

1 **AMENDMENTS TO COUNTY AND MUNICIPAL**

2 **LAND USE PROVISIONS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Gregory S. Bell**

6 House Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ corrects a reference in the definition of residential facility for elderly persons;
- 15 ▶ provides an exception to public hearing notice requirements for certain subdivisions
16 of ten lots or less;
- 17 ▶ makes certain hearing and notice requirements applicable to public streets and
18 rights-of-way rather than to platted streets;
- 19 ▶ provides that a conditional use permit runs with the land;
- 20 ▶ allows a surveyor certifying a plat to indicate that the surveyor has bonding or
21 provided adequate security for the placement of monuments as an alternative to
22 certifying that the monuments have been placed;
- 23 ▶ modifies a requirement for a planning commission recommendation on a plat to
24 provide that the recommendation is required only if the planning commission is not
25 the land use authority;
- 26 ▶ modifies a provision related to an exemption from plat requirements for agricultural
27 land;



28 ▶ establishes a minimum of ten days for appealing a decision of a land use authority to
29 an appeal authority; and

30 ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **10-9a-103**, as last amended by Chapter 7 and renumbered and amended by Chapter
38 254, Laws of Utah 2005

39 **10-9a-207**, as enacted by Chapter 254, Laws of Utah 2005

40 **10-9a-208**, as enacted by Chapter 254, Laws of Utah 2005

41 **10-9a-507**, as last amended by Chapter 245 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-604**, as renumbered and amended by Chapter 254, Laws of Utah 2005

45 **10-9a-605**, as renumbered and amended by Chapter 254, Laws of Utah 2005

46 **10-9a-704**, as enacted by Chapter 254, Laws of Utah 2005

47 **10-9a-708**, as enacted by Chapter 254, Laws of Utah 2005

48 **11-36-201**, as last amended by Chapters 169 and 254, Laws of Utah 2005

49 **11-36-202**, as last amended by Chapter 254, Laws of Utah 2005

50 **17-27a-103**, as last amended by Chapter 7 and renumbered and amended by Chapter
51 254, Laws of Utah 2005

52 **17-27a-207**, as enacted by Chapter 254, Laws of Utah 2005

53 **17-27a-208**, as enacted by Chapter 254, Laws of Utah 2005

54 **17-27a-302**, as renumbered and amended by Chapter 254, Laws of Utah 2005

55 **17-27a-506**, as last amended by Chapter 245 and renumbered and amended by Chapter
56 254, Laws of Utah 2005

57 **17-27a-603**, as renumbered and amended by Chapter 254, Laws of Utah 2005

58 **17-27a-604**, as renumbered and amended by Chapter 254, Laws of Utah 2005

59 17-27a-605, as renumbered and amended by Chapter 254, Laws of Utah 2005

60 17-27a-704, as enacted by Chapter 254, Laws of Utah 2005

61 17-27a-708, as enacted by Chapter 254, Laws of Utah 2005



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

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

65 **10-9a-103. Definitions.**

66 As used in this chapter:

67 (1) "Affected entity" means a county, municipality, independent special district under
68 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
69 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
70 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of
71 Transportation, if:

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

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

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

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

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

84 (4) "Charter school" includes:

85 (a) an operating charter school;

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

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

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

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

93 (b) city manager in municipalities operating under the council-manager form of
94 municipal government.

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

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

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

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

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

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

109 (b) "Disability" does not include current illegal use of, or addiction to, any federally
110 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
111 802.

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

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

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

120 (a) located on land zoned the same as the land on which the building described in the

121 previously approved plans is located; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

181 (29) "Residential facility for elderly persons" means a single-family or multiple-family
182 dwelling unit that meets the requirements of [~~Part 4, General Plan~~] Section 10-9a-516, but does

183 not include a health care facility as defined by Section 26-21-2.

