and written testimony from the public and vote
 3257 on the question of whether or not to dissolve township planning commissions and to appoint a
 3258 countywide planning commission.

3259 (c) (i) If the county legislative body fails to dissolve township planning commissions
 3260 and to appoint a countywide planning commission when petitioned to do so by private real
 3261 property owners under this subsection, 40% of private real property owners in the county, as
 3262 shown by the last county assessment roll, may petition the county legislative body to dissolve
 3263 the township planning commissions and to appoint a countywide planning commission.

3264 (ii) If the county legislative body determines that the petition is validly signed by 40%
 3265 of private real property owners in the township, as shown by the last county assessment roll, it
 3266 shall dissolve the township planning commissions and appoint a countywide planning
 3267 commission.

3268 Section 94. Section **17-27a-307**, which is renumbered from Section 17-27-206 is
 3269 renumbered and amended to read:

3270 ~~[17-27-206]~~. **17-27a-307. Planning and zoning board dissolved.**

3271 Except as provided in Subsection ~~[17-27-201(3)]~~ 17-27a-306(1)(f), the planning and
 3272 zoning board of each township formed before May 5, 1997, under Chapter 308, Laws of Utah
 3273 1996, is dissolved.

3274 Section 95. Section **17-27a-401**, which is renumbered from Section 17-27-301 is
 3275 renumbered and amended to read:

3276 **Part 4. General Plan**

3277 ~~[17-27-301]~~. **17-27a-401. General plan required -- Content -- Provisions**
 3278 **related to radioactive waste facility.**

3279 (1) In order to accomplish the purposes ~~[set forth in]~~ of this chapter, each county shall
 3280 prepare and adopt a comprehensive, long-range general plan for:

- 3281 (a) ~~[the]~~ present and future needs of the county; and
- 3282 (b) ~~[the]~~ growth and development of all or any part of the land within the [county or
- 3283 any part of the county, including uses of land for urbanization, trade, industry, residential,
- 3284 agricultural, wildlife habitat, and other purposes] unincorporated portions of the county.
- 3285 (2) The plan may provide for:
- 3286 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
- 3287 activities, aesthetics, and recreational, educational, and cultural opportunities;
- 3288 (b) the reduction of the waste of physical, financial, or human resources that result
- 3289 from either excessive congestion or excessive scattering of population;
- 3290 (c) the efficient and economical use, conservation, and production of the supply of:
- 3291 (i) food and water; and
- 3292 (ii) drainage, sanitary, and other facilities and resources;
- 3293 (d) the use of energy conservation and solar and renewable energy resources;
- 3294 (e) the protection of urban development;
- 3295 (f) the protection or promotion of moderate income housing;
- 3296 ~~[(f)]~~ (g) the protection and promotion of air quality;
- 3297 ~~[(g)]~~ (h) historic preservation;
- 3298 ~~[(h)]~~ (i) identifying future uses of land that are likely to require an expansion or
- 3299 significant modification of services or facilities provided by ~~[affected entities and specified~~
- 3300 ~~public utilities, as those terms are defined in Section 17-27-301.5; and]~~ each affected entity;
- 3301 and
- 3302 ~~[(i)]~~ (j) an official map~~[-pursuant to Title 72, Chapter 5, Part 4, Transportation~~
- 3303 ~~Corridor Preservation].~~
- 3304 (3) (a) The plan shall include specific provisions related to any areas within, or
- 3305 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a
- 3306 county, which are proposed for the siting of a storage facility or transfer facility for the
- 3307 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as
- 3308 these wastes are defined in Section 19-3-303. The provisions shall address the effects of the
- 3309 proposed site upon the health and general welfare of citizens of the state, and shall provide:
- 3310 (i) the information identified in Section 19-3-305;
- 3311 (ii) information supported by credible studies that demonstrates that the provisions of

3312 Subsection 19-3-307(2) have been satisfied; and

3313 (iii) specific measures to mitigate the effects of high-level nuclear waste and greater
3314 than class C radioactive waste and guarantee the health and safety of the citizens of the state.

3315 (b) A county may, in lieu of complying with Subsection (3)(a), adopt an ordinance
3316 indicating that all proposals for the siting of a storage facility or transfer facility for the
3317 placement of high-level nuclear waste or greater than class C radioactive waste wholly or
3318 partially within the county are rejected.

3319 (c) A county may adopt the ordinance listed in Subsection (3)(b) at any time.

3320 (d) The county shall send a certified copy of the ordinance under Subsection (3)(b) to
3321 the executive director of the Department of Environmental Quality by certified mail within 30
3322 days of enactment.

3323 (e) If a county repeals an ordinance adopted pursuant to Subsection (3)(b) the county
3324 shall:

3325 (i) comply with Subsection (3)(a) as soon as reasonably possible; and

3326 (ii) send a certified copy of the repeal to the executive director of the Department of
3327 Environmental Quality by certified mail within 30 days after the repeal.

3328 (4) The plan may define the county's local customs, local culture, and the components
3329 necessary for the county's economic stability.

3330 (5) ~~[The]~~ Subject to Subsection 17-27a-403(2), the county may determine the
3331 comprehensiveness, extent, and format of the general plan.

3332 Section 96. Section ~~17-27a-402~~, which is renumbered from Section 17-27-203 is
3333 renumbered and amended to read:

3334 ~~[17-27-203].~~ 17-27a-402. Information and technical assistance from the
3335 state.

3336 ~~[(1) A planning commission may obtain access to and use any data and information~~
3337 ~~held by the state or any of its agencies:]~~

3338 ~~[(a) that is classified "public"; and]~~

3339 ~~[(b) that is classified "protected" if the planning commission's use of the data is~~
3340 ~~lawfully authorized or if the data will be used for a purpose similar to the purpose for which it~~
3341 ~~was gathered.]~~

3342 ~~[(2)]~~ Each state official, department, and agency shall:

3343 ~~[(a) make]~~ (1) promptly deliver any data and information requested by ~~[the planning~~
 3344 ~~commission available if authorized under the requirements of this section; and]~~ a county,
 3345 unless the disclosure is prohibited by Title 63, Chapter 2, Government Records Access and
 3346 Management Act; and

3347 ~~[(b)]~~ (2) furnish any other technical assistance and advice that they have available to
 3348 ~~[planning commissions]~~ the county without additional cost to the county.

3349 Section 97. Section **17-27a-403**, which is renumbered from Section 17-27-302 is
 3350 renumbered and amended to read:

3351 ~~[17-27-302].~~ **17-27a-403. Plan preparation.**

3352 ~~[(1) (a) Subject to Section 17-27-301.5, the]~~

3353 (1) (a) The planning commission shall provide notice, as provided in Section
 3354 17-27a-203, of its intent to make a recommendation to the county legislative body for a general
 3355 plan or a comprehensive general plan amendment when the planning commission initiates the
 3356 process of preparing its recommendation.

3357 (b) The planning commission shall make and recommend to the legislative body a
 3358 proposed general plan for the unincorporated area within the county.

3359 ~~[(b)]~~ (c) (i) The plan may include planning for incorporated areas if, in the planning
 3360 commission's judgment, they are related to the planning of the unincorporated territory or of
 3361 the county as a whole.

3362 (ii) Elements of the county plan that address incorporated areas are not an official plan
 3363 or part of a municipal plan for any municipality, unless it is ~~[adopted]~~ recommended by the
 3364 municipal planning commission and adopted by the governing body of the municipality.

3365 (2) ~~[The]~~ (a) At a minimum, the proposed general plan, with the accompanying maps,
 3366 [plats,] charts, and descriptive and explanatory matter, shall [show] include the planning
 3367 commission's recommendations for the [development of the territory covered by the plan, and
 3368 may include, among other things] following plan elements:

3369 ~~[(a)]~~ (i) a land use element that:

3370 ~~[(i)]~~ (A) designates the long-term goals and the proposed extent, general distribution,
 3371 and location [and extent of uses] of land for housing, business, industry, agriculture, recreation,
 3372 education, public buildings and grounds, open space, and other categories of public and private
 3373 uses of land as appropriate; and

3374 ~~[(i)]~~ (B) may include a statement of the projections for and standards of population
3375 density and building intensity recommended for the various land use categories covered by the
3376 plan;

3377 ~~[(b)]~~ (ii) a transportation and traffic circulation element consisting of the general
3378 location and extent of existing and proposed freeways, arterial and collector streets, mass
3379 transit, and any other modes of transportation that ~~[are]~~ the planning commission considers
3380 appropriate, all correlated with the population projections and the proposed land use element of
3381 the general plan; and

3382 (iii) an estimate of the need for the development of additional moderate income
3383 housing within the unincorporated area of the county, and a plan to provide a realistic
3384 opportunity to meet estimated needs for additional moderate income housing if long-term
3385 projections for land use and development occur.

3386 (b) In drafting the moderate income housing element, the planning commission:

3387 (i) shall consider the Legislature's determination that counties should facilitate a
3388 reasonable opportunity for a variety of housing, including moderate income housing:

3389 (A) to meet the needs of people desiring to live there; and

3390 (B) to allow persons with moderate incomes to benefit from and fully participate in all
3391 aspects of neighborhood and community life; and

3392 (ii) may include an analysis of why the recommended means, techniques, or
3393 combination of means and techniques provide a realistic opportunity for the development of
3394 moderate income housing within the planning horizon, which means or techniques may include
3395 a recommendation to:

3396 (A) rezone for densities necessary to assure the production of moderate income
3397 housing;

3398 (B) facilitate the rehabilitation or expansion of infrastructure that will encourage the
3399 construction of moderate income housing;

3400 (C) encourage the rehabilitation of existing uninhabitable housing stock into moderate
3401 income housing;

3402 (D) consider general fund subsidies to waive construction related fees that are
3403 otherwise generally imposed by the county;

3404 (E) consider utilization of state or federal funds or tax incentives to promote the

3405 construction of moderate income housing;

3406 (F) consider utilization of programs offered by the Utah Housing Corporation within
3407 that agency's funding capacity; and

3408 (G) consider utilization of affordable housing programs administered by the
3409 Department of Community and Economic Development.

3410 (3) The proposed general plan may include:

3411 ~~(c)~~ (a) an environmental element that addresses:

3412 (i) the protection, conservation, development, and use of natural resources, including
3413 the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals,
3414 and other natural resources; and

3415 (ii) the reclamation of land, flood control, prevention and control of the pollution of
3416 streams and other waters, regulation of the use of land on hillsides, stream channels and other
3417 environmentally sensitive areas, the prevention, control, and correction of the erosion of soils,
3418 protection of watersheds and wetlands, and the mapping of known geologic hazards;

3419 ~~(d)~~ (b) a public services and facilities element showing general plans for sewage,
3420 water, waste disposal, drainage, ~~local~~ public utilities, rights-of-way, easements, and facilities
3421 for them, police and fire protection, and other public services;

3422 ~~(e)~~ (c) a rehabilitation, redevelopment, and conservation element consisting of plans
3423 and programs for:

3424 (i) historic preservation; and

3425 (ii) the diminution or elimination of blight; and ~~for~~

3426 (iii) redevelopment of land, including housing sites, business and industrial sites, and
3427 public building sites;

3428 ~~(f)~~ (d) an economic element composed of appropriate studies and forecasts, as well as
3429 an economic development plan ~~that~~, which may include review of ~~county~~ existing and
3430 projected county revenue and expenditures, revenue sources, identification of base and
3431 ~~residential~~ residential industry, primary and secondary market areas, employment, and retail
3432 sales activity;

3433 ~~(g)~~ (e) recommendations for implementing all or any portion of the general plan,
3434 including the use of ~~zoning ordinances, subdivision~~ land use ordinances, capital improvement
3435 plans, ~~and~~ community development and promotion, and any other appropriate ~~actions~~

3436 action;

3437 ~~[(h)]~~ (f) provisions addressing any of the matters listed in Subsection ~~[17-27-301]~~

3438 17-27a-401(2); and

3439 ~~[(i)]~~ (g) any other ~~[elements that]~~ element the county considers appropriate.

3440 Section 98. Section ~~17-27a-404~~, which is renumbered from Section 17-27-303 is

3441 renumbered and amended to read:

3442 ~~[17-27-303]~~. **17-27a-404. Public hearing by planning commission on**
 3443 **proposed general plan or amendment -- Notice -- Revisions to general plan or amendment**
 3444 **-- Adoption or rejection by legislative body..**

3445 (1) (a) After completing its recommendation for a proposed general plan ~~[for all or part~~
 3446 ~~of the area within the county]~~, or proposal to amend the general plan, the planning commission
 3447 shall schedule and hold a public hearing on the proposed plan or amendment.

3448 (b) The planning commission shall provide ~~[reasonable]~~ notice of the public hearing ~~[at~~
 3449 ~~least 14 days before the date of the hearing]~~, as required by Section 17-27a-204.

3450 (c) After the public hearing, the planning commission may ~~[make changes to]~~ modify
 3451 the proposed general plan or amendment.

3452 (2) The planning commission shall ~~[then]~~ forward the proposed general plan or
 3453 amendment to the legislative body.

3454 ~~[(3)(a) The legislative body shall hold a public hearing on the proposed general plan~~
 3455 ~~recommended to it by the planning commission.]~~

3456 ~~[(b) The]~~ (3) (a) As provided by local ordinance and by Section 17-27a-204, the
 3457 legislative body shall provide ~~[reasonable]~~ notice of ~~[the public hearing at least 14 days before~~
 3458 ~~the date of the hearing:]~~ its intent to consider the general plan proposal.

3459 ~~[(4)(a)]~~ (b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the
 3460 legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed
 3461 county plan regarding Subsection ~~[17-27-301]~~ 17-27a-401(3). The hearing procedure shall
 3462 comply with this Subsection ~~[(4)]~~ (3)(b).

3463 (ii) The hearing format shall allow adequate time for public comment at the actual
 3464 public hearing, and shall also allow for public comment in writing to be submitted to the
 3465 legislative body for not fewer than 90 days after the date of the public hearing.

3466 ~~[(b)]~~ (c) (i) The legislative body shall give notice of the hearing in accordance with this

3467 Subsection ~~[(4)]~~ (3) when the proposed plan provisions required by Subsection ~~[17-27-301]~~
 3468 17-27a-401(3) are complete.

3469 (ii) Direct notice of the hearing shall be given, in writing, to the governor, members of
 3470 the state Legislature, executive director of the Department of Environmental Quality, the state
 3471 planning coordinator, the Resource Development Coordinating Committee, and any other
 3472 citizens or entities who specifically request notice in writing.

3473 (iii) Public notice shall be given by publication in at least one major Utah newspaper
 3474 having broad general circulation in the state, and also in at least one Utah newspaper having a
 3475 general circulation focused mainly on the county where the proposed high-level nuclear waste
 3476 or greater than class C radioactive waste site is to be located.

3477 (iv) The notice in these newspapers shall be published not fewer than 180 days prior to
 3478 the date of the hearing to be held under this Subsection ~~[(4)]~~ (3), to allow reasonable time for
 3479 interested parties and the state to evaluate the information regarding the provisions of
 3480 Subsection ~~[17-27-301]~~ 17-27a-401(3).

3481 ~~[(5)]~~ (4) (a) After ~~[a]~~ the public hearing required under this section, the legislative body
 3482 may make any ~~[modifications]~~ revisions to the proposed general plan that it considers
 3483 appropriate.

3484 (b) The legislative body shall respond in writing and in a substantive manner to all
 3485 those providing comments as a result of the hearing required by Subsection ~~[(4)]~~ (3).

3486 ~~[(6)]~~ (5) (a) The county legislative body may~~[-(a)]~~ adopt or reject the proposed general
 3487 plan ~~[without]~~ or amendment~~[-(b) amend the]~~ either as proposed ~~[general plan and adopt or~~
 3488 ~~reject it as amended; or (c) reject]~~ by the planning commission or after making any revision the
 3489 county legislative body considers appropriate.

3490 (b) If the county legislative body rejects the proposed general plan~~[-]~~ or amendment, it
 3491 may provide suggestions to the planning commission for its consideration.

3492 ~~[(7) (a) The general plan is an advisory guide for land use decisions, except for the~~
 3493 ~~provision required by Subsection 17-27-301(3), which the legislative body shall adopt.]~~

3494 ~~[(b) The legislative body may adopt an ordinance mandating compliance with the~~
 3495 ~~general plan, and shall adopt an ordinance requiring compliance with all provisions of~~
 3496 ~~Subsection 17-27-301(3).]~~

3497 (6) The legislative body shall adopt:

3498 (a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

3499 (b) a transportation and traffic circulation element as provided in Subsection

3500 17-27a-403(2)(a)(ii); and

3501 (c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to

3502 provide a realistic opportunity to meet estimated needs for additional moderate income housing

3503 if long-term projections for land use and development occur.

3504 Section 99. Section 17-27a-405 is enacted to read:

3505 **17-27a-405. Effect of general plan.**

3506 (1) Except for the mandatory provisions in Subsection 17-27a-401(3)(b) and Section

3507 17-27a-406, the general plan is an advisory guide for land use decisions, the impact of which

3508 shall be determined by ordinance.

3509 (2) The legislative body may adopt an ordinance mandating compliance with the

3510 general plan, and shall adopt an ordinance requiring compliance with all provisions of

3511 Subsection 17-27a-401(3)(b).

3512 Section 100. Section 17-27a-406, which is renumbered from Section 17-27-305 is

3513 renumbered and amended to read:

3514 ~~[17-27-305].~~ **17-27a-406. Public uses to conform to general plan.**

3515 After the legislative body has adopted a [~~general plan or any amendments to the~~]

3516 general plan, no street, park, or other public way, ground, place, or space, no publicly owned

3517 building or structure, and no public utility, whether publicly or privately owned, may be

3518 constructed or authorized until and unless~~[(+)]~~ it conforms to the current general plan~~[-or].~~

3519 ~~[(2) it has been considered by the planning commission and, after receiving the advice~~

3520 of the planning commission, the legislative body approves it as an amendment to the general

3521 plan.]

3522 Section 101. Section 17-27a-407, which is renumbered from Section 17-27-306 is

3523 renumbered and amended to read:

3524 ~~[17-27-306].~~ **17-27a-407. Effect of official maps.**

3525 (1) Counties may adopt an official map [~~in accordance with the provisions of Title 72;~~

3526 Chapter 5, Part 4, Transportation Corridor Preservation].

3527 (2) (a) An official map does not:

3528 (i) require a landowner to dedicate and construct a street as a condition of development

3529 approval, except under circumstances provided in Subsection (2)(b)(iii); or

3530 (ii) require a county to immediately acquire property it has designated for eventual use
3531 as a public street.

3532 (b) This section does not prohibit a county from:

3533 (i) ~~[requiring a landowner to take into account]~~ recommending that an applicant
3534 consider and accommodate the location of the proposed streets in the planning of a
3535 development proposal in a manner that is consistent with Section 17-27a-507;

3536 (ii) acquiring the property through purchase, gift, voluntary dedication, or eminent
3537 domain; or

3538 (iii) requiring the dedication and improvement of a street if the street is found
3539 necessary by the county because of a proposed development and if the dedication and
3540 improvement is consistent with Section 17-27a-507.

3541 ~~[(3) An official map may not be used to unconstitutionally prohibit the development of~~
3542 ~~property designated for eventual use as a public street.]~~

3543 ~~[(4) An adopted official map shall be available for public inspection upon request.]~~

3544 Section 102. Section **17-27a-408**, which is renumbered from Section 17-27-307 is
3545 renumbered and amended to read:

3546 ~~[17-27-307].~~ **17-27a-408. Biennial review of moderate income housing**
3547 **element.**

3548 ~~[(1) The availability of moderate income housing is an issue of statewide concern. To~~
3549 ~~this end:]~~

3550 ~~[(a) counties should afford a reasonable opportunity for a variety of housing, including~~
3551 ~~moderate income housing, to meet the needs of people desiring to live there; and]~~

3552 ~~[(b) moderate income housing should be located in all areas of a community to allow~~
3553 ~~persons with moderate incomes to benefit from and to fully participate in all aspects of~~
3554 ~~neighborhood and community life.]~~

3555 ~~[(2) As used in this section:]~~

3556 ~~[(a) "Moderate income housing" means housing occupied or reserved for occupancy by~~
3557 ~~households with a gross household income equal to or less than 80% of the median gross~~
3558 ~~income of the county statistical area for households of the same size.]~~

3559 ~~[(b) "Plan for moderate income housing" or "plan" means a written document adopted~~

3560 by a county legislative body that includes, but is not limited to:]
3561 ~~[(i) an estimate of the existing supply of moderate income housing located within the~~
3562 ~~county;]~~
3563 ~~[(ii) an estimate of the need for moderate income housing in that county for the next~~
3564 ~~five years as revised biennially;]~~
3565 ~~[(iii) a survey of total residential zoning;]~~
3566 ~~[(iv) an evaluation of how existing zoning densities affect opportunities for moderate~~
3567 ~~income housing; and]~~
3568 ~~[(v) a description of the county's program to encourage an adequate supply of~~
3569 ~~moderate income housing.]]~~
3570 ~~[(3) Before December 31, 1998, each county legislative body shall, as part of its~~
3571 ~~general plan, adopt a plan for moderate income housing within the unincorporated areas of that~~
3572 ~~county.]]~~
3573 ~~[(4) A plan may provide for moderate income housing by any means or combination of~~
3574 ~~techniques which provide a realistic opportunity to meet estimated needs. The plan may include~~
3575 ~~an analysis of why the means or techniques selected provide a realistic opportunity to meet the~~
3576 ~~objectives of this section. Such techniques may include]:~~
3577 ~~[(a) rezoning for densities necessary to assure the economic viability of inclusionary-~~
3578 ~~developments, either through mandatory set asides or density bonuses;]~~
3579 ~~[(b) infrastructure expansion and rehabilitation that will facilitate the construction of~~
3580 ~~moderate income housing;]~~
3581 ~~[(c) rehabilitation of existing uninhabitable housing stock;]~~
3582 ~~[(d) consideration of waiving construction related fees generally imposed by the~~
3583 ~~county;]~~
3584 ~~[(e) utilization of state or federal funds or tax incentives to promote the construction of~~
3585 ~~moderate income housing;]~~
3586 ~~[(f) utilization of programs offered by the Utah Housing Corporation within that~~
3587 ~~agency's funding capacity; and]~~
3588 ~~[(g) utilization of affordable housing programs administered by the Department of~~
3589 ~~Community and Economic Development.]]~~
3590 ~~[(5) (a) After adoption of a plan for moderate income housing under Subsection (3),~~

3591 the]

3592 (1) The legislative body of each county with a population over 25,000 shall biennially:

3593 [(i)] (a) review the moderate income housing plan element of its general plan and its
3594 implementation; and

3595 [(ii)] (b) prepare a report setting forth the findings of the review.

3596 [(b)] (2) Each report under Subsection [(5)(a)(ii)] (1) shall include a description of:

3597 [(i)] (a) efforts made by the county to reduce, mitigate, or eliminate local regulatory
3598 barriers to moderate income housing;

3599 [(ii)] (b) actions taken by the county to encourage preservation of existing moderate
3600 income housing and development of new moderate income housing;

3601 [(iii)] (c) progress made within the county to provide moderate income housing, as
3602 measured by permits issued for new units of moderate income housing; and

3603 [(iv)] (d) efforts made by the county to coordinate moderate income housing plans and
3604 actions with neighboring counties and municipalities.

3605 [(e)] (3) The legislative body of each county with a population over 25,000 shall send a
3606 copy of the report under Subsection [(5)(a)(ii)] (1) to the Department of Community and
3607 Economic Development and the association of governments in which the county is located.

3608 [(6)] (4) In a civil action seeking enforcement or claiming a violation of this section or
3609 of Subsection 17-27a-404(6)(c), a plaintiff may not recover damages but may be awarded only
3610 injunctive or other equitable relief [~~only~~].

3611 Section 103. Section **17-27a-409**, which is renumbered from Section 17-27-308 is
3612 renumbered and amended to read:

3613 [~~17-27-308~~]. **17-27a-409. State to indemnify county regarding refusal to**
3614 **site nuclear waste -- Terms and conditions.**

3615 If a county is challenged in a court of law regarding its decision to deny siting of a
3616 storage or transfer facility for the placement of high-level nuclear waste or greater than class C
3617 radioactive waste or its refusal to provide municipal-type services regarding the operation of
3618 the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless
3619 from any claims or damages, including court costs and attorney fees that are assessed as a result
3620 of the county's action, if:

3621 (1) the county has complied with the provisions of Subsection [~~17-27-304~~]

3622 7-27a-401(3)(b) by adopting an ordinance rejecting all proposals for the siting of a storage or
3623 transfer facility for the placement of high-level nuclear waste or greater than class C
3624 radioactive waste wholly or partially within the boundaries of the county;

3625 (2) the county has complied with Subsection 17-34-1(3) regarding refusal to provide
3626 municipal-type services; and

3627 (3) the court challenge against the county addresses the county's actions in compliance
3628 with Subsection [~~17-27-301~~] 17-27a-401(3)(b) or [~~Subsection~~] 17-34-1(3).

3629 Section 104. Section **17-27a-501**, which is renumbered from Section 17-27-401 is
3630 renumbered and amended to read:

3631 **Part 5. Land Use Ordinances**

3632 [~~17-27-401~~]. **17-27a-501. General powers.**

3633 The legislative body may enact [~~a zoning ordinance establishing regulations for land~~
3634 ~~use and development that furthers the intent of this chapter~~] land use ordinances and a zoning
3635 map.

3636 Section 105. Section **17-27a-502**, which is renumbered from Section 17-27-402 is
3637 renumbered and amended to read:

3638 [~~17-27-402~~]. **17-27a-502. Preparation and adoption.**

3639 (1) The planning commission shall:

3640 (a) provide notice as required by Subsection 17-27a-205(1)(a);

3641 (b) hold a public hearing on a proposed land use ordinance or zoning map; and

3642 (c) prepare and recommend to the legislative body a proposed [zoning ordinance,
3643 ~~including both the full text of the zoning ordinance and maps, that represents the commission's~~
3644 ~~recommendations for zoning] land use ordinance or ordinances and zoning map that represent
3645 the planning commission's recommendation for regulating the use and development of land
3646 within all or any part of the unincorporated area [within] of the county.~~

3647 (2) [~~(a)~~] The county legislative body shall [~~hold a public hearing on the~~] consider each
3648 proposed [zoning] land use ordinance and zoning map recommended to it by the planning
3649 commission[~~:(b) The legislative body shall provide reasonable notice of the public hearing at~~
3650 ~~least 14 days before the date of the hearing. (3) After the public hearing,], and, after providing~~
3651 notice as required by Subsection 17-27a-205(1)(b) and holding a public meeting, the legislative
3652 body may[~~:(a)~~] adopt or reject the [zoning] proposed ordinance or map either as proposed[:(b)

3653 amend the zoning ordinance and adopt or reject the zoning ordinance as amended; or (c) reject
 3654 the ordinance] by the planning commission or after making any revision the county legislative
 3655 body considers appropriate.

3656 Section 106. Section **17-27a-503**, which is renumbered from Section 17-27-403 is
 3657 renumbered and amended to read:

3658 ~~[17-27-403].~~ **17-27a-503. Amendments.**

3659 (1) ~~[(a)]~~ The legislative body may amend:

3660 ~~[(i)]~~ (a) the number, shape, boundaries, or area of any zoning district;

3661 ~~[(ii)]~~ (b) any regulation of or within the zoning district; or

3662 ~~[(iii)]~~ (c) any other provision of ~~[the zoning]~~ a land use ordinance.

3663 ~~[(b)]~~ (2) The legislative body may not make any amendment authorized by this
 3664 subsection unless the amendment was proposed by the planning commission or is first
 3665 submitted to the planning commission for its ~~[approval, disapproval, or recommendations]~~
 3666 recommendation.

3667 ~~[(2)]~~ (3) The legislative body shall comply with the procedure specified in Section
 3668 ~~[17-27-402]~~ 17-27a-502 in preparing and adopting an amendment to ~~[the zoning]~~ a land use
 3669 ordinance or ~~[the]~~ a zoning map.

3670 Section 107. Section **17-27a-504**, which is renumbered from Section 17-27-404 is
 3671 renumbered and amended to read:

3672 ~~[17-27-404].~~ **17-27a-504. Temporary land use regulations.**

3673 (1) (a) A county legislative body may, without ~~[a public hearing]~~ prior consideration of
 3674 or recommendation from the planning commission, enact an ordinance establishing a
 3675 temporary ~~[zoning]~~ land use regulation for any part or all of the area within the county if:

3676 (i) the legislative body makes a finding of compelling, countervailing public interest;

3677 or

3678 (ii) the area is ~~[unzoned]~~ unregulated.

3679 (b) A temporary ~~[zoning]~~ land use regulation under Subsection (1)(a) may prohibit[-
 3680 restrict,] or regulate the erection, construction, reconstruction, or alteration of any building or
 3681 structure or any subdivision approval.

3682 (c) A temporary ~~[zoning]~~ land use regulation under Subsection (1)(a) may not impose
 3683 an impact fee or other financial requirement on building or development.

3684 (2) The [county] legislative body shall establish a period of limited effect for the
3685 [temporary] ordinance not to exceed six months.

3686 (3) (a) A [county] legislative body may, without [~~a public hearing~~] prior planning
3687 commission consideration or recommendation, enact an ordinance establishing a temporary
3688 [~~zoning~~] land use regulation prohibiting construction, subdivision approval, and other
3689 development activities within an area that is the subject of an Environmental Impact Statement
3690 or a Major Investment Study examining the area as a proposed highway or transportation
3691 corridor.

3692 (b) A [~~zoning~~] regulation under Subsection (3)(a):

3693 (i) may not exceed six months in duration;

3694 (ii) may be renewed, if requested by the [Utah] Transportation Commission created
3695 under Section 72-1-301, for up to two additional six-month periods by ordinance enacted
3696 before the expiration of the previous [~~zoning~~] regulation; and

3697 (iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the
3698 Environmental Impact Statement or Major Investment Study is in progress.

3699 Section 108. Section **17-27a-505**, which is renumbered from Section 17-27-405 is
3700 renumbered and amended to read:

3701 ~~[17-27-405]~~. **17-27a-505. Zoning districts.**

3702 (1) (a) The legislative body may divide the territory over which it has jurisdiction into
3703 zoning districts of a number, shape, and area that it considers appropriate to carry out the
3704 purposes of this chapter.

3705 (b) Within those zoning districts, the legislative body may regulate and restrict the
3706 erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and
3707 the use of land.

3708 (2) The legislative body shall ensure that the regulations are uniform for each class or
3709 kind of buildings throughout each [~~district~~] zone, but the regulations in one [~~district~~] zone may
3710 differ from those in other [~~districts~~] zones.

3711 (3) (a) There is no minimum area or diversity of ownership requirement for a zone
3712 designation.

3713 (b) Neither the size of a zoning district nor the number of landowners within the
3714 district may be used as evidence of the illegality of a zoning district or of the invalidity of a

3715 county decision.

3716 Section 109. Section **17-27a-506**, which is renumbered from Section 17-27-406 is
3717 renumbered and amended to read:

3718 ~~[17-27-406].~~ **17-27a-506. Conditional uses.**

3719 ~~[(1) A zoning ordinance may contain provisions for administrative decisions relating~~
3720 ~~to]~~

3721 (1) A land use ordinance may include conditional uses [that may be allowed, allowed
3722 with conditions, or denied in designated zoning districts, based on] and provisions for
3723 conditional uses that require compliance with standards [and criteria] set forth in [the zoning
3724 ordinance for those uses] an applicable ordinance.

3725 (2) (a) ~~[Appeals of the approval or denial of a] A conditional use [permit shall be~~
3726 ~~decided by the board of adjustment, unless the county legislative body by ordinance designates~~
3727 ~~itself or another body to decide those appeals.] shall be approved if reasonable conditions are~~
3728 ~~proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the~~
3729 ~~proposed use in accordance with applicable standards.~~

3730 (b) If the reasonably anticipated detrimental effects of a proposed conditional use
3731 cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to
3732 achieve compliance with applicable standards, the conditional use may be denied.

3733 Section 110. Section **17-27a-507** is enacted to read:

3734 **17-27a-507. Regulation of exactions.**

3735 A county may impose an exaction or exactions on development proposed in a land use
3736 application provided that:

3737 (1) an essential link exists between a legitimate governmental interest and each
3738 exaction; and

3739 (2) each exaction is roughly proportionate, both in nature and extent, to the impact of
3740 the proposed development.

3741 Section 111. Section **17-27a-508** is enacted to read:

3742 **17-27a-508. Land use approval standards and vested rights.**

3743 (1) (a) An applicant is entitled to approval of a land use application if the application
3744 conforms to the requirements of an applicable land use ordinance in effect when a complete
3745 application is submitted and all fees have been paid, unless:

3746 (i) the land use authority, on the record, finds that a compelling, countervailing public
3747 interest would be jeopardized by approving the application; or

3748 (ii) in the manner provided by local ordinance and before the application is submitted,
3749 the county has formally initiated proceedings to amend its ordinances in a manner that would
3750 prohibit approval of the application as submitted.

3751 (b) The county shall process an application without regard to proceedings initiated to
3752 amend the county's ordinances if:

3753 (i) 180 days have passed since the proceedings were initiated; and

3754 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
3755 application as submitted.

3756 (c) An application for a land use approval is considered submitted and complete when
3757 the application is provided in a form that complies with the requirements of applicable
3758 ordinances and all applicable fees have been paid.

3759 (d) The continuing validity of an approval of a land use application is conditioned upon
3760 the applicant proceeding after approval to implement the approval with reasonable diligence.

3761 (2) A county is bound by the terms and standards of applicable land use ordinances and
3762 shall comply with mandatory provisions of those ordinances.

3763 Section 112. Section **17-27a-509**, which is renumbered from Section 17-27-106 is
3764 renumbered and amended to read:

3765 ~~[17-27-106].~~ **17-27a-509. Limit on plan check fees.**

3766 (1) A county may not impose or collect a fee for reviewing or approving the plans for a
3767 commercial or residential building that exceeds the lesser of:

3768 (a) the actual cost of performing the plan review; and

3769 (b) 65% of the amount the county charges for a building permit fee for that building.

3770 ~~[(2)(a) For purposes of this Subsection (2):]~~

3771 ~~[(i) "Identical plans" means building plans submitted to a county that:]~~

3772 ~~[(A) are substantially identical to building plans that were previously submitted to and~~
3773 ~~reviewed and approved by the county; and]~~

3774 ~~[(B) describe a building that is:]~~

3775 ~~[(F) located on land zoned the same as the land on which the building described in the~~
3776 ~~previously approved plans is located; and]~~

3777 ~~[(H) subject to the same geological and meteorological conditions and the same law as~~
 3778 ~~the building described in the previously approved plans.]~~

3779 ~~[(ii) "Nominal fee" means a fee that reasonably reimburses a county only for time spent~~
 3780 ~~and expenses incurred in:]~~

3781 ~~[(A) verifying that building plans are identical plans; and]~~

3782 ~~[(B) reviewing and approving those minor aspects of identical plans that differ from~~
 3783 ~~the previously reviewed and approved building plans referred to in Subsection (2)(a)(i).]~~

3784 ~~[(b)]~~ (2) Subject to Subsection (1), a county may impose and collect only a nominal fee
 3785 for reviewing and approving identical plans.

3786 Section 113. Section **17-27a-510**, which is renumbered from Section 17-27-407 is
 3787 renumbered and amended to read:

3788 ~~[17-27-407].~~ **17-27a-510. Nonconforming uses and noncomplying**
 3789 **structures.**

3790 (1) (a) Except as provided in this section, a nonconforming use or a noncomplying
 3791 structure may be continued by the present or by a future property owner.

3792 (b) A nonconforming use may be extended through the same building, provided no
 3793 structural alteration of the building is proposed or made for the purpose of the extension.

3794 (c) For purposes of this Subsection (1), the addition of a solar energy device to a
 3795 building is not a structural alteration.

3796 ~~[(d) If any county acquires title to any property because of tax delinquency and the~~
 3797 ~~property is not redeemed as provided by law, the future use of the property shall conform with~~
 3798 ~~the existing provisions of the county ordinances equally applicable to other like properties~~
 3799 ~~within the district in which the property acquired by the county is located.]~~

3800 (2) The legislative body may provide ~~[in any zoning ordinance or amendment]~~ for:

3801 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
 3802 substitution of nonconforming uses upon the terms and conditions set forth in the ~~[zoning]~~ land
 3803 use ordinance;

3804 (b) the termination of all nonconforming uses, except billboards, by providing a
 3805 formula establishing a reasonable time period during which the owner can recover or amortize
 3806 the amount of his investment in the nonconforming use, if any; and

3807 (c) the termination of ~~[a billboard that is a nonconforming use by acquiring the~~

3808 billboard and associated property rights through:] a nonconforming use due to its abandonment.
3809 ~~[(i) gift;]~~
3810 ~~[(ii) purchase;]~~
3811 ~~[(iii) agreement;]~~
3812 ~~[(iv) exchange; or]~~
3813 ~~[(v) eminent domain;]~~
3814 ~~[(3) (a) A county is considered to have initiated the acquisition of a billboard structure~~
3815 ~~by eminent domain under Subsection (2)(c)(v) if the county prevents a billboard owner from:]~~
3816 ~~[(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged~~
3817 ~~by casualty, an act of God, or vandalism; or]~~
3818 ~~[(ii) except as provided in Subsection (3)(b), relocating or rebuilding a billboard~~
3819 ~~structure, or taking other measures, to correct a mistake in the placement or erection of a~~
3820 ~~billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or~~
3821 ~~other measure is consistent with the intent of that permit.]~~
3822 ~~[(b) A county's denial of a billboard owner's request to relocate or rebuild a billboard~~
3823 ~~structure, or to take other measures, in order to correct a mistake in the placement or erection of~~
3824 ~~a billboard does not constitute the initiation of acquisition by eminent domain under Subsection~~
3825 ~~(3)(a) if the mistake in placement or erection of the billboard is determined by clear and~~
3826 ~~convincing evidence to have resulted from an intentionally false or misleading statement:]~~
3827 ~~[(i) by the billboard applicant in the application; and]~~
3828 ~~[(ii) regarding the placement or erection of the billboard.]~~
3829 ~~[(4) Notwithstanding Subsections (2) and (3), a county may remove a billboard without~~
3830 ~~providing compensation if:]~~
3831 ~~[(a) the county determines:]~~
3832 ~~[(i) by clear and convincing evidence that the applicant for a permit intentionally made~~
3833 ~~a false or misleading statement in the applicant's application regarding the placement or~~
3834 ~~erection of the billboard; or]~~
3835 ~~[(ii) by substantial evidence that the billboard:]~~
3836 ~~[(A) is structurally unsafe;]~~
3837 ~~[(B) is in an unreasonable state of repair; or]~~
3838 ~~[(C) has been abandoned for at least 12 months;]~~

3839 ~~[(b) the county notifies the owner in writing that the owner's billboard meets one or~~
3840 ~~more of the conditions listed in Subsections (4)(a)(i) and (ii);]~~
3841 ~~[(c) the owner fails to remedy the condition or conditions within:]~~
3842 ~~[(i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's~~
3843 ~~receipt of written notice under Subsection (4)(b); or]~~
3844 ~~[(ii) if the condition forming the basis of the county's intention to remove the billboard~~
3845 ~~is that it is structurally unsafe, ten business days, or a longer period if necessary because of a~~
3846 ~~natural disaster, following the billboard owner's receipt of written notice under Subsection~~
3847 ~~(4)(b); and]~~
3848 ~~[(d) following the expiration of the applicable period under Subsection (4)(c) and after~~
3849 ~~providing the owner with reasonable notice of proceedings and an opportunity for a hearing,~~
3850 ~~the county finds:]~~
3851 ~~[(i) by clear and convincing evidence, that the applicant for a permit intentionally made~~
3852 ~~a false or misleading statement in the application regarding the placement or erection of the~~
3853 ~~billboard; or]~~
3854 ~~[(ii) by substantial evidence that the billboard is structurally unsafe, is in an~~
3855 ~~unreasonable state of repair, or has been abandoned for at least 12 months.]~~
3856 ~~[(5) A county may not allow a nonconforming billboard to be rebuilt for a reason other~~
3857 ~~than:]~~
3858 ~~[(a) those specified in Subsections (3) and (4);]~~
3859 ~~[(b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and]~~
3860 ~~[(c) those specified in the county's ordinance requiring or allowing a billboard owner to~~
3861 ~~relocate and rebuild an existing nonconforming billboard to an area within the county where~~
3862 ~~outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor~~
3863 ~~Advertising Act.]~~
3864 (3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying
3865 structure or terminate the nonconforming use of a structure that is involuntarily destroyed in
3866 whole or in part due to fire or other calamity unless the structure or use has been abandoned.
3867 (b) A county may prohibit the reconstruction or restoration of a noncomplying structure
3868 or terminate the nonconforming use of a structure if:
3869 (i) the structure is allowed to deteriorate to a condition that the structure is rendered

3870 uninhabitable and is not repaired or restored within six months after written notice to the
3871 property owner that the structure is uninhabitable and that the noncomplying structure or
3872 nonconforming use will be lost if the structure is not repaired or restored within six months; or
3873 (ii) the property owner has voluntarily demolished a majority of the noncomplying
3874 structure or the building that houses the nonconforming use.

3875 (4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal
3876 existence for nonconforming uses, the property owner shall have the burden of establishing the
3877 legal existence of a noncomplying structure or nonconforming use.

3878 (b) Any party claiming that a nonconforming use has been abandoned shall have the
3879 burden of establishing the abandonment.

3880 (c) Abandonment may be presumed to have occurred if:

3881 (i) a majority of the primary structure associated with the nonconforming use has been
3882 voluntarily demolished without prior written agreement with the county regarding an extension
3883 of the nonconforming use;

3884 (ii) the use has been discontinued for a minimum of one year; or

3885 (iii) the primary structure associated with the nonconforming use remains vacant for a
3886 period of one year.

3887 (d) The property owner may rebut the presumption of abandonment under Subsection
3888 (4)(c), and shall have the burden of establishing that any claimed abandonment under
3889 Subsection (4)(c) has not in fact occurred.

3890 ~~[(6)]~~ (5) A county may terminate the nonconforming status of a school district
3891 [property] or charter school use or structure when the property associated with the school
3892 district or charter school use or structure ceases to be used for school district or charter school
3893 purposes for a period established by ordinance.

3894 Section 114. Section **17-27a-511**, which is renumbered from Section 17-27-408 is
3895 renumbered and amended to read:

3896 ~~[17-27-408]~~. **17-27a-511. Existing outdoor advertising uses.**

3897 (1) A county may only require termination of a billboard and associated property rights
3898 through:

3899 (a) gift;

3900 (b) purchase;

- 3901 (c) agreement;
- 3902 (d) exchange; or
- 3903 (e) eminent domain.

3904 (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent
3905 of the billboard owner.

3906 Section 115. Section **17-27a-512** is enacted to read:

3907 **17-27a-512. Nonconforming billboards.**

3908 (1) (a) A county is considered to have initiated the acquisition of a billboard structure
3909 by eminent domain if the county prevents a billboard owner from:

3910 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
3911 by casualty, an act of God, or vandalism; or

3912 (ii) except as provided in Subsection (1)(b), relocating or rebuilding a billboard
3913 structure, or taking other measures, to correct a mistake in the placement or erection of a
3914 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or
3915 other measure is consistent with the intent of that permit.

3916 (b) A county's denial of a billboard owner's request to relocate or rebuild a billboard
3917 structure, or to take other measures, in order to correct a mistake in the placement or erection of
3918 a billboard does not constitute the initiation of acquisition by eminent domain under Subsection
3919 (1)(a) if the mistake in placement or erection of the billboard is determined by clear and
3920 convincing evidence to have resulted from an intentionally false or misleading statement:

- 3921 (i) by the billboard applicant in the application; and
- 3922 (ii) regarding the placement or erection of the billboard.

3923 (2) Notwithstanding Subsection (1) and Section 17-27a-511, a county may remove a
3924 billboard without providing compensation if:

3925 (a) the county determines:

3926 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
3927 false or misleading statement in the applicant's application regarding the placement or erection
3928 of the billboard; or

3929 (ii) by substantial evidence that the billboard:

3930 (A) is structurally unsafe;

3931 (B) is in an unreasonable state of repair; or

3932 (C) has been abandoned for at least 12 months;
3933 (b) the county notifies the owner in writing that the owner's billboard meets one or
3934 more of the conditions listed in Subsections (2)(a)(i) and (ii);
3935 (c) the owner fails to remedy the condition or conditions within:
3936 (i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's
3937 receipt of written notice under Subsection (2)(b); or
3938 (ii) if the condition forming the basis of the county's intention to remove the billboard
3939 is that it is structurally unsafe, ten business days, or a longer period if necessary because of a
3940 natural disaster, following the billboard owner's receipt of written notice under Subsection
3941 (2)(b); and
3942 (d) following the expiration of the applicable period under Subsection (2)(c) and after
3943 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
3944 the county finds:
3945 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
3946 a false or misleading statement in the application regarding the placement or erection of the
3947 billboard; or
3948 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
3949 unreasonable state of repair, or has been abandoned for at least 12 months.
3950 (3) A county may not allow a nonconforming billboard to be rebuilt for a reason other
3951 than:
3952 (a) those specified in Subsections (1) and (2);
3953 (b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and
3954 (c) those specified in the county's ordinance requiring or allowing a billboard owner to
3955 relocate and rebuild an existing nonconforming billboard to an area within the county where
3956 outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor
3957 Advertising Act.

3958 Section 116. Section **17-27a-513**, which is renumbered from Section 17-27-105.5 is
3959 renumbered and amended to read:

3960 ~~[17-27-105.5].~~ **17-27a-513. Manufactured homes.**

3961 (1) For purposes of this section, a manufactured home is the same as defined in Section
3962 58-56-3, except that the manufactured home must be attached to a permanent foundation in

3963 accordance with plans providing for vertical loads, uplift, and lateral forces and frost protection
 3964 in compliance with the applicable building code. All appendages, including carports, garages,
 3965 storage buildings, additions, or alterations must be built in compliance with the applicable
 3966 building code.

3967 (2) A manufactured home may not be excluded from any land use zone or area in
 3968 which a single-family residence would be permitted, provided the manufactured home
 3969 complies with all local [~~zoning;~~] land use ordinances, building [~~code~~] codes, and [~~subdivision~~
 3970 ~~requirements, including~~] any restrictive covenants, applicable to [~~single-family~~] a single-family
 3971 residence within that zone or area.

3972 (3) A county may not:

3973 (a) adopt or enforce an ordinance or regulation that treats a proposed development that
 3974 includes manufactured homes differently than one that does not include manufactured homes;
 3975 or

3976 (b) reject a development plan based on the fact that the development is expected to
 3977 contain manufactured homes.

3978 Section 117. Section **17-27a-514**, which is renumbered from Section 17-27-107 is
 3979 renumbered and amended to read:

3980 ~~[17-27-107]~~. **17-27a-514. Regulation of amateur radio antennas.**

3981 (1) A county may not enact or enforce an ordinance that does not comply with the
 3982 ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC
 3983 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 C.F.R. Part
 3984 97.

3985 (2) If a county adopts an ordinance involving the placement, screening, or height of an
 3986 amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance shall:

3987 (a) reasonably accommodate amateur radio communications; and

3988 (b) represent the minimal practicable regulation to accomplish the county's purpose.

3989 Section 118. Section **17-27a-515**, which is renumbered from Section 17-27-501 is
 3990 renumbered and amended to read:

3991 ~~[17-27-501]~~. **17-27a-515. Residential facilities for elderly persons.**

3992 (1) [~~(a)~~] A residential facility for elderly persons may not operate as a business.

3993 [~~(b)~~] (2) A residential facility for elderly persons shall:

3994 [(i)] (a) be owned by one of the residents or by an immediate family member of one of
3995 the residents or be a facility for which the title has been placed in trust for a resident;

3996 [(ii)] (b) be consistent with any existing [~~zoning of~~], applicable land use ordinance
3997 affecting the desired location; and

3998 [(iii)] (c) be occupied on a 24-hour-per-day basis by eight or fewer elderly persons in a
3999 family-type arrangement.

4000 [(2)] (3) A residential facility for elderly persons may not be considered a business
4001 because a fee is charged for food or for actual and necessary costs of operation and
4002 maintenance of the facility.

4003 Section 119. Section **17-27a-516**, which is renumbered from Section 17-27-502 is
4004 renumbered and amended to read:

4005 [~~17-27-502~~]. **17-27a-516**. **County ordinances governing elderly residential**
4006 **facilities.**

4007 (1) Each county shall adopt ordinances that establish that a residential facility for
4008 elderly persons is a permitted use in any area where residential dwellings are allowed, except
4009 an area zoned to permit exclusively single-family dwellings.

4010 (2) The ordinances shall establish a permit process that may require only that:

4011 (a) the facility meet [~~all applicable~~] each building, safety, [~~zoning~~], land use, and
4012 health [~~ordinances~~] ordinance applicable to similar dwellings;

4013 (b) adequate off-street parking space be provided;

4014 (c) the facility be capable of use as a residential facility for elderly persons without
4015 structural or landscaping alterations that would change the structure's residential character;

4016 (d) residential facilities for elderly persons be reasonably dispersed throughout the
4017 county;

4018 (e) no person being treated for alcoholism or drug abuse be placed in a residential
4019 facility for elderly persons; and

4020 (f) placement in a residential facility for elderly persons be on a strictly voluntary basis
4021 and not a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional
4022 facility.

4023 Section 120. Section **17-27a-517**, which is renumbered from Section 17-27-503 is
4024 renumbered and amended to read:

4025 ~~[17-27-503].~~ **17-27a-517. County approval of elderly residential facilities.**

4026 (1) ~~[(a)]~~ Upon application for a permit to establish a residential facility for elderly
4027 persons in any area where residential dwellings are allowed, except an area zoned to permit
4028 exclusively single-family dwellings, the county ~~[may decide only whether or not the residential~~
4029 ~~facility for elderly persons conforms to ordinances adopted by the county under this part]~~ shall
4030 grant the requested permit to the facility if the facility is proposed outside of a zone regulated
4031 exclusively for single-family homes and shall otherwise comply with Section 17-27a-518 if the
4032 facility is proposed in a land use zone regulated exclusively for single-family homes.

4033 ~~[(b) If the county determines that the residential facility for elderly persons complies~~
4034 ~~with the ordinances, it shall grant the requested permit to that facility.]~~

4035 (2) The use granted and permitted by this section is nontransferable and terminates if
4036 the structure is devoted to a use other than a residential facility for elderly persons or if the
4037 structure fails to comply with the ordinances adopted under this ~~[part]~~ section.

4038 (3) If a county has not adopted ordinances under this ~~[part]~~ section at the time an
4039 application for a permit to establish a residential facility for elderly persons is made, the county
4040 shall grant the permit if it is established that the criteria set forth in this part have been met by
4041 the facility.

4042 Section 121. Section **17-27a-518**, which is renumbered from Section 17-27-504 is
4043 renumbered and amended to read:

4044 ~~[17-27-504].~~ **17-27a-518. Elderly residential facilities in areas zoned**
4045 **exclusively for single-family dwellings.**

4046 (1) For purposes of this section:

4047 (a) no person who is being treated for alcoholism or drug abuse may be placed in a
4048 residential facility for elderly persons; and

4049 (b) placement in a residential facility for elderly persons shall be on a strictly voluntary
4050 basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a
4051 correctional institution.

4052 (2) Subject to the granting of a conditional use permit, a residential facility for elderly
4053 persons shall be allowed in any ~~[county zoning district]~~ zone that is ~~[zoned]~~ regulated to permit
4054 exclusively single-family dwelling use, if that facility:

4055 (a) conforms to all applicable health, safety, ~~[zoning]~~ land use, and building codes;

4056 (b) is capable of use as a residential facility for elderly persons without structural or
4057 landscaping alterations that would change the structure's residential character; and

4058 (c) conforms to the county's criteria, adopted by ordinance, governing the location of
4059 residential facilities for elderly persons in areas zoned to permit exclusively single-family
4060 dwellings.

4061 (3) A county may, by ordinance, provide that no residential facility for elderly persons
4062 be established within three-quarters mile of another existing residential facility for elderly
4063 persons or residential facility for persons with a disability[~~, as defined by Section 17-27-605~~].

4064 (4) The use granted and permitted by this section is nontransferable and terminates if
4065 the structure is devoted to a use other than as a residential facility for elderly persons or if the
4066 structure fails to comply with applicable health, safety, and building codes.

4067 (5) (a) County ordinances shall prohibit discrimination against elderly persons and
4068 against residential facilities for elderly persons.

4069 (b) The decision of a county regarding the application for a permit by a residential
4070 facility for elderly persons must be based on legitimate land use criteria and may not be based
4071 on the age of the facility's residents.

4072 (6) The requirements of this section that a residential facility for elderly persons obtain
4073 a conditional use permit or other permit do not apply if the facility meets the requirements of
4074 existing [~~zoning~~] land use ordinances that allow a specified number of unrelated persons to live
4075 together.

4076 Section 122. Section **17-27a-519**, which is renumbered from Section 17-27-605 is
4077 renumbered and amended to read:

4078 [~~17-27-605~~]. **17-27a-519. Residences for persons with a disability.**

4079 [~~(1) As used in this section:~~]

4080 [~~(a) "Disability" is defined in Section 57-21-2.~~]

4081 [~~(b) "Residential facility for persons with a disability" means a residence:~~]

4082 [~~(i) in which more than one person with a disability resides; and]~~

4083 [~~(ii) (A) is licensed or certified by the Department of Human Services under Title 62A,
4084 Chapter 2, Licensure of Programs and Facilities; or]~~

4085 [~~(B) is licensed or certified by the Department of Health under Title 26, Chapter 21,
4086 Health Care Facility Licensing and Inspection Act.]~~

4087 [(2)] (1) Each county shall adopt an ordinance for residential facilities for persons with
4088 a disability.

4089 [(3)] (2) Each ordinance under Subsection [(2)] (1) shall:

4090 (a) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair
4091 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and

4092 (b) to the extent required by federal law, provide that a residential facility for persons
4093 with a disability is a permitted use in any [~~zoning area~~] zone where similar residential
4094 dwellings that are not residential facilities for persons with a disability are allowed.

4095 [(4)] (3) Subject to Subsection [(3)] (2), an ordinance under Subsection [(2)] (1) may:

4096 (a) require residential facilities for persons with a disability:

4097 (i) to be reasonably dispersed throughout the county;

4098 (ii) to be limited by number of occupants;

4099 (iii) for residential facilities for persons with a disability that are substance abuse
4100 facilities and are located within 500 feet of a school, to provide, in accordance with rules
4101 established by the Department of Human Services under Title 62A, Chapter 2, Licensure of
4102 Programs and Facilities:

4103 (A) a security plan satisfactory to local law enforcement authorities;

4104 (B) 24-hour supervision for residents; and

4105 (C) other 24-hour security measures; and

4106 (iv) to obtain permits that verify compliance with the same building, safety, and health
4107 regulations as are applicable in the same [~~zoning area~~] zone to similar uses that are not
4108 residential facilities for persons with a disability; and

4109 (b) provide that a residential facility for persons with a disability that would likely
4110 create a fundamental change in the character of a residential neighborhood may be excluded
4111 from a [~~zoning area~~] zone.

4112 [(5)] (4) The responsibility to license programs or entities that operate facilities for
4113 persons with a disability, as well as to require and monitor the provision of adequate services to
4114 persons residing in those facilities, shall rest with:

4115 (a) for programs or entities licensed or certified by the Department of Human Services,
4116 the Department of Human Services as provided in Title 62A, Chapter 5, Services to People
4117 with Disabilities; and

4118 (b) for programs or entities licensed or certified by the Department of Health, the
 4119 Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and
 4120 Inspection Act.

4121 Section 123. Section **17-27a-601**, which is renumbered from Section 17-27-801 is
 4122 renumbered and amended to read:

4123 **Part 6. Subdivisions**

4124 ~~[17-27-801].~~ **17-27a-601. Enactment of subdivision ordinance.**

4125 (1) The legislative body of ~~[any]~~ a county may enact ~~[a subdivision ordinance]~~
 4126 ordinances requiring that a subdivision plat comply with the provisions of the ~~[subdivision]~~
 4127 ordinance and ~~[be approved as required by]~~ this part before:

4128 ~~[(1)]~~ (a) it may be filed or recorded in the county recorder's office; and

4129 ~~[(2)]~~ (b) lots may be sold.

4130 (2) If the legislative body fails to enact a subdivision ordinance, the county may
 4131 regulate subdivisions only as provided in this part.

4132 Section 124. Section **17-27a-602**, which is renumbered from Section 17-27-802 is
 4133 renumbered and amended to read:

4134 ~~[17-27-802].~~ **17-27a-602. Preparation -- Adoption/amendment.**

4135 (1) The planning commission shall:

4136 (a) prepare and recommend a proposed ~~[subdivision]~~ ordinance to the legislative body
 4137 that regulates the subdivision of land;

4138 (b) prepare and recommend or consider and recommend a proposed ordinance that
 4139 amends the regulation of the subdivision of the unincorporated land in the county;

4140 (c) provide notice consistent with Section 17-27a-205; and

4141 ~~[(b)]~~ (d) hold a public hearing on the proposed ~~[subdivision]~~ ordinance before making
 4142 its final recommendation to the legislative body~~[-and]~~.

4143 ~~[(c)]~~ provide reasonable notice of the public hearing at least 14 days before the date of
 4144 ~~the hearing.]~~

4145 ~~[(2)]~~ The legislative body shall:

4146 ~~[(a)]~~ hold a public hearing on the proposed subdivision ordinance recommended to it by
 4147 the planning commission; and]

4148 ~~[(b)]~~ provide reasonable notice of the public hearing at least 14 days before the date of

4149 ~~the hearing.]~~

4150 ~~[(3) After the public hearing, the]~~

4151 (2) The county legislative body may~~[(a)]~~ adopt or reject the [subdivision] ordinance
 4152 either as proposed~~[(b) amend the subdivision ordinance and adopt or reject it as amended, or~~
 4153 (c) reject the ordinance] by the planning commission or after making any revision the county
 4154 legislative body considers appropriate.

4155 Section 125. Section **17-27a-603**, which is renumbered from Section 17-27-804 is
 4156 renumbered and amended to read:

4157 ~~[17-27-804].~~ **17-27a-603. Plats required.**

4158 (1) Unless exempt under Section ~~[17-27-806]~~ 17-27a-605 or ~~[not included in the]~~
 4159 excluded from the definition of [a] subdivision under Subsection [17-27-103(1)]
 4160 17-27a-103(37), whenever any [lands are divided] land is laid out and platted, the owner of
 4161 [those lands] the land shall [have] provide an accurate plat [made of them that sets forth and
 4162 describes: (a) all] that describes or specifies:

4163 (a) a name or designation of the subdivision that is distinct from any plat already
 4164 recorded in the county recorder's office;

4165 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
 4166 their boundaries, course, and extent, [and] whether [they are intended for streets or] the owner
 4167 proposes that any parcel of ground is intended be used as a street or for any other public [uses;
 4168 together with any areas that are reserved for public purposes; and] use, and whether any such
 4169 area is reserved or proposed for dedication for a public purpose;

4170 ~~[(b)]~~ (c) the lot or unit reference, [the] block or building reference, [the] street or site
 4171 address, [the] street name or coordinate address, [the] acreage or square footage for all parcels,
 4172 units, or lots, and [the] length and width of the blocks and lots intended for sale[-]; and

4173 (d) every existing right-of-way and easement grant of record for underground facilities,
 4174 as defined in Section 54-8a-2, and for other utility facilities.

4175 (2) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's
 4176 ordinances and this part and has been approved by the culinary water authority and the sanitary
 4177 sewer authority, the county shall approve the plat.

4178 (3) The county may withhold an otherwise valid plat approval until the owner of the
 4179 land provides the legislative body with a tax clearance indicating that all taxes, interest, and

4180 penalties owing on the land have been paid.

4181 ~~[(2)]~~ (4) (a) The owner of the land shall acknowledge the plat before an officer
4182 authorized by law to take the acknowledgment of conveyances of real estate and shall obtain
4183 the signature of each individual designated by the county.

4184 (b) The surveyor making the plat shall certify ~~[it.]~~ that the surveyor:

4185 ~~[(c) The county executive shall approve the plat as provided in this part. Before the~~
4186 ~~county executive may approve a plat, the owner of the land shall provide the county executive~~
4187 ~~with a tax clearance indicating that all taxes, interest, and penalties owing on the land have~~
4188 ~~been paid.]~~

4189 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
4190 Land Surveyors Licensing Act;

4191 (ii) has completed a survey of the property described on the plat in accordance with
4192 Section 17-23-17 and has verified all measurements; and

4193 (iii) has placed monuments as represented on the plat.

4194 (c) As applicable, the owner or operator of the underground and utility facilities shall
4195 approve the:

4196 (i) boundary, course, dimensions, and intended use of the right-of-way and easement
4197 grants of record;

4198 (ii) location of existing underground and utility facilities; and

4199 (iii) conditions or restrictions governing the location of the facilities within the
4200 right-of-way, and easement grants of records, and utility facilities within the subdivision.

4201 ~~[(3)]~~ (5) (a) After the plat has been acknowledged, certified, and approved, the owner
4202 of the land shall, ~~[subject to Subsection (3)(b)]~~ within the time period designated by ordinance,
4203 record [it] the plat in the county recorder's office in the county in which the lands platted and
4204 laid out are situated.

4205 ~~[(b) An owner of land may not submit for recording a plat that gives the subdivision~~
4206 ~~described in the plat the same name as a subdivision in a plat already recorded in the county~~
4207 ~~recorder's office.]~~

4208 (b) An owner's failure to record a plat within the time period designated by ordinance
4209 renders the plat voidable.

4210 Section 126. Section **17-27a-604**, which is renumbered from Section 17-27-805 is

4211 renumbered and amended to read:

4212 ~~[17-27-805].~~ **17-27a-604. Subdivision approval procedure.**

4213 (1) A person may not submit a ~~[plat of a]~~ subdivision plat to the county recorder's
4214 office for recording unless a recommendation has been received from the planning commission
4215 and:

4216 (a) the plat has been approved by:

4217 (i) the ~~[executive]~~ land use authority of the county in whose unincorporated area the
4218 ~~[subdivision]~~ land described in the plat is located; ~~[or]~~ and

4219 (ii) other officers that the county ~~[legislative body]~~ designates in ~~[an]~~ its ordinance; and

4220 (b) ~~[the approval is]~~ all approvals are entered in writing on the plat by ~~[the county~~
4221 ~~executive or by the other officers designated in the ordinance]~~ designated officers.

4222 (2) A ~~[subdivision]~~ plat recorded without the ~~[approval]~~ signatures required under this
4223 section is void.

4224 (3) A transfer of land pursuant to a void plat is voidable.

4225 Section 127. Section **17-27a-605**, which is renumbered from Section 17-27-806 is
4226 renumbered and amended to read:

4227 ~~[17-27-806].~~ **17-27a-605. Exemptions from plat requirement.**

4228 ~~[(1)(a) Notwithstanding Sections 17-27-804 and 17-27-805, a person may submit to~~
4229 ~~the county recorder's office for recording a document that subdivides property by metes and~~
4230 ~~bounds into less than ten lots, without the necessity of recording a plat, if:]~~

4231 ~~[(i) the planning commission, if required by county ordinance, has given the county~~
4232 ~~executive its recommendation, whether favorable or not, and]~~

4233 ~~[(ii) the document contains a certificate or written approval from:]~~

4234 ~~[(A) the executive of the county in whose unincorporated area the property is located;~~
4235 ~~or]~~

4236 ~~[(B) other officers that the county legislative body designates in an ordinance.]~~

4237 ~~[(b) By indicating its approval on a document under Subsection (1)(a), the county~~
4238 ~~executive or other officer designated by the county legislative body certifies that:]~~

4239 ~~[(i) the planning commission:]~~

4240 ~~[(A) has given its recommendation to the county executive; or]~~

4241 ~~[(B) is not required by county ordinance to give its recommendation;]~~

4242 ~~[(ii) the subdivision]~~

4243 (1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority may
4244 approve the subdivision of unincorporated land into ten lots or less without a plat, by certifying
4245 in writing that:

4246 (a) the county has provided notice as required by ordinance and by Sections
4247 17-27a-206 and 17-27a-207;

4248 (b) the proposed subdivision:

4249 (i) is not traversed by the mapped lines of a proposed street as shown in the general
4250 plan and does not require the dedication of any land for street or other public purposes; [and]

4251 ~~[(iii) if the subdivision]~~

4252 (ii) has been approved by the culinary water authority and the sanitary sewer authority;

4253 (iii) is located in a zoned area[~~, each lot in the subdivision meets the frontage, width,~~
4254 and area requirements of the zoning ordinance or has been granted]; and

4255 (iv) conforms to all applicable land use ordinances or has properly received a variance
4256 from [those requirements by the board of adjustment.] the requirements of an otherwise
4257 conflicting and applicable land use ordinance.

4258 (2) (a) Subject to Subsection ~~[(2)(b)]~~ (1), a lot or parcel resulting from a division of
4259 agricultural land is exempt from the plat requirements of Section ~~[17-27-804]~~ 17-27a-603 if the
4260 lot or parcel:

4261 (i) qualifies as land in agricultural use under Title 59, Chapter 2, Part 5, Farmland
4262 Assessment Act;

4263 (ii) meets the minimum size requirement of applicable ~~[zoning]~~ land use ordinances
4264 [~~for agricultural uses~~]; and

4265 (iii) is not used and will not be used for any nonagricultural purpose.

4266 (b) ~~[(i)]~~ The ~~[county legislative body may adopt an ordinance requiring the]~~ boundaries
4267 of each lot or parcel exempted under Subsection ~~[(2)(a) to]~~ (1) shall be graphically illustrated
4268 on a record of survey map that, after receiving the same approvals as are required for a plat
4269 under Section ~~[17-27-805]~~ 17-27a-604, shall be recorded with the county recorder.

4270 ~~[(ii) As an alternative to enacting an ordinance under Subsection (2)(b)(i), a county~~
4271 ~~legislative body may establish a procedure under which a notice, covenant, or other specified~~
4272 ~~legal instrument containing a legal description of the subject property and identifying the~~

4273 agricultural purpose for the land division is recorded with the county recorder.]

4274 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural
4275 purpose, the county [in whose unincorporated area the lot or parcel is located] may require the
4276 lot or parcel to comply with the requirements of Section [~~17-27-804~~] 17-27a-603.

4277 (3) (a) Documents recorded in the county recorder's office that divide property by a
4278 metes and bounds description do not create [a] an approved subdivision allowed by this part
4279 unless the land use authority's certificate of written approval required by Subsection (1)(a)(ii) is
4280 attached to the document.

4281 (b) The absence of the certificate or written approval required by Subsection (1)[(a)(ii)]
4282 does not affect the validity of a recorded document.

4283 (c) A document [~~recorded under Subsection (1)(a)~~] which does not meet the
4284 requirements of Subsection (1)[(a)(ii)] may be corrected [~~to comply with Subsection (1)(a)(ii)~~]
4285 by the recording of an affidavit to which the required certificate or written approval is attached
4286 in accordance with Section 57-3-106.

4287 Section 128. Section **17-27a-606**, which is renumbered from Section 17-27-806.5 is
4288 renumbered and amended to read:

4289 [~~17-27-806.5~~]. **17-27a-606**. **Common area parcels on a plat -- No separate**
4290 **ownership -- Ownership interest equally divided among other parcels on plat and**
4291 **included in description of other parcels.**

4292 (1) A parcel designated as common area on a plat recorded in compliance with this part
4293 may not be separately owned or conveyed independent of the other parcels created by the plat.

4294 (2) The ownership interest in a parcel described in Subsection (1) shall:

4295 (a) for purposes of assessment, be divided equally among all parcels created by the
4296 plat, unless a different division of interest for assessment purposes is indicated on the plat or an
4297 accompanying recorded document; and

4298 (b) be considered to be included in the description of each instrument describing a
4299 parcel on the plat by its identifying plat number, even if the common area interest is not
4300 explicitly stated in the instrument.

4301 Section 129. Section **17-27a-607**, which is renumbered from Section 17-27-807 is
4302 renumbered and amended to read:

4303 [~~17-27-807~~]. **17-27a-607**. **Dedication of streets.**

4304 (1) Plats, when made, acknowledged, and recorded according to the procedures
4305 specified in this part, operate as a dedication of all streets and other public places, and vest the
4306 fee of those parcels of land in the county for the public for the uses named or intended in those
4307 plats.

4308 (2) The dedication established by this section does not impose liability upon the county
4309 for streets and other public places that are dedicated in this manner but are unimproved.

4310 Section 130. Section **17-27a-608**, which is renumbered from Section 17-27-808 is
4311 renumbered and amended to read:

4312 ~~[17-27-808].~~ **17-27a-608. Vacating or changing a subdivision plat.**

4313 (1) (a) Subject to ~~[Subsection (2), the county executive or any other officer that the~~
4314 ~~county legislative body designates by ordinance]~~ Section 17-27a-610, and provided that notice
4315 has been given pursuant to local ordinance and Section 17-27a-208, the land use authority may,
4316 with or without a petition, consider and resolve any proposed vacation, alteration, or
4317 amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley
4318 contained in a subdivision plat ~~[at a public hearing].~~

4319 (b) If a petition is filed, the ~~[responsible officer]~~ land use authority shall hold ~~[the]~~ a
4320 public hearing within 45 days after receipt of the planning commission's recommendation
4321 under Subsection (2) if:

4322 (i) the plat change includes the vacation of a public street or alley;

4323 (ii) any owner within the plat notifies the ~~[municipality]~~ county of their objection in
4324 writing within ten days of mailed notification; or

4325 (iii) a public hearing is required because all of the owners in the subdivision have not
4326 signed the revised plat.

4327 ~~[(2) (a) Before the county legislative body or officer designated by the county~~
4328 ~~legislative body may consider]~~

4329 (2) (a) The planning commission shall consider and provide a recommendation for a
4330 proposed vacation, alteration, or amendment under Subsection (1)(a) or (6); ~~the county~~
4331 ~~legislative body or officer shall refer the proposal to the planning commission for its~~
4332 ~~recommendation]~~ before the land use authority takes final action.

4333 (b) The planning commission shall give its recommendation within 30 days after the
4334 proposed vacation, alteration, or amendment is referred to it, or as that time period is extended

4335 by agreement with the applicant.

4336 (3) Any fee owner, as shown on the last county assessment rolls, of land within the
4337 subdivision that has been laid out and platted as provided in this part may, in writing, petition
4338 ~~[the county executive]~~ to have the plat, any portion of it, or any street or lot contained in it,
4339 vacated, altered, or amended as provided in this section.

4340 (4) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street
4341 or lot contained in a plat shall include:

4342 (a) the name and address of all owners of record of the land contained in the entire plat;

4343 (b) the name and address of all owners of record of land adjacent to any street that is
4344 proposed to be vacated, altered, or amended; and

4345 (c) the signature of each of these owners who consents to the petition.

4346 (5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may
4347 not be scheduled for consideration at a public hearing before the ~~[responsible officer]~~ planning
4348 commission until the notice required by ~~[this part]~~ Section 17-27a-207 or 17-27a-208, as
4349 applicable, is given.

4350 (b) The petitioner shall pay the cost of the notice.

4351 (6) Subject to Subsection (2), if the ~~[responsible body or officer]~~ applicant proposes to
4352 vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat,
4353 ~~[they]~~ the planning commission shall consider the issue at a public hearing after giving the
4354 notice required by ~~[this part]~~ Section 17-27a-207 or 17-27a-208, as applicable.

4355 (7) (a) The owners of record of adjacent parcels that are described by either a metes
4356 and bounds description or a recorded plat may exchange title to portions of those parcels if the
4357 exchange of title is approved by the ~~[planning commission, or such other person or board as the~~
4358 ~~county legislative body may designate,]~~ land use authority in accordance with Subsection
4359 (7)(b).

4360 (b) The ~~[planning commission, or such other person or board as the county legislative~~
4361 ~~body may designate,]~~ land use authority shall approve an exchange of title under Subsection
4362 (7)(a) if:

4363 (i) no new dwelling lot or housing unit will result from the exchange of title; and

4364 (ii) the exchange of title will not result in a violation of ~~[applicable zoning~~
4365 ~~requirements]~~ any land use ordinance.

4366 (c) If an exchange of title is approved under Subsection (7)(b), a notice of approval
4367 shall be recorded [~~by the planning commission, or such other person or board as the county~~
4368 ~~legislative body may designate,~~] in the office of the county recorder which:

4369 (i) is executed by each owner included in the exchange and by the [~~planning~~
4370 ~~commission, or such other person or board as the county legislative body may designate~~] land
4371 use authority;

4372 (ii) contains an acknowledgment for each party executing the notice in accordance with
4373 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

4374 (iii) recites the descriptions of both the original parcels and the parcels created by the
4375 exchange of title.

4376 (d) A notice of approval recorded under this Subsection (7) does not act as a
4377 conveyance of title to real property and is not required for the recording of a document
4378 purporting to convey title to real property.

4379 (8) (a) The name of a recorded subdivision may be changed by recording an amended
4380 plat making that change, as provided in this section and subject to Subsection (8)(c).

4381 (b) The surveyor [~~making~~] preparing the amended plat shall certify [~~it.~~] that the
4382 surveyor:

4383 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
4384 Land Surveyors Licensing Act;

4385 (ii) has completed a survey of the property described on the plat in accordance with
4386 Section 17-23-17 and has verified all measurements; and

4387 (iii) has placed monuments as represented on the plat;

4388 (c) An owner of land may not submit for recording an amended plat that gives the
4389 subdivision described in the amended plat the same name as a subdivision in a plat already
4390 recorded in the county recorder's office.

4391 (d) Except as provided in Subsection (8)(a), the recording of a declaration or other
4392 document that purports to change the name of a recorded plat is [~~void~~] voidable.

4393 Section 131. Section **17-27a-609**, which is renumbered from Section 17-27-810 is
4394 renumbered and amended to read:

4395 [~~17-27-810~~]. **17-27a-609. Grounds for vacating or changing a plat.**

4396 (1) [~~(a)~~] Within 30 days after the public hearing required by this part, [~~the responsible~~

4397 officer] or as that time period may be extended by agreement of the parties, the land use
 4398 authority shall consider the petition to vacate or change a plat.

4399 ~~[(b)]~~ (2) If the ~~[responsible officer]~~ land use authority is satisfied that the public will
 4400 not be materially injured by the proposed vacation, alteration, or amendment, and that there is
 4401 good cause for the vacation, alteration, or amendment, the ~~[county executive]~~ land use
 4402 authority may vacate, alter, or amend the plat, any portion of the plat, or any street or lot.

4403 ~~[(c)]~~ (3) The ~~[responsible officer]~~ land use authority may approve the vacation,
 4404 alteration, or amendment by resolution, amended plat, administrative order, or deed containing
 4405 a stamp or mark indicating approval by the ~~[responsible officer]~~ land use authority.

4406 ~~[(d)]~~ (4) The ~~[responsible officer]~~ land use authority shall ensure that the vacation,
 4407 alteration, or amendment is recorded in the office of the county recorder in which the land is
 4408 located.

4409 ~~[(2) An aggrieved party may appeal the responsible officer's decision to the board of~~
 4410 ~~adjustment.]~~

4411 (5) The action of the land use authority vacating or narrowing a street or alley that has
 4412 been dedicated to public use shall operate to the extent which it is vacated or narrowed, upon
 4413 the effective date of the vacating ordinance, as a revocation of the acceptance thereof, and the
 4414 relinquishment of the county's fee therein, but the right-of-way and easements therein, if any, of
 4415 any lot owner and the franchise rights of any public utility may not be impaired thereby.

4416 Section 132. Section **17-27a-610**, which is renumbered from Section 17-27-901 is
 4417 renumbered and amended to read:

4418 ~~[17-27-901].~~ **17-27a-610. Restrictions for solar and other energy devices.**

4419 ~~[(1) The legislative body, in order to protect and ensure access to sunlight for solar~~
 4420 ~~energy devices, may adopt regulations governing legislative subdivision development plans~~
 4421 ~~that relate to the use of restrictive covenants or solar easements, height restrictions, side yard~~
 4422 ~~and setback requirements, street and building orientation and width requirements, height and~~
 4423 ~~location of vegetation with respect to property boundary lines, and other permissible forms of~~
 4424 ~~land use controls.]~~

4425 ~~[(2) The county executive]~~

4426 The land use authority may refuse to approve or renew any plat ~~[or]~~, subdivision plan,
 4427 or dedication of any street or other ground, if ~~[the]~~ deed restrictions, covenants, or similar

4428 binding agreements running with the land for the lots or parcels covered by the plat or
4429 subdivision prohibit, or have the effect of prohibiting reasonably sited and designed solar
4430 collectors, clotheslines, or other energy devices based on renewable resources from being
4431 installed on buildings erected on lots or parcels covered by the plat or subdivision.

4432 Section 133. Section **17-27a-611**, which is renumbered from Section 17-27-811 is
4433 renumbered and amended to read:

4434 ~~[17-27-811]~~. **17-27a-611. Prohibited acts.**

4435 (1) (a) An owner of any land located in a subdivision~~[, as defined in this chapter,]~~ who
4436 transfers or sells any land in that subdivision before a plat of the subdivision has been approved
4437 and recorded ~~[as required in this part]~~ violates this part for each lot or parcel transferred or
4438 sold.

4439 (b) The description by metes and bounds in ~~[the]~~ an instrument of transfer or other
4440 documents used in the process of selling or transferring does not exempt the transaction from
4441 being a violation of Subsection (1)(a) or from the penalties or remedies provided in this
4442 chapter.

4443 (c) Notwithstanding any other provision of this Subsection (1), the recording of an
4444 instrument of transfer or other document used in the process of selling or transferring real
4445 property that violates this part:

- 4446 (i) does not affect the validity of the instrument or other document; and
- 4447 (ii) does not affect whether the property that is the subject of the instrument or other
4448 document complies with applicable county ordinances on land use and development.

4449 (2) (a) A county may bring an action against an owner to require the property to
4450 conform to the provisions of this part or an ordinance enacted under the authority of this part.

4451 (b) An action under this Subsection (2) may include an injunction, abatement, merger
4452 of title, or any other appropriate action or ~~[proceedings]~~ proceeding to prevent, enjoin, or abate
4453 the violation.

4454 (c) A county need only establish the violation to obtain the injunction.

4455 Section 134. Section **17-27a-701** is enacted to read:

4456 **Part 7. Appeal Authority and Variances**

4457 **17-27a-701. Appeal authority required -- Condition precedent to judicial review.**

4458 (1) Each county adopting a land use ordinance shall, by ordinance, establish one or

4459 more appeal authorities to hear and decide:

4460 (a) requests for variances from the terms of the land use ordinances; and

4461 (b) appeals from decisions applying the land use ordinances.

4462 (2) As a condition precedent to judicial review, each adversely affected person shall

4463 timely and specifically challenge a land use authority's decision, in accordance with local
4464 ordinance.

4465 (3) An appeal authority:

4466 (a) shall:

4467 (i) act in a quasi-judicial manner; and

4468 (ii) serve as the final arbiter of issues involving the interpretation or application of land
4469 use ordinances; and

4470 (c) may not entertain an appeal of a matter in which the appeal authority, or any
4471 participating member, had first acted as the land use authority.

4472 (4) By ordinance, a county may:

4473 (a) designate a separate appeal authority to hear requests for variances than the appeal
4474 authority it designates to hear appeals;

4475 (b) designate one or more separate appeal authorities to hear distinct types of appeals
4476 of land use authority decisions;

4477 (c) require an adversely affected party to present to an appeal authority every theory of
4478 relief that it can raise in district court;

4479 (d) not require an adversely affected party to pursue duplicate or successive appeals
4480 before the same or separate appeal authorities as a condition of the adversely affected party's
4481 duty to exhaust administrative remedies; and

4482 (e) provide that specified types of land use decisions may be appealed directly to the
4483 district court.

4484 (5) If the county establishes or, prior to the effective date of this chapter, has
4485 established a multiperson board, body, or panel to act as an appeal authority, at a minimum the
4486 board, body, or panel shall:

4487 (a) notify each of its members of any meeting or hearing of the board, body, or panel;

4488 (b) provide each of its members with the same information and access to municipal
4489 resources as any other member;

4490 (c) convene only if a quorum of its members is present; and

4491 (d) act only upon the vote of a majority of its convened members.

4492 Section 135. Section **17-27a-702**, which is renumbered from Section 17-27-707 is
4493 renumbered and amended to read:

4494 ~~[17-27-707]~~. **17-27a-702. Variances.**

4495 (1) Any person or entity desiring a waiver or modification of the requirements of [~~the~~
4496 ~~zoning~~] a land use ordinance as applied to a parcel of property that he owns, leases, or in which
4497 he holds some other beneficial interest may apply to the [~~board of adjustment~~] applicable
4498 appeal authority for a variance from the terms of the [~~zoning~~] ordinance.

4499 (2) (a) The [~~board of adjustment~~] appeal authority may grant a variance only if:

4500 (i) literal enforcement of the [~~zoning~~] ordinance would cause an unreasonable hardship
4501 for the applicant that is not necessary to carry out the general purpose of the [~~zoning ordinance~~]
4502 land use ordinances;

4503 (ii) there are special circumstances attached to the property that do not generally apply
4504 to other properties in the same [~~district~~] zone;

4505 (iii) granting the variance is essential to the enjoyment of a substantial property right
4506 possessed by other property in the same [~~district~~] zone;

4507 (iv) the variance will not substantially affect the general plan and will not be contrary
4508 to the public interest; and

4509 (v) the spirit of the [~~zoning~~] land use ordinance is observed and substantial justice
4510 done.

4511 (b) (i) In determining whether or not enforcement of the [~~zoning~~] land use ordinance
4512 would cause unreasonable hardship under Subsection (2)(a), the [~~board of adjustment~~] appeal
4513 authority may not find an unreasonable hardship unless the alleged hardship:

4514 (A) is located on or associated with the property for which the variance is sought; and

4515 (B) comes from circumstances peculiar to the property, not from conditions that are
4516 general to the neighborhood.

4517 (ii) In determining whether or not enforcement of the [~~zoning~~] land use ordinance
4518 would cause unreasonable hardship under Subsection (2)(a), the [~~board of adjustment~~] appeal
4519 authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

4520 (c) In determining whether or not there are special circumstances attached to the

4521 property under Subsection (2)(a), the ~~[board of adjustment]~~ appeal authority may find that
 4522 special circumstances exist only if the special circumstances:

4523 (i) relate to the hardship complained of; and

4524 (ii) deprive the property of privileges granted to other properties in the same ~~[district]~~
 4525 zone.

4526 (3) The applicant shall bear the burden of proving that all of the conditions justifying a
 4527 variance have been met.

4528 (4) Variances run with the land.

4529 (5) The ~~[board of adjustment and any other body]~~ appeal authority may not grant a use
 4530 ~~[variances]~~ variance.

4531 (6) In granting a variance, the ~~[board of adjustment]~~ appeal authority may impose
 4532 additional requirements on the applicant that will:

4533 (a) mitigate any harmful affects of the variance; or

4534 (b) serve the purpose of the standard or requirement that is waived or modified.

4535 Section 136. Section **17-27a-703** is enacted to read:

4536 **17-27a-703. Standing before appeal authority.**

4537 The applicant, a board or officer of the county, or any person adversely affected by the
 4538 land use authority's decision administering or interpreting a land use ordinance may, within the
 4539 time period provided by ordinance, appeal that decision to the appeal authority by alleging that
 4540 there is error in any order, requirement, decision, or determination made by the land use
 4541 authority in the administration or interpretation of the land use ordinance.

4542 Section 137. Section **17-27a-704** is enacted to read:

4543 **17-27a-704. Time appeal.**

4544 (1) The county shall enact an ordinance establishing a reasonable time to appeal a
 4545 decision of a land use authority to an appeal authority.

4546 (2) In the absence of such an ordinance and at a minimum, an adversely affected party
 4547 shall have ten calendar days to appeal.

4548 Section 138. Section **17-27a-705** is enacted to read:

4549 **17-27a-705. Burden of proof.**

4550 The appellant has the burden of proving that the land use authority erred.

4551 Section 139. Section **17-27a-706** is enacted to read:

4552 17-27a-706. Due process.

4553 (1) Each appeal authority shall conduct each appeal and variance request as described
4554 by local ordinance.

4555 (2) Each appeal authority shall respect the due process rights of each of the
4556 participants.

4557 Section 140. Section **17-27a-707** is enacted to read:

4558 17-27a-707. Standard of review for appeals.

4559 (1) A county may, by ordinance, designate the standard of review for appeals of land
4560 use authority decisions.

4561 (2) If the county fails to designate a standard of review of factual matters, the appeal
4562 authority shall review the matter de novo.

4563 (3) The appeal authority shall determine the correctness of a decision of the land use
4564 authority in its interpretation and application of a land use ordinance.

4565 (4) Only those decisions in which a land use authority has applied a land use ordinance
4566 to a particular application, person or parcel may be appealed to an appeal authority.

4567 Section 141. Section **17-27a-708** is enacted to read:

4568 17-27a-708. Final decision.

4569 (1) A decision of an appeal authority takes effect on the date when the appeal authority
4570 issues a written decision, or as otherwise provided by local ordinance.

4571 (2) A written decision, or other event as provided by ordinance, constitutes a final
4572 decision under Subsection 17-27a-802(2)(a) or a final action under Subsection 17-27a-801(4).

4573 Section 142. Section **17-27a-801**, which is renumbered from Section 17-27-1001 is
4574 renumbered and amended to read:

4575 **Part 8. District Court Appeal**

4576 [~~17-27-1001~~]. **17-27a-801. Appeals to district court.**

4577 (1) No person may challenge in district court a county's land use [~~decisions~~] decision
4578 made under this chapter, or under [the] a regulation made under authority of this chapter, until
4579 that person has exhausted [aH] the person's administrative remedies as provided in Part 7,
4580 Appeal Authority and Variances, if applicable.

4581 (2) (a) Any person adversely affected by [~~any~~] a final decision made in the exercise of
4582 or in violation of the provisions of this chapter may file a petition for review of the decision

4583 with the district court within 30 days after the local land use decision is [~~rendered~~] final.

4584 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a
4585 property owner files a request for arbitration of a constitutional taking issue with the property
4586 rights ombudsman under Section 63-34-13 until 30 days after:

4587 (A) the arbitrator issues a final award; or

4588 (B) the property rights ombudsman issues a written statement under Subsection
4589 63-34-13(4)(b) declining to arbitrate or to appoint an arbitrator.

4590 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
4591 taking issue that is the subject of the request for arbitration filed with the property rights
4592 ombudsman by a property owner.

4593 (iii) A request for arbitration filed with the property rights ombudsman after the time
4594 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

4595 (3) (a) The courts shall:

4596 (i) presume that land use [~~decisions~~] ordinances and regulations are valid; [~~and~~]

4597 (ii) presume that appeal authority decisions are valid;

4598 [~~(ii)~~] (iii) determine only whether or not;

4599 (A) the exercise of legislative discretion was reasonably debatable; or

4600 (B) the appeal authority's decision [is] was arbitrary, capricious, or, subject to

4601 Subsection (3)(b), illegal[-]; and

4602 (iv) provide relief from a county's noncompliance with its ordinances only to a party
4603 who establishes that the noncompliance has prejudiced the party and that the relief requested
4604 remedies the prejudice.

4605 (b) A determination of illegality under Subsection (3)(a)(iii)(B) requires a
4606 determination that the decision violates [~~a statute, ordinance, or existing law.:~~] an existing law,
4607 statute, or ordinance.

4608 (4) The provisions of Subsection (2)(a) apply from the date on which the county takes
4609 final action on a land use application for any adversely affected third party, if the county
4610 conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice
4611 of the pending decision.

4612 (5) If the county has complied with Section 10-9a-205, a challenge to the enactment of
4613 a land use ordinance or general plan may not be filed with the district court more than 30 days

4614 after the enactment.

4615 (6) The petition is barred unless it is filed within 30 days after the appeal authority's
4616 decision is final.

4617 (7) (a) The appeal authority shall transmit to the reviewing court the record of its
4618 proceedings, including its minutes, findings, orders and, if available, a true and correct
4619 transcript of its proceedings.

4620 (b) If the proceeding was tape recorded, a transcript of that tape recording is a true and
4621 correct transcript for purposes of this Subsection (7).

4622 (8) (a) (i) If there is a record, the district court's review is limited to the record provided
4623 by the appeal authority.

4624 (ii) The court may not accept or consider any evidence outside the appeal authority's
4625 record unless that evidence was offered to the appeal authority and the court determines that it
4626 was improperly excluded.

4627 (b) If there is no record, the court may call witnesses and take evidence.

4628 (9) The court shall affirm the decision of the appeal authority if the decision is
4629 supported by substantial evidence in the record.

4630 (10) (a) The filing of a petition does not stay the decision of the appeal authority.

4631 (b) (i) Before filing a petition under this section or a request for mediation or
4632 arbitration of a constitutional taking issue under Section 63-34-13, the aggrieved party may
4633 petition the appeal authority to stay its decision.

4634 (ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed
4635 pending district court review if the appeal authority finds it to be in the best interest of the
4636 county.

4637 (iii) After a petition is filed under this section or a request for mediation or arbitration
4638 of a constitutional taking issue is filed under Section 63-34-13, the petitioner may seek an
4639 injunction staying the appeal authority's decision.

4640 Section 143. Section **17-27a-802**, which is renumbered from Section 17-27-1002 is
4641 renumbered and amended to read:

4642 **[17-27-1002].** **17-27a-802. Enforcement.**

4643 (1) (a) A county~~[, county attorney,]~~ or any adversely affected owner of real estate
4644 within the county in which violations of this chapter or ordinances enacted under the authority

4645 of this chapter occur or are about to occur may, in addition to other remedies provided by law,
4646 institute:

4647 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
4648 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

4649 (b) A county need only establish the violation to obtain the injunction.

4650 (2) (a) The county may enforce the ordinance by withholding building permits.

4651 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any
4652 building or other structure within a county without approval of a building permit.

4653 (c) The county may not issue a building permit unless the plans of and for the proposed
4654 erection, construction, reconstruction, alteration, or use fully conform to all regulations then in
4655 effect.

4656 Section 144. Section **17-27a-803**, which is renumbered from Section 17-27-1003 is
4657 renumbered and amended to read:

4658 ~~[17-27-1003]~~. **17-27a-803. Penalties.**

4659 (1) The county [~~legislative body~~] may, by ordinance, establish civil penalties for
4660 violations of any of the provisions of this chapter or of any ordinances adopted under the
4661 authority of this chapter.

4662 (2) Violation of any of the provisions of this chapter or of any ordinances adopted
4663 under the authority of this chapter [~~are~~] is punishable as a class C misdemeanor upon
4664 conviction either:

4665 (a) as a class C misdemeanor; or

4666 (b) by imposing the appropriate civil penalty adopted under the authority of this
4667 section.

4668 Section 145. Section **17-34-6** is amended to read:

4669 **17-34-6. State to indemnify county regarding refusal to site nuclear waste --**
4670 **Terms and conditions.**

4671 If a county is challenged in a court of law regarding its decision to deny siting of a
4672 storage or transfer facility for the placement of high-level nuclear waste or greater than class C
4673 radioactive waste or its refusal to provide municipal-type services regarding the operation of
4674 the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless
4675 from any claims or damages, including court costs and attorney fees that are assessed as a result

4676 of the county's action, if:

4677 (1) the county has complied with the provisions of Subsection [~~17-27-301~~]
4678 17-27a-401(3)(b) by adopting an ordinance rejecting all proposals for the siting of a storage or
4679 transfer facility for the placement of high-level nuclear waste or greater than class C
4680 radioactive waste wholly or partially within the boundaries of the county;

4681 (2) the county has complied with Subsection 17-34-1(3) regarding refusal to provide
4682 municipal-type services; and

4683 (3) the court challenge against the county addresses the county's actions in compliance
4684 with Subsection [~~17-27-301~~] 17-27a-401(3)(b) or [~~Subsection~~] 17-34-1(3).

4685 Section 146. Section **17-50-302** is amended to read:

4686 **17-50-302. General county powers.**

4687 (1) A county may:

4688 (a) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and
4689 collect special assessments for benefits conferred; and

4690 (b) provide services, exercise powers, and perform functions that are reasonably related
4691 to the safety, health, morals, and welfare of their inhabitants, except as limited or prohibited by
4692 statute.

4693 (2) (a) A county may:

4694 (i) sue and be sued;

4695 (ii) subject to Subsection (2)(c), acquire real property by tax sale, purchase, lease,
4696 contract, or gift, and hold the real property as necessary and proper for county purposes;

4697 (iii) (A) subject to Subsection (2)(b), acquire real property by condemnation, as
4698 provided in Title 78, Chapter 34, Eminent Domain; and

4699 (B) hold the real property as necessary and proper for county purposes;

4700 (iv) as may be necessary to the exercise of its powers, acquire personal property by
4701 purchase, lease, contract, or gift, and hold such personal property; and

4702 (v) manage and dispose of its property as the interests of its inhabitants may require.

4703 (b) (i) For purposes of Subsection (2)(a)(iii), water rights that are not appurtenant to
4704 land do not constitute real property that may be acquired by the county through condemnation.

4705 (ii) Nothing in Subsection (2)(a)(iii) may be construed to authorize a county to acquire
4706 by condemnation the rights to water unless the land to which those water rights are appurtenant

4707 is acquired by condemnation.

4708 (c) (i) Except as provided in Subsection (2)(c)(iv), each county intending to acquire
4709 real property for the purpose of expanding the county's infrastructure or other facilities used for
4710 providing services that the county offers or intends to offer shall provide written notice, as
4711 provided in this Subsection (2)(c), of its intent to acquire the property if:

4712 (A) the property is located:

4713 (I) outside the boundaries of the unincorporated area of the county; and

4714 (II) in a county of the first or second class; and

4715 (B) the intended use of the property is contrary to:

4716 (I) the anticipated use of the property under the general plan of the county in whose
4717 unincorporated area or the municipality in whose boundaries the property is located; or

4718 (II) the property's current zoning designation.

4719 (ii) Each notice under Subsection (2)(c)(i) shall:

4720 (A) indicate that the county intends to acquire real property;

4721 (B) identify the real property; and

4722 (C) be sent to:

4723 (I) each county in whose unincorporated area and each municipality in whose
4724 boundaries the property is located; and

4725 (II) each affected entity.

4726 (iii) A notice under this Subsection (2)(c) is a protected record as provided in
4727 Subsection 63-2-304(7).

4728 (iv) (A) The notice requirement of Subsection (2)(c)(i) does not apply if the county
4729 previously provided notice under Section [~~17-27-301.5~~] 17-27a-203 identifying the general
4730 location within the municipality or unincorporated part of the county where the property to be
4731 acquired is located.

4732 (B) If a county is not required to comply with the notice requirement of Subsection
4733 (2)(c)(i) because of application of Subsection (2)(c)(iv)(A), the county shall provide the notice
4734 specified in Subsection (2)(c)(i) as soon as practicable after its acquisition of the real property.

4735 Section 147. Section **17B-4-402** is amended to read:

4736 **17B-4-402. Process for adopting project area plan -- Prerequisites -- Restrictions.**

4737 (1) In order to adopt a project area plan, after adopting a resolution under Subsection

4738 17B-4-401(1) the agency shall:

4739 (a) prepare a draft of a project area plan and conduct any examination, investigation,
4740 and negotiation regarding the project area plan that the agency considers appropriate;

4741 (b) request input on the draft project area plan from the planning commission of the
4742 community in which the proposed project area is located;

4743 (c) make the draft project area plan available to the public at the agency's offices during
4744 normal business hours;

4745 (d) provide notice of the plan hearing as provided in Sections 17B-4-702 and
4746 17B-4-704;

4747 (e) hold a public hearing on the draft project area plan and, at that public hearing:

4748 (i) allow public comment on:

4749 (A) the draft project area plan; and

4750 (B) whether the draft project area plan should be revised, approved, or rejected; and

4751 (ii) receive all written and hear all oral objections to the draft project area plan;

4752 (f) before holding the plan hearing, provide an opportunity for the State Board of
4753 Education and each taxing entity that levies a tax on property within the proposed project area
4754 to consult with the agency regarding the draft project area plan;

4755 (g) if applicable, hold the election required under Subsection 17B-4-406(3);

4756 (h) for a redevelopment project area plan:

4757 (i) comply with the requirements of Part 6, Blight Determination in Redevelopment
4758 Project Areas;

4759 (ii) before providing notice of the plan hearing, hold at least one public hearing to:

4760 (A) inform the public about each area being considered for a redevelopment project
4761 area; and

4762 (B) allow public input into agency deliberations on proposing each redevelopment
4763 project area;

4764 (iii) select one or more project areas comprising part or all of the survey area; and

4765 (iv) before sending the first notice to assessment owners of property for a public input
4766 hearing, blight hearing, or combined public input and blight hearing, prepare and adopt
4767 guidelines setting forth and governing the reasonable opportunities of record property owners
4768 and tenants to participate in the redevelopment;

4769 (i) after holding the plan hearing, at the same meeting or at a subsequent meeting
4770 consider:

4771 (i) the oral and written objections to the draft project area plan and evidence and
4772 testimony for or against adoption of the draft project area plan; and

4773 (ii) whether to revise, approve, or reject the draft project area plan;

4774 (j) approve the draft project area plan, with or without revisions, as the project area
4775 plan by a resolution that complies with Section 17B-4-407; and

4776 (k) submit the project area plan to the community legislative body for adoption.

4777 (2) An agency may not propose a project area plan under Subsection (1) unless the
4778 community in which the proposed project area is located:

4779 (a) has a planning commission; and

4780 (b) has adopted a general plan under:

4781 (i) if the community is a city or town, Title 10, Chapter [9] 9a, Part [3] 4, General Plan;

4782 or

4783 (ii) if the community is a county, Title 17, Chapter [~~27~~] 27a, Part [3] 4, General Plan.

4784 (3) (a) Subject to Subsection (3)(b), an agency board may not approve a project area
4785 plan more than one year after:

4786 (i) for a redevelopment project area plan involving the use of eminent domain,
4787 adoption of a resolution making a finding of blight under Subsection 17B-4-601(4)(b); or

4788 (ii) for an economic development or education housing development project area plan,
4789 the date of the plan hearing.

4790 (b) If a project area plan is submitted to an election under Subsection 17B-4-406(3),
4791 the time between the plan hearing and the date of the election does not count for purposes of
4792 calculating the year period under Subsection (3)(a).

4793 (4) (a) Except as provided in Subsection (4)(b), a draft project area plan may not be
4794 modified to add real property to the proposed project area unless the board holds a plan hearing
4795 to consider the addition and gives notice of the plan hearing as required under Sections
4796 17B-4-702 and 17B-4-704.

4797 (b) The notice and hearing requirements under Subsection (4)(a) do not apply to a draft
4798 project area plan being modified to add real property to the proposed project area if:

4799 (i) the property is contiguous to the property already included in the proposed project

4800 area under the draft project area plan;

4801 (ii) the record owner of the property consents to adding the real property to the
4802 proposed project area; and

4803 (iii) for a redevelopment project area, the property is located within the survey area.

4804 Section 148. Section **57-3-101** is amended to read:

4805 **57-3-101. Certificate of acknowledgment, proof of execution, jurat, or other**
4806 **certificate required -- Notarial acts affecting real property -- Right to record documents**
4807 **unaffected by subdivision ordinances.**

4808 (1) A certificate of the acknowledgment of any document, or of the proof of the
4809 execution of any document, or a jurat as defined in Section 46-1-2, or other notarial certificate
4810 containing the words "subscribed and sworn" or their substantial equivalent, that is signed and
4811 certified by the officer taking the acknowledgment, proof, or jurat, as provided in this title,
4812 entitles the document and the certificate to be recorded in the office of the recorder of the
4813 county where the real property is located.

4814 (2) Notarial acts affecting real property in this state shall also be performed in
4815 conformance with Title 46, Chapter 1, Notaries Public Reform Act.

4816 (3) Nothing in the provisions of Title 10, Chapter [9] 9a, Part [8] 6, Subdivisions, and
4817 Title 17, Chapter [27] 27a, Part [8] 6, Subdivisions, shall prohibit the recording of a document
4818 which is otherwise entitled to be recorded under the provisions of this chapter.

4819 Section 149. Section **57-8-35** is amended to read:

4820 **57-8-35. Effect of other laws -- Compliance with ordinances and codes --**
4821 **Approval of projects by municipality or county.**

4822 (1) The provisions of this chapter shall be in addition and supplemental to all other
4823 provisions of law, statutory or judicially declared, provided that wherever the application of the
4824 provisions of this chapter conflict with the application of such other provisions, this chapter
4825 shall prevail: provided further, for purposes of Sections [~~10-9-805, 10-9-811, and 17-27-804~~]
4826 10-9a-604, 10-9a-611, and 17-27a-603 and provisions of similar import and any law or
4827 ordinance adopted pursuant thereto, a condominium project shall be considered to be a
4828 subdivision, and a condominium plat or supplement thereto prepared pursuant to this chapter
4829 shall be considered to be a subdivision map or plat, only with respect to:

4830 (a) such real property or improvements, if any, as are intended to be dedicated to the

4831 use of the public in connection with the creation of the condominium project or portion thereof
4832 concerned; and

4833 (b) those units, if any, included in the condominium project or portion thereof
4834 concerned which are not contained in existing or proposed buildings.

4835 (2) Nothing in this chapter shall be interpreted to state or imply that a condominium
4836 project, unit, association or unit owners, or management committee is exempt by this chapter
4837 from compliance with the zoning ordinance, building and sanitary codes, and similar
4838 development regulations which have been adopted by a municipality or county. No
4839 condominium project or any use within said project or any unit or parcel or parcel of land
4840 indicated as a separate unit or any structure within said project shall be permitted which is not
4841 in compliance with said ordinances and codes.

4842 (3) From and after the time a municipality or county shall have established a planning
4843 commission, no condominium project or any condominium plat, declaration, or other material
4844 as required for recordation under this chapter shall be recorded in the office of the county
4845 recorder unless and until the following mentioned attributes of said condominium project shall
4846 have been approved by the municipality or county in which it is located. In order to more fully
4847 avail itself of this power, the legislative body of a municipality or county may provide by
4848 ordinance for the approval of condominium projects proposed within its limits. This ordinance
4849 may include and shall be limited to a procedure for approval of condominium projects, the
4850 standards and the criteria for the geographical layout of a condominium project, facilities for
4851 utility lines and roads which shall be constructed, the percentage of the project which must be
4852 devoted to common or recreational use, and the content of the declaration with respect to the
4853 standards which must be adhered to concerning maintenance, upkeep, and operation of any
4854 roads, utility facilities, recreational areas, and open spaces included in the project.

4855 (4) Any ordinance adopted by the legislative body of a municipality or county which
4856 outlines the procedures for approval of a condominium project shall provide for:

4857 (a) a preliminary approval, which, among other things, will then authorize the
4858 developer of the condominium project to proceed with the project; and

4859 (b) a final approval which will certify that all of the requirements set forth in the
4860 preliminary approval either have been accomplished or have been assured of accomplishment
4861 by bond or other appropriate means. No declaration or condominium plat shall be recorded in

4862 the office of the county recorder until a final approval has been granted.

4863 Section 150. Section **58-56-4** is amended to read:

4864 **58-56-4. Definitions -- Adoption of building codes -- Amendments -- Approval of**
4865 **other codes -- Exemptions.**

4866 (1) As used in this section:

4867 (a) "agricultural use" means a use that relates to the tilling of soil and raising of crops,
4868 or keeping or raising domestic animals;

4869 (b) "not for human occupancy" means use of a structure for purposes other than
4870 protection or comfort of human beings, but allows people to enter the structure for:

4871 (i) maintenance and repair; and

4872 (ii) the care of livestock, crops, or equipment intended for agricultural use which are
4873 kept there; and

4874 (c) "residential area" means land that is not used for an agricultural use and is:

4875 (i) (A) within the boundaries of a city or town; and

4876 (B) less than five contiguous acres;

4877 (ii) (A) within a subdivision for which the county has approved a subdivision plat
4878 under Title 17, Chapter [27] 27a, Part [8] 6, Subdivisions; and

4879 (B) less than two contiguous acres; or

4880 (iii) not located in whole or in part in an agricultural protection area created under Title
4881 17, Chapter 41, Agriculture Protection Area.

4882 (2) (a) Subject to the provisions of Subsections (4) and (5), the following codes, each
4883 of which must be promulgated by a nationally recognized code authority, shall be adopted, in
4884 the manner described in Subsection (2)(b), as the construction codes which the state and each
4885 political subdivision of the state shall follow in the circumstances described in Subsection (3):

4886 (i) a building code;

4887 (ii) the National Electrical Code promulgated by the National Fire Protection
4888 Association;

4889 (iii) a residential one and two family dwelling code;

4890 (iv) a plumbing code;

4891 (v) a mechanical code;

4892 (vi) a fuel gas code;

4893 (vii) an energy conservation code; and

4894 (viii) a manufactured housing installation standard code.

4895 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4896 division, in collaboration with the commission, shall adopt by rule specific editions of the
4897 codes described in Subsection (2)(a), and may adopt by rule successor editions of any adopted
4898 code.

4899 (c) The division, in collaboration with the commission, may, in accordance with
4900 Section 58-56-7, adopt amendments to the codes adopted under Subsection (2)(a), to be
4901 applicable to the entire state or within one or more political subdivisions.

4902 (3) Subject to the provisions of Subsections (4) and (5), the codes and amendments
4903 adopted under Subsection (2) shall be followed when:

4904 (a) new construction is involved;

4905 (b) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

4906 (i) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,
4907 conservation, or reconstruction of the building; or

4908 (ii) changing the character or use of the building in a manner which increases the
4909 occupancy loads, other demands, or safety risks of the building.

4910 (4) (a) The division, in collaboration with the commission, has discretion to approve,
4911 without adopting, certain codes in addition to those described in Subsection (2)(a), including
4912 specific editions of the codes, for use by a compliance agency.

4913 (b) If the applicable code is one which the division has approved under Subsection
4914 (4)(a), a compliance agency has the discretion to:

4915 (i) adopt an ordinance requiring removal, demolition, or repair of a building, according
4916 to a code;

4917 (ii) adopt, by ordinance or rule, a dangerous building code; or

4918 (iii) adopt, by ordinance or rule, a building rehabilitation code.

4919 (5) (a) Except in a residential area, a structure used solely in conjunction with
4920 agriculture use, and not for human occupancy, is exempted from the permit requirements of
4921 any code adopted by the division.

4922 (b) Notwithstanding Subsection (5)(a), unless otherwise exempted, plumbing,
4923 electrical, and mechanical permits may be required when that work is included in the structure.

4924 Section 151. Section **59-2-301.2** is amended to read:

4925 **59-2-301.2. Definitions -- Assessment of property subject to a minimum parcel**
4926 **size -- Other factors affecting fair market value.**

4927 (1) "Minimum parcel size" means the minimum size that a parcel of property may be
4928 divided into under a zoning ordinance adopted by a:

4929 (a) county in accordance with Title 17, Chapter [~~27~~] 27a, Part [~~4~~] 5, [~~Zoning~~
4930 ~~Ordinance~~] Land Use Ordinances; or

4931 (b) city or town in accordance with Title 10, Chapter [~~9~~] 9a, Part [~~4~~] 5, [~~Zoning~~] Land
4932 Use Ordinances.

4933 (2) In assessing the fair market value of a parcel of property that is subject to a
4934 minimum parcel size of one acre or more, a county assessor shall include as part of the
4935 assessment:

4936 (a) that the parcel of property may not be subdivided into parcels of property smaller
4937 than the minimum parcel size; and

4938 (b) any effects Subsection (2)(a) may have on the fair market value of the parcel of
4939 property.

4940 (3) This section does not prohibit a county assessor from including as part of an
4941 assessment of the fair market value of a parcel of property any other factor affecting the fair
4942 market value of the parcel of property.

4943 Section 152. Section **59-2-502** is amended to read:

4944 **59-2-502. Definitions.**

4945 As used in this part:

4946 (1) "Actively devoted to agricultural use" means that the land in agricultural use
4947 produces in excess of 50% of the average agricultural production per acre:

4948 (a) as determined under Section 59-2-503; and

4949 (b) for:

4950 (i) the given type of land; and

4951 (ii) the given county or area.

4952 (2) "Conservation easement rollback tax" means the tax imposed under Section
4953 59-2-506.5.

4954 (3) "Identical legal ownership" means legal ownership held by:

- 4955 (a) identical legal parties; or
- 4956 (b) identical legal entities.
- 4957 (4) "Land in agricultural use" means:
- 4958 (a) land devoted to the raising of useful plants and animals with a reasonable
- 4959 expectation of profit, including:
- 4960 (i) forages and sod crops;
- 4961 (ii) grains and feed crops;
- 4962 (iii) livestock as defined in Section 59-2-102;
- 4963 (iv) trees and fruits; or
- 4964 (v) vegetables, nursery, floral, and ornamental stock; or
- 4965 (b) land devoted to and meeting the requirements and qualifications for payments or
- 4966 other compensation under a crop-land retirement program with an agency of the state or federal
- 4967 government.
- 4968 (5) "Other eligible acreage" means land that is:
- 4969 (a) five or more contiguous acres;
- 4970 (b) eligible for assessment under this part; and
- 4971 (c) (i) located in the same county as land described in Subsection 59-2-503(1)(a); or
- 4972 (ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as
- 4973 provided in Section 59-2-512.
- 4974 (6) "Platted" means land in which:
- 4975 (a) parcels of ground are laid out and mapped by their boundaries, course, and extent;
- 4976 and
- 4977 (b) the plat has been approved as provided in Section [~~10-9-805 or 17-27-805~~]
- 4978 10-9a-604 or 17-27a-604.
- 4979 (7) "Rollback tax" means the tax imposed under Section 59-2-506.
- 4980 (8) "Withdrawn from this part" means that land that has been assessed under this part is
- 4981 no longer assessed under this part or eligible for assessment under this part for any reason
- 4982 including that:
- 4983 (a) an owner voluntarily requests that the land be withdrawn from this part;
- 4984 (b) the land is no longer actively devoted to agricultural use;
- 4985 (c) (i) the land has a change in ownership; and

- 4986 (ii) (A) the new owner fails to apply for assessment under this part as required by
- 4987 Section 59-2-509; or
- 4988 (B) (I) an owner applies for assessment under this part as required by Section
- 4989 59-2-509; and
- 4990 (II) the land does not meet the requirements of this part to be assessed under this part;
- 4991 (d) (i) the legal description of the land changes; and
- 4992 (ii) (A) an owner fails to apply for assessment under this part as required by Section
- 4993 59-2-509; or
- 4994 (B) (I) an owner applies for assessment under this part as required by Section
- 4995 59-2-509; and
- 4996 (II) the land does not meet the requirements of this part to be assessed under this part;
- 4997 (e) if required by the county assessor, the owner of the land:
- 4998 (i) fails to file a new application as provided in Subsection 59-2-508(4); or
- 4999 (ii) fails to file a signed statement as provided in Subsection 59-2-508(4); or
- 5000 (f) except as provided in Section 59-2-503, the land fails to meet a requirement of
- 5001 Section 59-2-503.

5002 Section 153. Section **59-2-511** is amended to read:

5003 **59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback**
5004 **tax -- One-time in lieu fee payment -- Passage of title.**

- 5005 (1) For purposes of this section, "governmental entity" means:
- 5006 (a) the United States;
- 5007 (b) the state;
- 5008 (c) a political subdivision of the state, including:
- 5009 (i) a county;
- 5010 (ii) a city;
- 5011 (iii) a town;
- 5012 (iv) a school district; or
- 5013 (v) a special district; or
- 5014 (d) an entity created by the state or the United States, including:
- 5015 (i) an agency;
- 5016 (ii) a board;

- 5017 (iii) a bureau;
 - 5018 (iv) a commission;
 - 5019 (v) a committee;
 - 5020 (vi) a department;
 - 5021 (vii) a division;
 - 5022 (viii) an institution;
 - 5023 (ix) an instrumentality; or
 - 5024 (x) an office.
- 5025 (2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental
- 5026 entity is subject to the rollback tax imposed by this part if:
- 5027 (i) prior to the governmental entity acquiring the land, the land is assessed under this
 - 5028 part; and
 - 5029 (ii) after the governmental entity acquires the land, the land does not meet the
 - 5030 requirements of Section 59-2-503 for assessment under this part.
- 5031 (b) A person dedicating a public right-of-way to a governmental entity shall pay the
- 5032 rollback tax imposed by this part if:
- 5033 (i) a portion of the public right-of-way is located within a subdivision as defined in
 - 5034 Section [~~10-9-103~~] 10-9a-103; or
 - 5035 (ii) in exchange for the dedication, the person dedicating the public right-of-way
 - 5036 receives:
- 5037 (A) money; or
 - 5038 (B) other consideration.
- 5039 (3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is
- 5040 not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee
- 5041 payment as provided in Subsection (3)(b), if:
- 5042 (i) the governmental entity acquires the land by eminent domain;
 - 5043 (ii) (A) the land is under the threat or imminence of eminent domain proceedings; and
 - 5044 (B) the governmental entity provides written notice of the proceedings to the owner; or
 - 5045 (iii) the land is donated to the governmental entity.
- 5046 (b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the
- 5047 governmental entity shall make a one-time in lieu fee payment:

- 5048 (A) to the county treasurer of the county in which the land is located; and
5049 (B) in an amount equal to the amount of rollback tax calculated under Section
5050 59-2-506.
- 5051 (ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the
5052 governmental entity shall make a one-time in lieu fee payment:
- 5053 (A) to the county treasurer of the county in which the land is located; and
5054 (B) (I) if the land remaining after the acquisition by the governmental entity meets the
5055 requirements of Section 59-2-503, in an amount equal to the rollback tax under Section
5056 59-2-506 on the land acquired by the governmental entity; or
5057 (II) if the land remaining after the acquisition by the governmental entity is less than
5058 five acres, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired
5059 by the governmental entity and the land remaining after the acquisition by the governmental
5060 entity.
- 5061 (iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the
5062 governmental entity" includes other eligible acreage that is used in conjunction with the land
5063 remaining after the acquisition by the governmental entity.
- 5064 (c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute
5065 the revenues generated by the payment:
- 5066 (i) to the taxing entities in which the land is located; and
5067 (ii) in the same proportion as the revenue from real property taxes is distributed.
- 5068 (4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity
5069 is made subject to a conservation easement in accordance with Section 59-2-506.5:
- 5070 (a) the land is not subject to the rollback tax imposed by this part; and
5071 (b) the governmental entity acquiring the land is not required to make an in lieu fee
5072 payment under Subsection (3)(b).
- 5073 (5) If a governmental entity acquires land subject to assessment under this part, title to
5074 the land may not pass to the governmental entity until the following are paid to the county
5075 treasurer:
- 5076 (a) any tax due under this part;
5077 (b) any one-time in lieu fee payment due under this part; and
5078 (c) any interest due under this part.

5079 Section 154. Section **62A-6-101** is amended to read:

5080 **62A-6-101. Definitions.**

5081 As used in this chapter:

5082 (1) "Informed consent" means consent that is voluntary and based on an understanding
5083 by the person to be sterilized of the nature and consequences of sterilization, the reasonably
5084 foreseeable risks and benefits of sterilization, and the available alternative methods of
5085 contraception.

5086 (2) "Institutionalized" means residing in the Utah State Developmental Center, the
5087 Utah State Hospital, a residential facility for persons with a disability as defined in Sections
5088 [~~10-9-605 and 17-27-605~~] 10-9a-103 and 17-27a-103, a group home for disabled persons, a
5089 nursing home, or a foster care home or facility.

5090 (3) "Sterilization" means any medical procedure, treatment, or operation rendering an
5091 individual permanently incapable of procreation.

5092 Section 155. Section **63A-5-206** is amended to read:

5093 **63A-5-206. Construction, alteration, and repair of state facilities -- Powers of**
5094 **director -- Exceptions -- Expenditure of appropriations -- Notification to local**
5095 **governments for construction or modification of certain facilities.**

5096 (1) As used in this section:

5097 (a) "Analysis" means an economic assessment of competing design and maintenance
5098 alternatives, the object of which is to reduce cost and conserve energy.

5099 (b) "Capital developments" and "capital improvements" have the same meaning as
5100 provided in Section 63A-5-104.

5101 (c) "Compliance agency" has the same meaning as provided in Subsection 58-56-3(4).

5102 (d) (i) "Facility" means any building, structure, or other improvement that is
5103 constructed on property owned by the state, its departments, commissions, institutions, or
5104 agencies.

5105 (ii) "Facility" does not mean an unoccupied structure that is a component of the state
5106 highway system.

5107 (e) "Life cycle cost-effective" means the lowest cost of owning and operating a facility
5108 over a 25-year period, including the initial cost, energy costs, operation and maintenance costs,
5109 repair costs, and the costs of energy conservation and renewable energy systems.

5110 (f) "Local government" means the county, municipality, or local school district that
5111 would have jurisdiction to act as the compliance agency if the property on which the project is
5112 being constructed were not owned by the state.

5113 (g) "Renewable energy system" means a system designed to use solar, wind,
5114 geothermal power, wood, or other replenishable energy source to heat, cool, or provide
5115 electricity to a building.

5116 (2) (a) Except as provided in Subsections (3) and (4), the director shall exercise direct
5117 supervision over the design and construction of all new facilities, and all alterations, repairs,
5118 and improvements to existing facilities if the total project construction cost, regardless of the
5119 funding source, is greater than \$100,000.

5120 (b) The director shall prepare or have prepared by private firms or individuals designs,
5121 plans, and specifications for the projects administered by the division.

5122 (c) Before proceeding with construction, the director and the officials charged with the
5123 administration of the affairs of the particular department, commission, institution, or agency
5124 shall approve the location, design, plans, and specifications.

5125 (3) Projects for the construction of new facilities and alterations, repairs, and
5126 improvements to existing facilities are not subject to Subsection (2) if the project:

5127 (a) occurs on property under the jurisdiction of the State Capitol Preservation Board;

5128 (b) is within a designated research park at the University of Utah or Utah State
5129 University;

5130 (c) occurs within the boundaries of This is the Place State Park and is administered by
5131 This is the Place Foundation except that This is the Place Foundation may request the director
5132 to administer the design and construction; or

5133 (d) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah
5134 Percent-for-Art [~~Program~~] Act.

5135 (4) (a) (i) The State Building Board may authorize the delegation of control over
5136 design, construction, and all other aspects of any project to entities of state government on a
5137 project-by-project basis or for projects within a particular dollar range and a particular project
5138 type.

5139 (ii) The state entity to whom control is delegated shall assume fiduciary control over
5140 project finances, shall assume all responsibility for project budgets and expenditures, and shall

5141 receive all funds appropriated for the project, including any contingency funds contained in the
5142 appropriated project budget.

5143 (iii) Delegation of project control does not exempt the state entity from complying with
5144 the codes and guidelines for design and construction adopted by the division and the State
5145 Building Board.

5146 (iv) State entities that receive a delegated project may not access, for the delegated
5147 project, the division's statewide contingency reserve and project reserve authorized in Section
5148 63A-5-209.

5149 (b) For facilities that will be owned, operated, maintained, and repaired by an entity
5150 that is not a state agency or institution and that are located on state property, the State Building
5151 Board may authorize the owner to administer the design and construction of the project instead
5152 of the division.

5153 (5) Notwithstanding any other provision of this section, if a donor donates land to an
5154 eligible institution of higher education and commits to build a building or buildings on that
5155 land, and the institution agrees to provide funds for the operations and maintenance costs from
5156 sources other than state funds, and agrees that the building or buildings will not be eligible for
5157 state capital improvement funding, the higher education institution may:

5158 (a) oversee and manage the construction without involvement, oversight, or
5159 management from the division; or

5160 (b) arrange for management of the project by the division.

5161 (6) (a) The role of compliance agency as provided in Title 58, Chapter 56, Utah
5162 Uniform Building Standards Act, shall be provided by:

5163 (i) the director, for projects administered by the division;

5164 (ii) the entity designated by the State Capitol Preservation Board, for projects under
5165 Subsection (3)(a);

5166 (iii) the local government, for projects exempt from the division's administration under
5167 Subsection (3)(b) or administered by This is the Place Foundation under Subsection (3)(c);

5168 (iv) the state entity or local government designated by the State Building Board, for
5169 projects under Subsection (4); or

5170 (v) the institution, for projects exempt from the division's administration under
5171 Subsection (5)(a).

5172 (b) For the installation of art under Subsection (3)(d), the role of compliance agency
5173 shall be provided by the entity that is acting in this capacity for the balance of the project as
5174 provided in Subsection (6)(a).

5175 (c) The local government acting as the compliance agency under Subsection (6)(a)(iii)
5176 may:

5177 (i) only review plans and inspect construction to enforce the building codes as adopted
5178 by the Uniform Building Codes Commission; and

5179 (ii) charge a building permit fee of no more than the amount it could have charged if
5180 the land upon which the improvements are located were not owned by the state.

5181 (d) (i) The use of state property and any improvements constructed on state property,
5182 including improvements constructed by nonstate entities, is not subject to the zoning authority
5183 of local governments as provided in [~~Section 10-9-105~~] Sections 10-9a-304 and 17-27a-304.

5184 (ii) The state entity controlling the use of the state property shall consider any input
5185 received from the local government in determining how the property shall be used.

5186 (7) Before construction may begin, the director shall review the design of projects
5187 exempted from the division's administration under Subsection (4) to determine if the design:

5188 (a) complies with any restrictions placed on the project by the State Building Board;
5189 and

5190 (b) is appropriate for the purpose and setting of the project.

5191 (8) (a) The director shall ensure that state-owned facilities, except for facilities under
5192 the control of the State Capitol Preservation Board, are life cycle cost-effective.

5193 (b) The estimated cost of the analysis shall be included in each program budget
5194 document and in the project funding request submitted to the State Building Board, the
5195 governor, and the Legislature.

5196 (c) The final cost estimate shall reflect the most life cycle cost-effective building.

5197 (d) The State Building Board, in consultation with the director and the State Energy
5198 Manager, shall make rules to implement this Subsection (8) by following the procedures and
5199 requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

5200 (e) The State Building Board may exempt a facility from being life cycle cost-effective
5201 pursuant to rules, after reviewing and concurring with a written request and justification from
5202 the director.

5203 (9) The director may expend appropriations for statewide projects from funds provided
5204 by the Legislature for those specific purposes and within guidelines established by the State
5205 Building Board.

5206 (10) (a) The director, with the approval of the Office of Legislative Fiscal Analyst,
5207 shall develop standard forms to present capital development and capital improvement cost
5208 summary data.

5209 (b) The director shall:

5210 (i) within 30 days after the completion of each capital development project, submit cost
5211 summary data for the project on the standard form to the Office of Legislative Fiscal Analyst;
5212 and

5213 (ii) upon request, submit cost summary data for a capital improvement project to the
5214 Office of Legislative Fiscal Analyst on the standard form.

5215 (11) Notwithstanding the requirements of Title 63, Chapter 38, Budgetary Procedures
5216 Act, the director may:

5217 (a) accelerate the design of projects funded by any appropriation act passed by the
5218 Legislature in its annual general session;

5219 (b) use any unencumbered existing account balances to fund that design work; and

5220 (c) reimburse those account balances from the amount funded for those projects when
5221 the appropriation act funding the project becomes effective.

5222 (12) (a) The director, his designee, or the state entity to whom control has been
5223 designated under Subsection (4), shall notify in writing the elected representatives of local
5224 government entities directly and substantively affected by any diagnostic, treatment, parole,
5225 probation, or other secured facility project exceeding \$250,000, if:

5226 (i) the nature of the project has been significantly altered since prior notification;

5227 (ii) the project would significantly change the nature of the functions presently
5228 conducted at the location; or

5229 (iii) the project is new construction.

5230 (b) At the request of either the state entity or the local government entity,
5231 representatives from the state entity and the affected local entity shall conduct or participate in
5232 a local public hearing or hearings to discuss these issues.

5233 Section 156. Section **72-5-401** is amended to read:

5234 **72-5-401. Definitions.**

5235 As used in this part:

5236 (1) "Corridor" means the path or proposed path of a transportation facility that exists or
5237 that may exist in the future. A corridor may include the land occupied or to be occupied by a
5238 transportation facility, and any other land that may be needed for expanding a transportation
5239 facility or for controlling access to it.

5240 (2) "Corridor preservation" means planning or acquisition processes intended to:

5241 (a) protect or enhance the capacity of existing corridors; and

5242 (b) protect the availability of proposed corridors in advance of the need for and the
5243 actual commencement of the transportation facility construction.

5244 (3) "Development" means:

5245 (a) the subdividing of land;

5246 (b) the construction of improvements, expansions, or additions; or

5247 (c) any other action that will appreciably increase the value of and the future
5248 acquisition cost of land.

5249 (4) "Official map" means a map, drawn by government authorities and recorded in
5250 county recording offices that:

5251 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
5252 highways and other transportation facilities;

5253 (b) provides a basis for restricting development in designated rights-of-way or between
5254 designated setbacks to allow the government authorities time to purchase or otherwise reserve
5255 the land; and

5256 (c) for counties and municipalities may be adopted as an element of the general plan,
5257 pursuant to Title 17, Chapter [~~27~~] 27a, Part [~~3~~] 4, General Plan, or Title 10, Chapter [~~9~~] 9a, Part
5258 [~~3~~] 4, General Plan.

5259 (5) "Taking" means an act or regulation, either by exercise of eminent domain or other
5260 police power, whereby government puts private property to public use or restrains use of
5261 private property for public purposes, and that requires compensation to be paid to private
5262 property owners.

5263 Section 157. Section **72-7-502** is amended to read:

5264 **72-7-502. Definitions.**

5265 As used in this part:

5266 (1) "Commercial or industrial activities" means those activities generally recognized as
5267 commercial or industrial by zoning authorities in this state, except that none of the following
5268 are commercial or industrial activities:

5269 (a) agricultural, forestry, grazing, farming, and related activities, including wayside
5270 fresh produce stands;

5271 (b) transient or temporary activities;

5272 (c) activities not visible from the main-traveled way;

5273 (d) activities conducted in a building principally used as a residence; and

5274 (e) railroad tracks and minor sidings.

5275 (2) "Commercial or industrial zone" means only:

5276 (a) those areas within the boundaries of cities or towns that are used or reserved for
5277 business, commerce, or trade, or zoned as a highway service zone, under enabling state
5278 legislation or comprehensive local zoning ordinances or regulations;

5279 (b) those areas within the boundaries of urbanized counties that are used or reserved for
5280 business, commerce, or trade, or zoned as a highway service zone, under enabling state
5281 legislation or comprehensive local zoning ordinances or regulations;

5282 (c) those areas outside the boundaries of urbanized counties and outside the boundaries
5283 of cities and towns that:

5284 (i) are used or reserved for business, commerce, or trade, or zoned as a highway service
5285 zone, under comprehensive local zoning ordinances or regulations or enabling state legislation;
5286 and

5287 (ii) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured
5288 from the nearest point of the beginning or ending of the pavement widening at the exit from or
5289 entrance to the main-traveled way; or

5290 (d) those areas outside the boundaries of urbanized counties and outside the boundaries
5291 of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp, or turnoff
5292 as measured from the nearest point of the beginning or ending of the pavement widening at the
5293 exit from or entrance to the main-traveled way that are reserved for business, commerce, or
5294 trade under enabling state legislation or comprehensive local zoning ordinances or regulations,
5295 and are actually used for commercial or industrial purposes.

5296 (3) "Commercial or industrial zone" does not mean areas zoned for the sole purpose of
5297 allowing outdoor advertising.

5298 (4) "Comprehensive local zoning ordinances or regulations" means a municipality's
5299 comprehensive plan required by Section [~~10-9-301~~] 10-9a-401, the municipal zoning plan
5300 authorized by Section [~~10-9-401~~] 10-9a-501, and the county master plan authorized by Sections
5301 [~~17-27-301~~] 17-27a-401 and [~~17-27-401~~] 17-27a-501. Property that is rezoned by
5302 comprehensive local zoning ordinances or regulations is rebuttably presumed to have not been
5303 zoned for the sole purpose of allowing outdoor advertising.

5304 (5) "Directional signs" means signs containing information about public places owned
5305 or operated by federal, state, or local governments or their agencies, publicly or privately
5306 owned natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas
5307 of natural scenic beauty or naturally suited for outdoor recreation, that the department considers
5308 to be in the interest of the traveling public.

5309 (6) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach, create,
5310 paint, draw, or in any other way bring into being.

5311 (b) "Erect" does not include any activities defined in Subsection (6)(a) if they are
5312 performed incident to the change of an advertising message or customary maintenance of a
5313 sign.

5314 (7) "Highway service zone" means a highway service area where the primary use of the
5315 land is used or reserved for commercial and roadside services other than outdoor advertising to
5316 serve the traveling public.

5317 (8) "Information center" means an area or site established and maintained at rest areas
5318 for the purpose of informing the public of:

5319 (a) places of interest within the state; or

5320 (b) any other information that the department considers desirable.

5321 (9) "Interchange or intersection" means those areas and their approaches where traffic
5322 is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration lanes,
5323 or feeder systems, from or to another federal, state, county, city, or other route.

5324 (10) "Maintain" means to allow to exist, subject to the provisions of this chapter.

5325 (11) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an existing
5326 sign structure safe and in a state suitable for use, including signs destroyed by vandalism or an

5327 act of God.

5328 (12) "Main-traveled way" means the through traffic lanes, including auxiliary lanes,
5329 acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads and
5330 ramps. For a divided highway, there is a separate main-traveled way for the traffic in each
5331 direction.

5332 (13) "Official signs and notices" means signs and notices erected and maintained by
5333 public agencies within their territorial or zoning jurisdictions for the purpose of carrying out
5334 official duties or responsibilities in accordance with direction or authorization contained in
5335 federal, state, or local law.

5336 (14) "Off-premise signs" means signs located in areas zoned industrial, commercial, or
5337 H-1 and in areas determined by the department to be unzoned industrial or commercial.

5338 (15) "On-premise signs" means signs used to advertise the major activities conducted
5339 on the property where the sign is located.

5340 (16) "Outdoor advertising" means any outdoor advertising structure or outdoor
5341 structure used in combination with an outdoor advertising sign or outdoor sign.

5342 (17) "Outdoor advertising corridor" means a strip of land 350 feet wide, measured
5343 perpendicular from the edge of a controlled highway right-of-way.

5344 (18) "Outdoor advertising structure" or "outdoor structure" means any sign structure,
5345 including any necessary devices, supports, appurtenances, and lighting that is part of or
5346 supports an outdoor sign.

5347 (19) "Point of widening" means the point of the gore or the point where the intersecting
5348 lane begins to parallel the other lanes of traffic, but the point of widening may never be greater
5349 than 2,640 feet from the center line of the intersecting highway of the interchange or
5350 intersection at grade.

5351 (20) "Public assembly facility" means a convention facility as defined under Section
5352 59-12-602 and that:

5353 (a) is wholly or partially funded by public moneys; and

5354 (b) requires a person attending an event at the public assembly facility to purchase a
5355 ticket or that otherwise charges for the use of the public assembly facility as part of its regular
5356 operation.

5357 (21) "Relocation" includes the removal of a sign from one situs together with the

5358 erection of a new sign upon another situs in a commercial or industrial zoned area as a
5359 substitute.

5360 (22) "Relocation and replacement" means allowing all outdoor advertising signs or
5361 permits the right to maintain outdoor advertising along the interstate, federal aid primary
5362 highway existing as of June 1, 1991, and national highway system highways to be maintained
5363 in a commercial or industrial zoned area to accommodate the displacement, remodeling, or
5364 widening of the highway systems.

5365 (23) "Remodel" means the upgrading, changing, alteration, refurbishment,
5366 modification, or complete substitution of a new outdoor advertising structure for one permitted
5367 pursuant to this part and that is located in a commercial or industrial area.

5368 (24) "Rest area" means an area or site established and maintained within or adjacent to
5369 the right-of-way by or under public supervision or control for the convenience of the traveling
5370 public.

5371 (25) "Scenic or natural area" means an area determined by the department to have
5372 aesthetic value.

5373 (26) "Traveled way" means that portion of the roadway used for the movement of
5374 vehicles, exclusive of shoulders and auxiliary lanes.

5375 (27) (a) "Unzoned commercial or industrial area" means:

5376 (i) those areas not zoned by state law or local law, regulation, or ordinance that are
5377 occupied by one or more industrial or commercial activities other than outdoor advertising
5378 signs;

5379 (ii) the lands along the highway for a distance of 600 feet immediately adjacent to
5380 those activities; and

5381 (iii) lands covering the same dimensions that are directly opposite those activities on
5382 the other side of the highway, if the department determines that those lands on the opposite side
5383 of the highway do not have scenic or aesthetic value.

5384 (b) In measuring the scope of the unzoned commercial or industrial area, all
5385 measurements shall be made from the outer edge of the regularly used buildings, parking lots,
5386 storage, or processing areas of the activities and shall be along or parallel to the edge of
5387 pavement of the highway.

5388 (c) All signs located within an unzoned commercial or industrial area become

5389 nonconforming if the commercial or industrial activity used in defining the area ceases for a
5390 continuous period of 12 months.

5391 (28) "Urbanized county" means a county with a population of at least 125,000 persons.

5392 Section 158. **Repealer.**

5393 This bill repeals:

5394 Section **10-8-8.1, Request for action to vacate, narrow, or change name of street or**
5395 **alley -- Hearing -- Ordinance.**

5396 Section **10-8-8.2, Action to vacate, narrow, or change name of alley or street**
5397 **without request from lot owner -- Ordinance.**

5398 Section **10-8-8.3, Notice required -- Exception.**

5399 Section **10-8-8.4, Notice -- How given.**

5400 Section **10-9-103.5, Notice to nearby entities.**

5401 Section **10-9-202, Organization and procedures.**

5402 Section **10-9-304, Amendment of plan.**

5403 Section **10-9-701, Board of adjustment -- Appointment -- Term -- Vacancy.**

5404 Section **10-9-702, Organization -- Procedures.**

5405 Section **10-9-703, Powers and duties.**

5406 Section **10-9-704, Appeals.**

5407 Section **10-9-705, Routine and uncontested matters.**

5408 Section **10-9-706, Special exceptions.**

5409 Section **10-9-708, District court review of board of adjustment decision.**

5410 Section **10-9-803, Amendments to subdivision ordinance.**

5411 Section **10-9-809, Notice of hearing for plat change.**

5412 Section **17-27-103.5, Notice to nearby entities.**

5413 Section **17-27-202, Organization and procedures.**

5414 Section **17-27-304, Amendment of plan.**

5415 Section **17-27-701, Board of adjustment -- Appointment -- Term -- Vacancy.**

5416 Section **17-27-702, Organization -- Procedures.**

5417 Section **17-27-703, Powers and duties.**

5418 Section **17-27-704, Appeals.**

5419 Section **17-27-705, Routine and uncontested matters.**

- 5420 Section **17-27-706, Special exceptions.**
- 5421 Section **17-27-708, District court review of board of adjustment decision.**
- 5422 Section **17-27-803, Amendments to subdivision ordinance.**
- 5423 Section **17-27-809, Notice of hearing for plat change.**

Fiscal Note
Bill Number SB0060s01

Local Land Use Development and Management Amendments

23-Feb-05

2:23 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst