

1 **VACATING OR CHANGING A SUBDIVISION**

2 **PLAT**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Peter C. Knudson**

6 House Sponsor: Ronda Rudd Menlove

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies county and municipal provisions relating to land use and
11 development.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies the definition of "subdivision" to exclude recorded agreements between
15 owners of adjoining subdivided properties adjusting their mutual boundary;
- 16 ▶ modifies the conditions upon which a land use authority is required to approve an
17 exchange of title;
- 18 ▶ modifies the process for vacating or altering a street or alley described in a
19 subdivision plat;
- 20 ▶ eliminates a requirement that a public hearing be held under certain circumstances;
- 21 ▶ authorizes a land use authority to consider an owner's land use application to join
22 two or more contiguous, residential lots;
- 23 ▶ eliminates a requirement for notice before planning commission consideration for a
24 petition that lacks the consent of all property owners;
- 25 ▶ requires a conveyance of title to be recorded after an exchange of title is approved;
- 26 ▶ eliminates a provision requiring land use authority consideration of a petition to
27 vacate or change a plat within a certain time;
- 28 ▶ modifies the method for expressing approval of a vacation, alteration, or
29 amendment of a subdivision plat;

30 ▶ requires a land use authority to make a recommendation concerning a request to
31 vacate or alter a street or alley; and

32 ▶ requires the chief executive officer to hold a public hearing concerning a request to
33 vacate or alter a street or alley and to determine whether good cause exists for the
34 vacation or alteration.

35 **Monies Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 **AMENDS:**

41 **10-9a-103**, as last amended by Chapter 7 and renumbered and amended by Chapter
42 254, Laws of Utah 2005

43 **10-9a-603**, as renumbered and amended by Chapter 254, Laws of Utah 2005

44 **10-9a-608**, as renumbered and amended by Chapter 254, Laws of Utah 2005

45 **10-9a-609**, as renumbered and amended by Chapter 254, Laws of Utah 2005

46 **17-27a-103**, as last amended by Chapter 7 and renumbered and amended by Chapter
47 254, Laws of Utah 2005

48 **17-27a-603**, as renumbered and amended by Chapter 254, Laws of Utah 2005

49 **17-27a-608**, as renumbered and amended by Chapter 254, Laws of Utah 2005

50 **17-27a-609**, as renumbered and amended by Chapter 254, Laws of Utah 2005

51 **ENACTS:**

52 **10-9a-609.5**, Utah Code Annotated 1953

53 **17-27a-609.5**, Utah Code Annotated 1953

54

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

56 Section 1. Section **10-9a-103** is amended to read:

57 **10-9a-103. Definitions.**

58 As used in this chapter:

59 (1) "Affected entity" means a county, municipality, independent special district under
60 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
61 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
62 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of
63 Transportation, if:

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

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

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

70 (2) "Appeal authority" means the person, board, commission, agency, or other body
71 designated by ordinance to decide an appeal of a decision of a land use application or a
72 variance.

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

76 (4) "Charter school" includes:

77 (a) an operating charter school;

78 (b) a charter school applicant that has its application approved by a chartering entity in
79 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

80 (c) an entity who is working on behalf of a charter school or approved charter applicant
81 to develop or construct a charter school building.

82 (5) "Chief executive officer" means the:

83 (a) mayor in municipalities operating under all forms of municipal government except
84 the council-manager form; or

85 (b) city manager in municipalities operating under the council-manager form of

86 municipal government.

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

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

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

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

95 (8) "Culinary water authority" means the department, agency, or public entity with
96 responsibility to review and approve the feasibility of the culinary water system and sources for
97 the subject property.

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

101 (b) "Disability" does not include current illegal use of, or addiction to, any federally
102 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
103 802.

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

107 (11) "General plan" means a document that a municipality adopts that sets forth general
108 guidelines for proposed future development of the land within the municipality.

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

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

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

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

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

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

122 (16) "Legislative body" means the municipal council.

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

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

128 (19) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
129 spent and expenses incurred in:

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

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

133 (20) "Noncomplying structure" means a structure that:

134 (a) legally existed before its current land use designation; and

135 (b) because of one or more subsequent land use ordinance changes, does not conform
136 to the setback, height restrictions, or other regulations, excluding those regulations, which
137 govern the use of land.

138 (21) "Nonconforming use" means a use of land that:

139 (a) legally existed before its current land use designation;

140 (b) has been maintained continuously since the time the land use ordinance governing
141 the land changed; and

142 (c) because of one or more subsequent land use ordinance changes, does not conform
143 to the regulations that now govern the use of the land.

144 (22) "Official map" means a map drawn by municipal authorities and recorded in a
145 county recorder's office that:

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

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

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

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

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

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

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

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

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

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

165 (25) "Plat" means a map or other graphical representation of lands being laid out and
166 prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

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

169 (27) "Public meeting" means a meeting that is required to be open to the public under

170 Title 52, Chapter 4, Open and Public Meetings.

171 (28) "Record of survey map" means a map of a survey of land prepared in accordance
172 with Section 17-23-17.

173 (29) "Residential facility for elderly persons" means a single-family or multiple-family
174 dwelling unit that meets the requirements of Part 4, General Plan, but does not include a health
175 care facility as defined by Section 26-21-2.

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

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

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

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

182 (31) "Sanitary sewer authority" means the department, agency, or public entity with
183 responsibility to review and approve the feasibility of sanitary sewer services or onsite
184 wastewater systems.

185 (32) "Special district" means an entity established under the authority of Title 17A,
186 Special Districts, and any other governmental or quasi-governmental entity that is not a county,
187 municipality, school district, or unit of the state.

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

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

193 (35) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
194 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
195 purpose, whether immediate or future, for offer, sale, lease, or development either on the
196 installment plan or upon any and all other plans, terms, and conditions.

197 (b) "Subdivision" includes:

198 (i) the division or development of land whether by deed, metes and bounds description,
199 devise and testacy, map, plat, or other recorded instrument; and

200 (ii) except as provided in Subsection (35)(c), divisions of land for residential and
201 nonresidential uses, including land used or to be used for commercial, agricultural, and
202 industrial purposes.

203 (c) "Subdivision" does not include:

204 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
205 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
206 neither the resulting combined parcel nor the parcel remaining from the division or partition
207 violates an applicable land use ordinance;

208 (ii) a recorded agreement between owners of adjoining unsubdivided properties
209 adjusting their mutual boundary if:

210 (A) no new lot is created; and

211 (B) the adjustment does not violate applicable land use ordinances; [~~or~~]

212 (iii) a recorded document, executed by the owner of record:

213 (A) revising the legal description of more than one contiguous unsubdivided parcel of
214 property into one legal description encompassing all such parcels of property; or

215 (B) joining a subdivided parcel of property to another parcel of property that has not
216 been subdivided, if the joinder does not violate applicable land use ordinances[~~;~~ or

217 (iv) a recorded agreement between owners of adjoining subdivided properties adjusting
218 their mutual boundary if:

219 (A) no new dwelling lot or housing unit will result from the adjustment; and

220 (B) the adjustment will not violate any applicable land use ordinance.

221 (d) The joining of a subdivided parcel of property to another parcel of property that has
222 not been subdivided does not constitute a subdivision under this Subsection (35) as to the
223 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
224 subdivision ordinance.

225 (36) "Unincorporated" means the area outside of the incorporated area of a city or

226 town.

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

229 Section 2. Section **10-9a-603** is amended to read:

230 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Recording**
231 **plat.**

232 (1) Unless exempt under Section 10-9a-605 or excluded from the definition of
233 subdivision under Subsection 10-9a-103[~~(34)~~](35), whenever any land is laid out and platted,
234 the owner of the land shall provide an accurate plat that describes or specifies:

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

237 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
238 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is
239 intended to be used as a street or for any other public use, and whether any such area is
240 reserved or proposed for dedication for a public purpose;

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

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

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

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

252 (4) (a) The owner of the land shall acknowledge the plat before an officer authorized
253 by law to take the acknowledgement of conveyances of real estate and shall obtain the

254 signature of each individual designated by the municipality.

255 (b) The surveyor making the plat shall certify that the surveyor:

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

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

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

261 (c) As applicable, the owner or operator of the underground and utility facilities shall
262 approve the:

263 (i) boundary, course, dimensions, and intended use of the right-of-way and easement
264 grants of record;

265 (ii) location of existing underground and utility facilities; and

266 (iii) conditions or restrictions governing the location of the facilities within the
267 right-of-way, and easement grants of records, and utility facilities within the subdivision.

268 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the
269 land shall, within the time period designated by ordinance, record the plat in the county
270 recorder's office in the county in which the lands platted and laid out are situated.

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

273 Section 3. Section **10-9a-608** is amended to read:

274 **10-9a-608. Vacating or changing a subdivision plat.**

275 (1) (a) Subject to Section [~~10-9a-610~~] 10-9a-609.5, and provided that notice has been
276 given pursuant to local ordinance and Section 10-9a-208, the land use authority may, with or
277 without a petition, consider and resolve any proposed vacation, alteration, or amendment of a
278 subdivision plat, any portion of a subdivision plat, or any [~~street,~~] lot[, ~~or alley~~] contained in a
279 subdivision plat.

280 (b) If a petition is filed, the land use authority shall hold a public hearing within 45
281 days after the petition is filed or, if applicable, within 45 days after receipt of the planning

282 commission's recommendation under Subsection (2), if:

283 ~~[(i) the plat change includes the vacation of a public street or alley;]~~

284 ~~[(ii)]~~ (i) any owner within the plat notifies the municipality of their objection in writing
285 within ten days of mailed notification; or

286 ~~[(iii)]~~ (ii) a public hearing is required because all of the owners in the subdivision have
287 not signed the revised plat.

288 (2) (a) (i) The planning commission shall consider and provide a recommendation for a
289 proposed vacation, alteration, or amendment under Subsection (1)(a) ~~[or (6)]~~ before the land
290 use authority takes final action.

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

294 (b) Subsection (2)(a) does not apply if the planning commission has been designated as
295 the land use authority.

296 (3) The public hearing requirement of Subsection (1)(b) does not apply and a land use
297 authority may consider at a public meeting an owner's petition to alter a subdivision plat if:

298 (a) the petition seeks to join two or more of the owner's contiguous, residential lots;
299 and

300 (b) notice has been given pursuant to local ordinance.

301 (4) Each request to vacate or alter a street or alley, contained in a petition to vacate,
302 alter, or amend a subdivision plat, is also subject to Section 10-9a-609.5.

303 ~~[(5)]~~ (5) Any fee owner, as shown on the last county assessment rolls, of land within
304 the subdivision that has been laid out and platted as provided in this part may, in writing,
305 petition to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or
306 amended as provided in this section and Section 10-9a-609.5.

307 ~~[(6)]~~ (6) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a
308 street or lot contained in a plat shall include:

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

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

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

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

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

317 ~~[(6) Subject to Subsection (2), if the applicant proposes to vacate, alter, or amend a
318 subdivision plat, or any street or lot contained in a subdivision plat, the planning commission
319 shall consider the issue at a public hearing after giving the notice required by Section
320 10-9a-207 or 10-9a-208, as applicable.]~~

321 (7) (a) The owners of record of adjacent parcels that are described by either a metes
322 and bounds description or a recorded plat may exchange title to portions of those parcels if the
323 exchange of title is approved by the land use authority in accordance with Subsection (7)(b).

324 (b) The land use authority shall approve an exchange of title under Subsection (7)(a)
325 if ~~[(i) no new dwelling lot or housing unit will result from the exchange of title; and (ii)]~~ the
326 exchange of title will not result in a violation of any land use ordinance.

327 (c) If an exchange of title is approved under Subsection (7)(b) ~~[-];~~:

328 (i) a notice of approval shall be recorded in the office of the county recorder which:

329 ~~[(i)]~~ (A) is executed by each owner included in the exchange and by the land use
330 authority;

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

334 ~~[(iii)]~~ (C) recites the descriptions of both the original parcels and the parcels created by
335 the exchange of title ~~[-]; and~~

336 (ii) a conveyance of title reflecting the approved change shall be recorded in the office
337 of the county recorder.

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

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

343 (b) The surveyor preparing the amended plat shall certify that the surveyor:

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

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

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

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

352 (d) Except as provided in Subsection (8)(a), the recording of a declaration or other
353 document that purports to change the name of a recorded plat is voidable.

354 Section 4. Section **10-9a-609** is amended to read:

355 **10-9a-609. Land use authority consideration of petition to vacate or change a plat**
356 **-- Criteria for vacating or changing a plat -- Recording the vacation or change.**

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

360 [(~~2~~) (1) If the land use authority is satisfied that [~~neither~~] the public interest [~~nor any~~
361 ~~person~~] will not be materially injured by the proposed vacation, alteration, or amendment, and
362 that there is good cause for the vacation, alteration, or amendment, the land use authority may
363 vacate, alter, or amend the plat[;] or any portion of the plat, [or any street or lot] subject to
364 Section 10-9a-609.5.

365 [(~~3~~) (2) The land use authority may approve the vacation, alteration, or amendment by

366 ~~[resolution, amended plat, administrative order, or deed containing a stamp or mark indicating~~
367 ~~approval by the land use authority]~~ signing an amended plat showing the vacation, alteration, or
368 amendment.

369 ~~[(4)]~~ (3) The land use authority shall ensure that the amended plat showing the
370 vacation, alteration, or amendment is recorded in the office of the county recorder in which the
371 land is located.

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

377 (4) If an entire subdivision is vacated, the legislative body shall ensure that a legislative
378 body resolution containing a legal description of the entire vacated subdivision is recorded in
379 the county recorder's office.

380 Section 5. Section **10-9a-609.5** is enacted to read:

381 **10-9a-609.5. Vacating or altering a street or alley.**

382 (1) (a) If a petition is submitted containing a request to vacate or alter any portion of a
383 street or alley within a subdivision:

384 (i) the land use authority shall, after providing notice pursuant to local ordinance and
385 Section 10-9a-208, make a recommendation to the chief executive officer concerning the
386 request to vacate or alter; and

387 (ii) the chief executive officer shall hold a public hearing in accordance with Section
388 10-9a-208 and determine whether good cause exists for the vacation or alteration.

389 (b) Subsection (1)(a)(i) does not apply if the chief executive officer has been
390 designated as a land use authority.

391 (2) If the chief executive officer vacates or alters any portion of a street or alley, the
392 chief executive officer shall ensure that the plat is recorded in the office of the recorder of the
393 county in which the land is located.

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

399 Section 6. Section **17-27a-103** is amended to read:

400 **17-27a-103. Definitions.**

401 As used in this chapter:

402 (1) "Affected entity" means a county, municipality, independent special district under
403 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
404 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
405 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of
406 Transportation, if:

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

409 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
410 or

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

413 (2) "Appeal authority" means the person, board, commission, agency, or other body
414 designated by ordinance to decide an appeal of a decision of a land use application or a
415 variance.

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

419 (4) "Charter school" includes:

420 (a) an operating charter school;

421 (b) a charter school applicant that has its application approved by a chartering entity in

422 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

423 (c) an entity who is working on behalf of a charter school or approved charter applicant
424 to develop or construct a charter school building.

425 (5) "Chief executive officer" means the person or body that exercises the executive
426 powers of the county.

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

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

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

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

435 (8) "Culinary water authority" means the department, agency, or public entity with
436 responsibility to review and approve the feasibility of the culinary water system and sources for
437 the subject property.

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

441 (b) "Disability" does not include current illegal use of, or addiction to, any federally
442 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
443 802.

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

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

448 (12) "General plan" means a document that a county adopts that sets forth general
449 guidelines for proposed future development of the unincorporated land within the county.

450 (13) "Identical plans" means building plans submitted to a county that are substantially
451 identical building plans that were previously submitted to and reviewed and approved by the
452 county and describe a building that is:

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

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

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

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

463 (16) "Land use application" means an application required by a county's land use
464 ordinance.

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

467 (18) "Land use ordinance" means a planning, zoning, development, or subdivision
468 ordinance of the county, but does not include the general plan.

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

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

473 (21) "Moderate income housing" means housing occupied or reserved for occupancy
474 by households with a gross household income equal to or less than 80% of the median gross
475 income for households of the same size in the county in which the housing is located.

476 (22) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
477 and expenses incurred in:

478 (a) verifying that building plans are identical plans; and
479 (b) reviewing and approving those minor aspects of identical plans that differ from the
480 previously reviewed and approved building plans.

481 (23) "Noncomplying structure" means a structure that:

482 (a) legally existed before its current land use designation; and
483 (b) because of one or more subsequent land use ordinance changes, does not conform
484 to the setback, height restrictions, or other regulations, excluding those regulations that govern
485 the use of land.

486 (24) "Nonconforming use" means a use of land that:

487 (a) legally existed before its current land use designation;
488 (b) has been maintained continuously since the time the land use ordinance regulation
489 governing the land changed; and
490 (c) because of one or more subsequent land use ordinance changes, does not conform
491 to the regulations that now govern the use of the land.

492 (25) "Official map" means a map drawn by county authorities and recorded in the
493 county recorder's office that:

494 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
495 highways and other transportation facilities;
496 (b) provides a basis for restricting development in designated rights-of-way or between
497 designated setbacks to allow the government authorities time to purchase or otherwise reserve
498 the land; and
499 (c) has been adopted as an element of the county's general plan.

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

502 (27) "Plan for moderate income housing" means a written document adopted by a
503 county legislative body that includes:

504 (a) an estimate of the existing supply of moderate income housing located within the
505 county;

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

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

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

511 (e) a description of the county's program to encourage an adequate supply of moderate
512 income housing.

513 (28) "Plat" means a map or other graphical representation of lands being laid out and
514 prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

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

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

519 (31) "Record of survey map" means a map of a survey of land prepared in accordance
520 with Section 17-23-17.

521 (32) "Residential facility for elderly persons" means a single-family or multiple-family
522 dwelling unit that meets the requirements of Part 4, General Plan, but does not include a health
523 care facility as defined by Section 26-21-2.

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

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

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

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

530 (34) "Sanitary sewer authority" means the department, agency, or public entity with
531 responsibility to review and approve the feasibility of sanitary sewer services or onsite
532 wastewater systems.

533 (35) "Special district" means any entity established under the authority of Title 17A,

534 Special Districts, and any other governmental or quasi-governmental entity that is not a county,
535 municipality, school district, or unit of the state.

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

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

541 (38) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
542 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
543 purpose, whether immediate or future, for offer, sale, lease, or development either on the
544 installment plan or upon any and all other plans, terms, and conditions.

545 (b) "Subdivision" includes:

546 (i) the division or development of land whether by deed, metes and bounds description,
547 devise and testacy, map, plat, or other recorded instrument; and

548 (ii) except as provided in Subsection (38)(c), divisions of land for residential and
549 nonresidential uses, including land used or to be used for commercial, agricultural, and
550 industrial purposes.

551 (c) "Subdivision" does not include:

552 (i) a bona fide division or partition of agricultural land for agricultural purposes;

553 (ii) a recorded agreement between owners of adjoining properties adjusting their
554 mutual boundary if:

555 (A) no new lot is created; and

556 (B) the adjustment does not violate applicable land use ordinances;

557 (iii) a recorded document, executed by the owner of record:

558 (A) revising the legal description of more than one contiguous unsubdivided parcel of
559 property into one legal description encompassing all such parcels of property; or

560 (B) joining a subdivided parcel of property to another parcel of property that has not
561 been subdivided, if the joinder does not violate applicable land use ordinances; [or]

562 (iv) a bona fide division or partition of land in a county other than a first class county
563 for the purpose of siting, on one or more of the resulting separate parcels:

564 (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
565 corporation, interstate pipeline company, or intrastate pipeline company; or

566 (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
567 utility service regeneration, transformation, retransmission, or amplification facility[-]; or

568 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
569 their mutual boundary if:

570 (A) no new dwelling lot or housing unit will result from the adjustment; and

571 (B) the adjustment will not violate any applicable land use ordinance.

572 (d) The joining of a subdivided parcel of property to another parcel of property that has
573 not been subdivided does not constitute a subdivision under this Subsection (38) as to the
574 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
575 ordinance.

576 (39) "Township" means a contiguous, geographically defined portion of the
577 unincorporated area of a county, established under this part or reconstituted or reinstated under
578 Section 17-27a-307, with planning and zoning functions as exercised through the township
579 planning commission, as provided in this chapter, but with no legal or political identity
580 separate from the county and no taxing authority, except that "township" means a former
581 township under Chapter 308, Laws of Utah 1996 where the context so indicates.

582 (40) "Unincorporated" means the area outside of the incorporated area of a
583 municipality.

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

586 Section 7. Section **17-27a-603** is amended to read:

587 **17-27a-603. Plat required when land is subdivided -- Approval of plat --**
588 **Recording plat.**

589 (1) Unless exempt under Section 17-27a-605 or excluded from the definition of

590 subdivision under Subsection 17-27a-103[(37)](38), whenever any land is laid out and platted,
591 the owner of the land shall provide an accurate plat that describes or specifies:

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

594 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
595 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is
596 intended to be used as a street or for any other public use, and whether any such area is
597 reserved or proposed for dedication for a public purpose;

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

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

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

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

609 (4) (a) The owner of the land shall acknowledge the plat before an officer authorized
610 by law to take the acknowledgment of conveyances of real estate and shall obtain the signature
611 of each individual designated by the county.

612 (b) The surveyor making the plat shall certify that the surveyor:

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

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

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

618 (c) As applicable, the owner or operator of the underground and utility facilities shall
619 approve the:

620 (i) boundary, course, dimensions, and intended use of the right-of-way and easement
621 grants of record;

622 (ii) location of existing underground and utility facilities; and

623 (iii) conditions or restrictions governing the location of the facilities within the
624 right-of-way, and easement grants of records, and utility facilities within the subdivision.

625 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the
626 land shall, within the time period designated by ordinance, record the plat in the county
627 recorder's office in the county in which the lands platted and laid out are situated.

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

630 Section 8. Section **17-27a-608** is amended to read:

631 **17-27a-608. Vacating or changing a subdivision plat.**

632 (1) (a) Subject to Section [~~17-27a-610~~] 17-27a-609.5, and provided that notice has
633 been given pursuant to local ordinance and Section 17-27a-208, the land use authority may,
634 with or without a petition, consider and resolve any proposed vacation, alteration, or
635 amendment of a subdivision plat, any portion of a subdivision plat, or any [~~street,~~] lot[~~, or~~
636 ~~alley~~] contained in a subdivision plat.

637 (b) If a petition is filed, the land use authority shall hold a public hearing within 45
638 days after the petition is filed or, if applicable, within 45 days after receipt of the planning
639 commission's recommendation under Subsection (2), if:

640 [~~(i) the plat change includes the vacation of a public street or alley;~~]

641 [(~~ii~~)] (i) any owner within the plat notifies the county of their objection in writing
642 within ten days of mailed notification; or

643 [(~~iii~~)] (ii) a public hearing is required because all of the owners in the subdivision have
644 not signed the revised plat.

645 (2) (a) (i) The planning commission shall consider and provide a recommendation for a

646 proposed vacation, alteration, or amendment under Subsection (1)(a) [~~or (6)~~] before the land
647 use authority takes final action.

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

651 (b) Subsection (2)(a) does not apply if the planning commission has been designated as
652 the land use authority.

653 (3) The public hearing requirement of Subsection (1)(b) does not apply and a land use
654 authority may consider at a public meeting an owner's petition to alter a subdivision plat if:

655 (a) the petition seeks to join two or more of the owner's contiguous, residential lots;
656 and

657 (b) notice has been given pursuant to local ordinance.

658 (4) Each request to vacate or alter a street or alley, contained in a petition to vacate,
659 alter, or amend a subdivision plat, is also subject to Section 17-27a-609.5.

660 ~~[(3)]~~ (5) Any fee owner, as shown on the last county assessment rolls, of land within
661 the subdivision that has been laid out and platted as provided in this part may, in writing,
662 petition to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or
663 amended as provided in this section and Section 17-27a-609.5.

664 ~~[(4)]~~ (6) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a
665 street or lot contained in a plat shall include:

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

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

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

670 ~~[(5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may~~
671 ~~not be scheduled for consideration at a public hearing before the planning commission until the~~
672 ~~notice required by Section 17-27a-207 or 17-27a-208, as applicable, is given.]~~

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

674 ~~[(6) Subject to Subsection (2), if the applicant proposes to vacate, alter, or amend a~~
 675 ~~subdivision plat, or any street or lot contained in a subdivision plat, the planning commission~~
 676 ~~shall consider the issue at a public hearing after giving the notice required by Section~~
 677 ~~17-27a-207 or 17-27a-208, as applicable.]~~

678 (7) (a) The owners of record of adjacent parcels that are described by either a metes
 679 and bounds description or a recorded plat may exchange title to portions of those parcels if the
 680 exchange of title is approved by the land use authority in accordance with Subsection (7)(b).

681 (b) The land use authority shall approve an exchange of title under Subsection (7)(a)
 682 if[: ~~(i) no new dwelling lot or housing unit will result from the exchange of title; and (ii)~~] the
 683 exchange of title will not result in a violation of any land use ordinance.

684 (c) If an exchange of title is approved under Subsection (7)(b)[;]:

685 (i) a notice of approval shall be recorded in the office of the county recorder which:

686 ~~[(i)]~~ (A) is executed by each owner included in the exchange and by the land use
 687 authority;

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

691 ~~[(iii)]~~ (C) recites the descriptions of both the original parcels and the parcels created by
 692 the exchange of title[-]; and

693 (ii) a conveyance of title reflecting the approved change shall be recorded in the office
 694 of the county recorder.

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

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

700 (b) The surveyor preparing the amended plat shall certify that the surveyor:

701 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and

702 Land Surveyors Licensing Act;

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

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

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

709 (d) Except as provided in Subsection (8)(a), the recording of a declaration or other
710 document that purports to change the name of a recorded plat is voidable.

711 Section 9. Section **17-27a-609** is amended to read:

712 **17-27a-609. Land use authority consideration of petition to vacate or change a**
713 **plat -- Criteria for vacating or changing a plat -- Recording the vacation or change.**

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

717 [(2)] (1) If the land use authority is satisfied that the public interest will not be
718 materially injured by the proposed vacation, alteration, or amendment, and that there is good
719 cause for the vacation, alteration, or amendment, the land use authority may vacate, alter, or
720 amend the plat[;] or any portion of the plat, [or any street or lot] subject to Section
721 17-27a-609.5.

722 [(3)] (2) The land use authority may approve the vacation, alteration, or amendment by
723 [~~resolution, amended plat, administrative order, or deed containing a stamp or mark indicating~~
724 ~~approval by the land use authority] signing an amended plat showing the vacation, alteration, or
725 amendment.~~

726 [(4)] (3) The land use authority shall ensure that the amended plat showing the
727 vacation, alteration, or amendment is recorded in the office of the county recorder in which the
728 land is located.

729 [(5)] ~~The action of the land use authority vacating or narrowing a street or alley that has~~

730 ~~been dedicated to public use shall operate to the extent to which it is vacated or narrowed, upon~~
731 ~~the effective date of the vacating ordinance, as a revocation of the acceptance thereof, and the~~
732 ~~relinquishment of the county's fee therein, but the right-of-way and easements therein, if any, of~~
733 ~~any lot owner and the franchise rights of any public utility may not be impaired thereby.]~~

734 (4) If an entire subdivision is vacated, the legislative body shall ensure that a legislative
735 body resolution containing a legal description of the entire vacated subdivision is recorded in
736 the county recorder's office.

737 Section 10. Section **17-27a-609.5** is enacted to read:

738 **17-27a-609.5. Vacating or altering a street or alley.**

739 (1) (a) If a petition is submitted containing a request to vacate or alter any portion of a
740 street or alley within a subdivision:

741 (i) the land use authority shall, after providing notice pursuant to local ordinance and
742 Section 17-27a-208, make a recommendation to the chief executive officer concerning the
743 request to vacate or alter; and

744 (ii) the chief executive officer shall hold a public hearing in accordance with Section
745 17-27a-208 and determine whether good cause exists for the vacation or alteration.

746 (b) Subsection (1)(a)(i) does not apply if the chief executive officer has been
747 designated as a land use authority.

748 (2) If the chief executive officer vacates or alters any portion of a street or alley, the
749 chief executive officer shall ensure that the plat is recorded in the office of the recorder of the
750 county in which the land is located.

751 (3) The action of the chief executive officer vacating or narrowing a street or alley that
752 has been dedicated to public use shall operate to the extent to which it is vacated or narrowed,
753 upon the effective date of the vacating plat, as a revocation of the acceptance thereof, and the
754 relinquishment of the county's fee therein, but the right-of-way and easements therein, if any, of
755 any lot owner and the franchise rights of any public utility may not be impaired thereby.