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

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

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

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

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

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

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

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

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

205 (b) "Subdivision" includes:

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

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

211 (c) "Subdivision" does not include:

212 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
213 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if

214 neither the resulting combined parcel nor the parcel remaining from the division or partition
215 violates an applicable land use ordinance;

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

218 (A) no new lot is created; and

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

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

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

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

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

229 (36) "Unincorporated" means the area outside of the incorporated area of a city or
230 town.

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

233 Section 2. Section **10-9a-207** is amended to read:

234 **10-9a-207. Notice for a proposed subdivision or amendment or a multiple-unit**
235 **residential or commercial or industrial development.**

236 (1) [~~For~~] Except for an exempt subdivision under Section 10-9a-605, for a proposed
237 subdivision or an amendment to a subdivision, each municipality shall provide notice of the
238 date, time, and place of a public hearing that is:

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

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

244 (2) Each municipality shall mail notice to each affected entity of a public hearing to

245 consider a preliminary plat describing a multiple-unit residential development or a commercial
246 or industrial development.

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

249 Section 3. Section **10-9a-208** is amended to read:

250 **10-9a-208. Hearing and notice for proposal to vacate, alter, or amend a public**
251 **street or right-of-way.**

252 For any proposal to vacate, alter, or amend a [~~platted~~] public street or right-of-way, the
253 land use authority shall hold a public hearing and shall give notice of the date, place, and time
254 of the hearing by:

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

256 (2) mailing notice to each affected entity; and

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

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

263 Section 4. Section **10-9a-507** is amended to read:

264 **10-9a-507. Conditional uses.**

265 (1) A land use ordinance may include conditional uses and provisions for conditional
266 uses that require compliance with standards set forth in an applicable ordinance.

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

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

273 (3) A conditional use permit shall run with the land, according to its terms.

274 Section 5. Section **10-9a-603** is amended to read:

275 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Recording**

276 **plat.**

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

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

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

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

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

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

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

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

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

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

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

305 (iii) has placed monuments as represented on the plat or has bonded or provided to the
306 municipality adequate security to place monuments as represented on the plat upon completion

307 of the subdivision improvements.

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

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

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

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

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

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

320 Section 6. Section **10-9a-604** is amended to read:

321 **10-9a-604. Subdivision plat approval procedure -- Effect of not complying.**

322 (1) (a) A person may not submit a subdivision plat to the county recorder's office for
323 recording unless:

324 (i) except as provided in Subsection (1)(b), a recommendation has been received from
325 the planning commission [~~and~~];

326 [~~(a)~~] (ii) the plat has been approved by:

327 [~~(i)~~] (A) the land use authority of the municipality in which the land described in the
328 plat is located; and

329 [~~(ii)~~] (B) other officers that the municipality designates in its ordinance; and

330 [~~(b)~~] (iii) all approvals are entered in writing on the plat by the designated officers.

331 (b) Subsection (1)(a) does not apply if the planning commission is the land use
332 authority.

333 (2) A subdivision plat recorded without the signatures required under this section is
334 void.

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

336 Section 7. Section **10-9a-605** is amended to read:

337 **10-9a-605. Exemptions from plat requirement.**

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

340 (a) the municipality has provided notice as required by ordinance [~~and Sections~~
341 ~~10-9a-206 and 10-9a-207~~]; and

342 (b) the proposed subdivision:

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

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

346 (iii) is located in a zoned area; and

347 (iv) conforms to all applicable land use ordinances or has properly received a variance
348 from the requirements of an otherwise conflicting and applicable land use ordinance.

349 (2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural
350 land is exempt from the plat requirements of Section 10-9a-603 if the lot or parcel:

351 (i) qualifies as land in agricultural use under [~~Title 59, Chapter 2, Part 5, Farmland~~
352 ~~Assessment Act~~] Section 59-2-502;

353 (ii) meets the minimum size requirement of applicable land use ordinances; and

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

355 (b) The boundaries of each lot or parcel exempted under Subsection (1) shall be
356 graphically illustrated on a record of survey map that, after receiving the same approvals as are
357 required for a plat under Section 10-9a-604, shall be recorded with the county recorder.

358 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural
359 purpose, the municipality may require the lot or parcel to comply with the requirements of
360 Section 10-9a-603.

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

365 (b) The absence of the certificate or written approval required by Subsection (1) does
366 not affect the validity of a recorded document.

367 (c) A document which does not meet the requirements of Subsection (1) may be
368 corrected by the recording of an affidavit to which the required certificate or written approval is

369 attached in accordance with Section 57-3-106.

370 Section 8. Section **10-9a-704** is amended to read:

371 **10-9a-704. Time to appeal.**

372 (1) The municipality shall enact an ordinance establishing a reasonable time of not less
373 than ten days to appeal a decision of a land use authority to an appeal authority.

374 (2) In the absence of [~~such~~] an ordinance [~~and at a minimum~~] establishing a reasonable
375 time to appeal, an adversely affected party shall have ten calendar days to appeal a decision of a
376 land use authority to an appeal authority.

377 Section 9. Section **10-9a-708** is amended to read:

378 **10-9a-708. Final decision.**

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

381 (2) A written decision, or other event as provided by ordinance, constitutes a final
382 decision under Subsection [~~10-9a-802~~] 10-9a-801(2)(a) or a final action under Subsection
383 10-9a-801(4).

384 Section 10. Section **11-36-201** is amended to read:

385 **11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan --**
386 **Summary -- Exemptions.**

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

389 (b) A local political subdivision may not:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

428 (C) be sent to:

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

- 431 (II) each affected entity;
- 432 (III) the Automated Geographic Reference Center created in Section 63F-1-506;
- 433 (IV) the association of governments, established pursuant to an interlocal agreement
- 434 under Title 11, Chapter 13, Interlocal Cooperation Act, in which the facilities are proposed to
- 435 be located; and
- 436 (V) the state planning coordinator appointed under Section 63-38d-202; and
- 437 (D) with respect to the notice to affected entities, invite the affected entities to provide
- 438 information for the local political subdivision or private entity to consider in the process of
- 439 preparing, adopting, and implementing a capital facilities plan concerning:
 - 440 (I) impacts that the facilities proposed in the capital facilities plan may have on the
 - 441 affected entity; and
 - 442 (II) facilities or uses of land that the affected entity is planning or considering that may
 - 443 conflict with the facilities proposed in the capital facilities plan.
- 444 (c) The plan shall identify:
 - 445 (i) demands placed upon existing public facilities by new development activity; and
 - 446 (ii) the proposed means by which the local political subdivision will meet those
 - 447 demands.
- 448 (d) Municipalities and counties need not prepare a separate capital facilities plan if the
- 449 general plan required by Sections [~~10-9-301~~] 10-9a-401 and [~~17-27-301~~] 17-27a-401 contains
- 450 the elements required by Subsection (2)(c).
- 451 (e) (i) If a local political subdivision prepares an independent capital facilities plan
- 452 rather than including a capital facilities element in the general plan, the local political
- 453 subdivision shall, before adopting the capital facilities plan:
 - 454 (A) give public notice of the plan according to this Subsection (2)(e);
 - 455 (B) at least 14 days before the date of the public hearing:
 - 456 (I) make a copy of the plan, together with a summary designed to be understood by a
 - 457 lay person, available to the public; and
 - 458 (II) place a copy of the plan and summary in each public library within the local
 - 459 political subdivision; and
 - 460 (C) hold a public hearing to hear public comment on the plan.
 - 461 (ii) Municipalities shall comply with the notice and hearing requirements of, and,

462 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections
463 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2).

464 (iii) Counties shall comply with the notice and hearing requirements of, and, except as
465 provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and
466 17-27a-801 and Subsection 17-27a-502(2).

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

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

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

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

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

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

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

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

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

488 (iii) estimates the proportionate share of the costs of impacts on system improvements
489 that are reasonably related to the new development activity; and

490 (iv) based upon those factors and the requirements of this chapter, identifies how the
491 impact fee was calculated.

492 (b) In analyzing whether or not the proportionate share of the costs of public facilities

493 are reasonably related to the new development activity, the local political subdivision shall
494 identify, if applicable:

495 (i) the cost of existing public facilities;

496 (ii) the manner of financing existing public facilities, such as user charges, special
497 assessments, bonded indebtedness, general taxes, or federal grants;

498 (iii) the relative extent to which the newly developed properties and the other
499 properties in the municipality have already contributed to the cost of existing public facilities,
500 by such means as user charges, special assessments, or payment from the proceeds of general
501 taxes;

502 (iv) the relative extent to which the newly developed properties and the other
503 properties in the municipality will contribute to the cost of existing public facilities in the
504 future;

505 (v) the extent to which the newly developed properties are entitled to a credit because
506 the municipality is requiring their developers or owners, by contractual arrangement or
507 otherwise, to provide common facilities, inside or outside the proposed development, that have
508 been provided by the municipality and financed through general taxation or other means, apart
509 from user charges, in other parts of the municipality;

510 (vi) extraordinary costs, if any, in servicing the newly developed properties; and

511 (vii) the time-price differential inherent in fair comparisons of amounts paid at
512 different times.

513 (c) Each local political subdivision that prepares a written analysis under this
514 Subsection (5) on or after July 1, 2000 shall also prepare a summary of the written analysis,
515 designed to be understood by a lay person.

516 (6) Each local political subdivision that adopts an impact fee enactment under Section
517 11-36-202 on or after July 1, 2000 shall, at least 14 days before adopting the enactment, submit
518 to each public library within the local political subdivision:

519 (a) a copy of the written analysis required by Subsection (5)(a); and

520 (b) a copy of the summary required by Subsection (5)(c).

521 (7) Nothing in this chapter may be construed to repeal or otherwise eliminate any
522 impact fee in effect on the effective date of this ~~act~~ chapter that is pledged as a source of
523 revenues to pay bonded indebtedness that was incurred before the effective date of this ~~act~~

524 chapter.

525 Section 11. Section **11-36-202** is amended to read:

526 **11-36-202. Impact fees -- Enactment -- Required provisions.**

527 (1) (a) Each local political subdivision wishing to impose impact fees shall pass an
528 impact fee enactment.

529 (b) The impact fee imposed by that enactment may not exceed the highest fee justified
530 by the impact fee analysis performed pursuant to Section 11-36-201.

531 (c) In calculating the impact fee, each local political subdivision may include:

532 (i) the construction contract price;

533 (ii) the cost of acquiring land, improvements, materials, and fixtures;

534 (iii) the cost for planning, surveying, and engineering fees for services provided for and
535 directly related to the construction of the system improvements; and

536 (iv) debt service charges, if the political subdivision might use impact fees as a revenue
537 stream to pay the principal and interest on bonds, notes, or other obligations issued to finance
538 the costs of the system improvements.

539 (d) In enacting an impact fee enactment:

540 (i) municipalities shall:

541 (A) make a copy of the impact fee enactment available to the public at least 14 days
542 before the date of the public hearing; and

543 (B) comply with the notice and hearing requirements of, and, except as provided in
544 Subsection 11-36-401(4)(f), receive the protections of Sections [~~10-9a-207~~] 10-9a-205 and
545 10-9a-801;

546 (ii) counties shall:

547 (A) make a copy of the impact fee enactment available to the public at least 14 days
548 before the date of the public hearing; and

549 (B) comply with the notice and hearing requirements of, and, except as provided in
550 Subsection 11-36-401(4)(f), receive the protections of Sections [~~17-27a-207~~] 17-27a-205 and
551 17-27a-801; and

552 (iii) special districts shall:

553 (A) make a copy of the impact fee enactment available to the public at least 14 days
554 before the date of the public hearing; and

555 (B) comply with the notice and hearing requirements of, and receive the protections of,
556 Section 17A-1-203.

557 (e) Nothing contained in Subsection (1)(d) or in the subsections referenced in
558 Subsections (1)(d)(i)(B) and (ii)(B) may be construed to require involvement by a planning
559 commission in the impact fee enactment process.

560 (2) The local political subdivision shall ensure that the impact fee enactment contains:

561 (a) a provision establishing one or more service areas within which it shall calculate
562 and impose impact fees for various land use categories;

563 (b) either:

564 (i) a schedule of impact fees for each type of development activity that specifies the
565 amount of the impact fee to be imposed for each type of system improvement; or

566 (ii) the formula that the local political subdivision will use to calculate each impact fee;

567 (c) a provision authorizing the local political subdivision to adjust the standard impact
568 fee at the time the fee is charged to:

569 (i) respond to unusual circumstances in specific cases; and

570 (ii) ensure that the impact fees are imposed fairly; and

571 (d) a provision governing calculation of the amount of the impact fee to be imposed on
572 a particular development that permits adjustment of the amount of the fee based upon studies
573 and data submitted by the developer.

574 (3) The local political subdivision may include a provision in the impact fee enactment
575 that:

576 (a) exempts low income housing and other development activities with broad public
577 purposes from impact fees and establishes one or more sources of funds other than impact fees
578 to pay for that development activity;

579 (b) imposes an impact fee for public facility costs previously incurred by a local
580 political subdivision to the extent that new growth and development will be served by the
581 previously constructed improvement; and

582 (c) allows a credit against impact fees for any dedication of land for, improvement to,
583 or new construction of, any system improvements provided by the developer if the facilities:

584 (i) are identified in the capital facilities plan; and

585 (ii) are required by the local political subdivision as a condition of approving the

586 development activity.

587 (4) Except as provided in Subsection (3)(b), the local political subdivision may not
588 impose an impact fee to cure deficiencies in public facilities serving existing development.

589 (5) Notwithstanding the requirements and prohibitions of this chapter, a local political
590 subdivision may impose and assess an impact fee for environmental mitigation when:

591 (a) the local political subdivision has formally agreed to fund a Habitat Conservation
592 Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec 1531, et seq.
593 or other state or federal environmental law or regulation;

594 (b) the impact fee bears a reasonable relationship to the environmental mitigation
595 required by the Habitat Conservation Plan; and

596 (c) the legislative body of the local political subdivision adopts an ordinance or
597 resolution:

598 (i) declaring that an impact fee is required to finance the Habitat Conservation Plan;

599 (ii) establishing periodic sunset dates for the impact fee; and

600 (iii) requiring the legislative body to:

601 (A) review the impact fee on those sunset dates;

602 (B) determine whether or not the impact fee is still required to finance the Habitat
603 Conservation Plan; and

604 (C) affirmatively reauthorize the impact fee if the legislative body finds that the impact
605 fee must remain in effect.

606 (6) Each political subdivision shall ensure that any existing impact fee for
607 environmental mitigation meets the requirements of Subsection (5) by July 1, 1995.

608 (7) Notwithstanding any other provision of this chapter, municipalities imposing
609 impact fees to fund fire trucks as of the effective date of this act may impose impact fees for
610 fire trucks until July 1, 1997.

611 (8) Notwithstanding any other provision of this chapter, a local political subdivision
612 may impose and collect impact fees on behalf of a school district if authorized by Section
613 53A-20-100.5.

614 Section 12. Section **17-27a-103** is amended to read:

615 **17-27a-103. Definitions.**

616 As used in this chapter:

617 (1) "Affected entity" means a county, municipality, independent special district under
618 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
619 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
620 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of
621 Transportation, if:

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

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

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

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

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

634 (4) "Charter school" includes:

635 (a) an operating charter school;

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

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

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

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

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

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

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

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

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

656 (b) "Disability" does not include current illegal use of, or addiction to, any federally
657 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
658 802.

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

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

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

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

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

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

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

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

678 (16) "Land use application" means an application required by a county's land use

679 ordinance.

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

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

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

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

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

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

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

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

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

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

698 (b) because of one or more subsequent land use ordinance changes, does not conform
699 to the setback, height restrictions, or other regulations, excluding those regulations that govern
700 the use of land.

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

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

703 (b) has been maintained continuously since the time the land use ordinance regulation
704 governing the land changed; and

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

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

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

710 highways and other transportation facilities;

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

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

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

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

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

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

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

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

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

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

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

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

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

736 (32) "Residential facility for elderly persons" means a single-family or multiple-family
737 dwelling unit that meets the requirements of ~~[Part 4, General Plan]~~ Section 17-27a-515, but
738 does not include a health care facility as defined by Section 26-21-2.

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

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

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

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

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

748 (35) "Special district" means any entity established under the authority of Title 17A,
749 Special Districts, and any other governmental or quasi-governmental entity that is not a county,
750 municipality, school district, or unit of the state.

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

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

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

760 (b) "Subdivision" includes:

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

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

766 (c) "Subdivision" does not include:

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

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

770 (A) no new lot is created; and

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

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

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

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

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

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

781 (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
782 utility service regeneration, transformation, retransmission, or amplification facility.

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

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

793 (40) "Unincorporated" means the area outside of the incorporated area of a
794 municipality.

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

797 Section 13. Section **17-27a-207** is amended to read:

798 **17-27a-207. Notice for a proposed subdivision or amendment or a multiple-unit**
799 **residential or commercial or industrial development.**

800 (1) [~~For~~] Except for an exempt subdivision under Section 17-27a-605, for a proposed
801 subdivision or an amendment to a subdivision, each county shall provide notice of the date,
802 time, and place of a public hearing that is:

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

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

808 (2) Each county shall mail notice to each affected entity of a public hearing to consider
809 a preliminary plat describing a multiple-unit residential development or a commercial or
810 industrial development.

811 (3) Each county shall provide notice as required by Section 17-27a-208 for a
812 subdivision that involves a vacation, alteration, or amendment of a street.

813 Section 14. Section **17-27a-208** is amended to read:

814 **17-27a-208. Hearing and notice for proposal to vacate, alter, or amend a public**
815 **street or right-of-way.**

816 For any proposal to vacate, alter, or amend a [~~platted~~] public street or right-of-way, the
817 land use authority shall hold a public hearing and shall give notice of the date, place, and time
818 of the hearing by:

819 (1) mailing notice as required in Section 17-27a-207;

820 (2) mailing notice to each affected entity; and

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

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

826 Section 15. Section **17-27a-302** is amended to read:

827 **17-27a-302. Planning commission powers and duties.**

828 (1) Each countywide [~~or township~~] planning commission shall, with respect to the
829 unincorporated area of the county, [~~or the township,~~] make a recommendation to the county
830 legislative body for:

831 (a) a general plan and amendments to the general plan;

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

833 (c) an appropriate delegation of power to at least one designated land use authority to

834 hear and act on a land use application;

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

837 (e) application processes that:

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

841 (ii) shall protect the right of each:

842 (A) applicant and third party to require formal consideration of any application by a
843 land use authority;

844 (B) applicant, adversely affected party, or county officer or employee to appeal a land
845 use authority's decision to a separate appeal authority; and

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

847 (2) The planning commission of a township under ~~[this part]~~ Subsection 17-27a-301(3)
848 may recommend to the legislative body of the county in which the township is located:

849 (a) that the legislative body support or oppose a proposed incorporation of an area
850 located within the township, as provided in Subsection 10-2-105(4); or

851 (b) that the legislative body file a protest to a proposed annexation of an area located
852 within the township, as provided in Subsection 10-2-407(1)(b).

853 Section 16. Section **17-27a-506** is amended to read:

854 **17-27a-506. Conditional uses.**

855 (1) A land use ordinance may include conditional uses and provisions for conditional
856 uses that require compliance with standards set forth in an applicable ordinance.

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

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

863 (3) A conditional use permit shall run with the land, according to its terms.

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

865 **17-27a-603. Plat required when land is subdivided -- Approval of plat --**
866 **Recording plat.**

867 (1) Unless exempt under Section 17-27a-605 or excluded from the definition of
868 subdivision under Subsection 17-27a-103[~~(37)~~] (38), whenever any land is laid out and platted,
869 the owner of the land shall provide an accurate plat that describes or specifies:

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

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

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

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

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

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

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

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

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

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

895 (iii) has placed monuments as represented on the plat or has bonded or provided to the

896 county adequate security to place monuments as represented on the plat upon completion of the
897 subdivision improvements.

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

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

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

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

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

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

910 Section 18. Section **17-27a-604** is amended to read:

911 **17-27a-604. Subdivision plat approval procedure -- Effect of not complying.**

912 (1) (a) A person may not submit a subdivision plat to the county recorder's office for
913 recording unless:

914 (i) except as provided in Subsection (1)(b), a recommendation has been received from
915 the planning commission [~~and~~];

916 [~~(a)~~] (ii) the plat has been approved by:

917 [~~(i)~~] (A) the land use authority of the county in whose unincorporated area the land
918 described in the plat is located; and

919 [~~(i)~~] (B) other officers that the county designates in its ordinance; and

920 [~~(b)~~] (iii) all approvals are entered in writing on the plat by designated officers.

921 (b) Subsection (1)(a) does not apply if the planning commission is the land use
922 authority.

923 (2) A plat recorded without the signatures required under this section is void.

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

925 Section 19. Section **17-27a-605** is amended to read:

926 **17-27a-605. Exemptions from plat requirement.**

927 (1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority may
928 approve the subdivision of unincorporated land into ten lots or less without a plat, by certifying
929 in writing that:

930 (a) the county has provided notice as required by ordinance [~~and by Sections~~
931 ~~17-27a-206 and 17-27a-207~~]; and

932 (b) the proposed subdivision:

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

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

936 (iii) is located in a zoned area; and

937 (iv) conforms to all applicable land use ordinances or has properly received a variance
938 from the requirements of an otherwise conflicting and applicable land use ordinance.

939 (2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural
940 land is exempt from the plat requirements of Section 17-27a-603 if the lot or parcel:

941 (i) qualifies as land in agricultural use under [~~Title 59, Chapter 2, Part 5, Farmland~~
942 ~~Assessment Act~~] Section 59-2-502;

943 (ii) meets the minimum size requirement of applicable land use ordinances; and

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

945 (b) The boundaries of each lot or parcel exempted under Subsection (1) shall be
946 graphically illustrated on a record of survey map that, after receiving the same approvals as are
947 required for a plat under Section 17-27a-604, shall be recorded with the county recorder.

948 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural
949 purpose, the county may require the lot or parcel to comply with the requirements of Section
950 17-27a-603.

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

955 (b) The absence of the certificate or written approval required by Subsection (1) does
956 not affect the validity of a recorded document.

957 (c) A document which does not meet the requirements of Subsection (1) may be

958 corrected by the recording of an affidavit to which the required certificate or written approval is
959 attached in accordance with Section 57-3-106.

960 Section 20. Section **17-27a-704** is amended to read:

961 **17-27a-704. Time to appeal.**

962 (1) The county shall enact an ordinance establishing a reasonable time of not less than
963 ten days to appeal a decision of a land use authority to an appeal authority.

964 (2) In the absence of [~~such~~] an ordinance [~~and at a minimum~~] establishing a reasonable
965 time to appeal, an adversely affected party shall have ten calendar days to appeal a decision of a
966 land use authority to an appeal authority.

967 Section 21. Section **17-27a-708** is amended to read:

968 **17-27a-708. Final decision.**

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

971 (2) A written decision, or other event as provided by ordinance, constitutes a final
972 decision under Subsection [~~17-27a-802~~] 17-27a-801(2)(a) or a final action under Subsection
973 17-27a-801(4).

Legislative Review Note
as of 1-16-06 12:42 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0155

Amendments to County and Municipal Land Use Provisions

20-Jan-06

11:29 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst