

SUBDIVISION AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Michael T. Morley

LONG TITLE

General Description:

This bill defines terms and amends provisions relating to vacating, altering, or amending a subdivision plat.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ for a municipality or a county, amends provisions relating to vacating, altering, or amending a subdivision plat; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 10-9a-103**, as last amended by Laws of Utah 2009, Chapters 163, 181, and 286
- 10-9a-603**, as last amended by Laws of Utah 2008, Chapter 326
- 10-9a-608**, as last amended by Laws of Utah 2009, Chapters 67 and 338
- 17-27a-103**, as last amended by Laws of Utah 2009, Chapters 163, 181, and 286
- 17-27a-603**, as last amended by Laws of Utah 2008, Chapters 250 and 326



28 17-27a-608, as last amended by Laws of Utah 2009, Chapters 67 and 338



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

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

32 **10-9a-103. Definitions.**

33 As used in this chapter:

34 (1) "Affected entity" means a county, municipality, local district, special service
35 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
36 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
37 public utility, a property owner, a property owners association, or the Utah Department of
38 Transportation, if:

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

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

43 (c) the entity has filed with the municipality a request for notice during the same
44 calendar year and before the municipality provides notice to an affected entity in compliance
45 with a requirement imposed under this chapter.

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

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

52 (4) "Charter school" includes:

53 (a) an operating charter school;

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

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

58 (5) "Conditional use" means a land use that, because of its unique characteristics or

59 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be
60 compatible in some areas or may be compatible only if certain conditions are required that
61 mitigate or eliminate the detrimental impacts.

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

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

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

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

69 (8) "Development activity" means:

70 (a) any construction or expansion of a building, structure, or use that creates additional
71 demand and need for public facilities;

72 (b) any change in use of a building or structure that creates additional demand and need
73 for public facilities; or

74 (c) any change in the use of land that creates additional demand and need for public
75 facilities.

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

79 (b) "Disability" does not include current illegal use of, or addiction to, any federally
80 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
81 802.

82 (10) "Educational facility":

83 (a) means:

84 (i) a school district's building at which pupils assemble to receive instruction in a
85 program for any combination of grades from preschool through grade 12, including
86 kindergarten and a program for children with disabilities;

87 (ii) a structure or facility:

88 (A) located on the same property as a building described in Subsection (10)(a)(i); and

89 (B) used in support of the use of that building; and

90 (iii) a building to provide office and related space to a school district's administrative
91 personnel; and

92 (b) does not include land or a structure, including land or a structure for inventory
93 storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or
94 other use in support of providing instruction to pupils, that is:

95 (i) not located on the same property as a building described in Subsection (10)(a)(i);
96 and

97 (ii) used in support of the purposes of a building described in Subsection (10)(a)(i).

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

101 (12) "Fire authority" means the department, agency, or public entity with responsibility
102 to review and approve the feasibility of fire protection and suppression services for the subject
103 property.

104 (13) "Flood plain" means land that:

105 (a) is within the 100-year flood plain designated by the Federal Emergency
106 Management Agency; or

107 (b) has not been studied or designated by the Federal Emergency Management Agency
108 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
109 the land has characteristics that are similar to those of a 100-year flood plain designated by the
110 Federal Emergency Management Agency.

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

113 (15) "Geologic hazard" means:

114 (a) a surface fault rupture;

115 (b) shallow groundwater;

116 (c) liquefaction;

117 (d) a landslide;

118 (e) a debris flow;

119 (f) unstable soil;

120 (g) a rock fall; or

121 (h) any other geologic condition that presents a risk:

122 (i) to life;

123 (ii) of substantial loss of real property; or

124 (iii) of substantial damage to real property.

125 (16) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
126 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
127 utility system.

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

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

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

135 (18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36,
136 Impact Fees Act.

137 (19) "Improvement assurance" means a surety bond, letter of credit, cash, or other
138 security:

139 (a) to guaranty the proper completion of an improvement;

140 (b) that is required as a condition precedent to:

141 (i) recording a subdivision plat; or

142 (ii) beginning development activity; and

143 (c) that is offered to a land use authority to induce the land use authority, before actual
144 construction of required improvements, to:

145 (i) consent to the recording of a subdivision plat; or

146 (ii) issue a permit for development activity.

147 (20) "Improvement assurance warranty" means a promise that the materials and
148 workmanship of improvements:

149 (a) comport with standards that the municipality has officially adopted; and

150 (b) will not fail in any material respect within a warranty period.

151 (21) "Internal lot restriction" means a platted note, platted demarcation, or platted

152 designation that:

153 (a) runs with the land; and

154 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
155 the plat; or

156 (ii) designates a development condition that is enclosed within the perimeter of a lot
157 described on the plat.

158 [~~21~~] (22) "Land use application" means an application required by a municipality's
159 land use ordinance.

160 [~~22~~] (23) "Land use authority" means a person, board, commission, agency, or other
161 body designated by the local legislative body to act upon a land use application.

162 [~~23~~] (24) "Land use ordinance" means a planning, zoning, development, or
163 subdivision ordinance of the municipality, but does not include the general plan.

164 [~~24~~] (25) "Land use permit" means a permit issued by a land use authority.

165 [~~25~~] (26) "Legislative body" means the municipal council.

166 [~~26~~] (27) "Local district" means an entity under Title 17B, Limited Purpose Local
167 Government Entities - Local Districts, and any other governmental or quasi-governmental
168 entity that is not a county, municipality, school district, or the state.

169 [~~27~~] (28) "Lot line adjustment" means the relocation of the property boundary line in
170 a subdivision between two adjoining lots with the consent of the owners of record.

171 [~~28~~] (29) "Moderate income housing" means housing occupied or reserved for
172 occupancy by households with a gross household income equal to or less than 80% of the
173 median gross income for households of the same size in the county in which the city is located.

174 [~~29~~] (30) "Nominal fee" means a fee that reasonably reimburses a municipality only
175 for time spent and expenses incurred in:

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

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

179 [~~30~~] (31) "Noncomplying structure" means a structure that:

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

181 (b) because of one or more subsequent land use ordinance changes, does not conform
182 to the setback, height restrictions, or other regulations, excluding those regulations, which

183 govern the use of land.

184 [~~(31)~~] (32) "Nonconforming use" means a use of land that:

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

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

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

190 [~~(32)~~] (33) "Official map" means a map drawn by municipal authorities and recorded in
191 a county recorder's office that:

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

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

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

198 [~~(33)~~] (34) "Person" means an individual, corporation, partnership, organization,
199 association, trust, governmental agency, or any other legal entity.

200 [~~(34)~~] (35) "Plan for moderate income housing" means a written document adopted by
201 a city legislative body that includes:

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

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

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

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

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

211 [~~(35)~~] (36) "Plat" means a map or other graphical representation of lands being laid out
212 and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

213 [~~(36)~~] (37) "Potential geologic hazard area" means an area that:

214 (a) is designated by a Utah Geological Survey map, county geologist map, or other
215 relevant map or report as needing further study to determine the area's potential for geologic
216 hazard; or

217 (b) has not been studied by the Utah Geological Survey or a county geologist but
218 presents the potential of geologic hazard because the area has characteristics similar to those of
219 a designated geologic hazard area.

220 [~~37~~] (38) "Public agency" means:

221 (a) the federal government;

222 (b) the state;

223 (c) a county, municipality, school district, local district, special service district, or other
224 political subdivision of the state; or

225 (d) a charter school.

226 [~~38~~] (39) "Public hearing" means a hearing at which members of the public are
227 provided a reasonable opportunity to comment on the subject of the hearing.

228 [~~39~~] (40) "Public meeting" means a meeting that is required to be open to the public
229 under Title 52, Chapter 4, Open and Public Meetings Act.

230 [~~40~~] (41) "Record of survey map" means a map of a survey of land prepared in
231 accordance with Section 17-23-17.

232 [~~41~~] (42) "Receiving zone" means an area of a municipality that the municipality's
233 land use authority designates as an area in which an owner of land may receive transferrable
234 development rights.

235 [~~42~~] (43) "Residential facility for elderly persons" means a single-family or
236 multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not
237 include a health care facility as defined by Section 26-21-2.

238 [~~43~~] (44) "Residential facility for persons with a disability" means a residence:

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

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

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

244 [~~44~~] (45) "Sanitary sewer authority" means the department, agency, or public entity

245 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
246 wastewater systems.

247 [~~(45)~~] (46) "Sending zone" means an area of a municipality that the municipality's land
248 use authority designates as an area from which an owner of land may transfer transferrable
249 development rights to an owner of land in a receiving zone.

250 [~~(46)~~] (47) "Specified public agency" means:

- 251 (a) the state;
- 252 (b) a school district; or
- 253 (c) a charter school.

254 [~~(47)~~] (48) "Specified public utility" means an electrical corporation, gas corporation,
255 or telephone corporation, as those terms are defined in Section 54-2-1.

256 [~~(48)~~] (49) "State" includes any department, division, or agency of the state.

257 [~~(49)~~] (50) "Street" means a public right-of-way, including a highway, avenue,
258 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
259 or other way.

260 [~~(50)~~] (51) (a) "Subdivision" means any land that is divided, resubdivided or proposed
261 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
262 purpose, whether immediate or future, for offer, sale, lease, or development either on the
263 installment plan or upon any and all other plans, terms, and conditions.

264 (b) "Subdivision" includes:

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

267 (ii) except as provided in Subsection [~~(50)~~] (51)(c), divisions of land for residential and
268 nonresidential uses, including land used or to be used for commercial, agricultural, and
269 industrial purposes.

270 (c) "Subdivision" does not include:

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

275 (ii) a recorded agreement between owners of adjoining unsubdivided properties

276 adjusting their mutual boundary if:

277 (A) no new lot is created; and

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

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

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

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

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

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

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

288 (d) The joining of a subdivided parcel of property to another parcel of property that has
289 not been subdivided does not constitute a subdivision under this Subsection [~~(50)~~] (51) as to
290 the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
291 subdivision ordinance.

292 [~~(51)~~] (52) "Transferrable development right" means the entitlement to develop land
293 within a sending zone that would vest according to the municipality's existing land use
294 ordinances on the date that a completed land use application is filed seeking the approval of
295 development activity on the land.

296 [~~(52)~~] (53) "Unincorporated" means the area outside of the incorporated area of a city
297 or town.

298 [~~(53)~~] (54) "Water interest" means any right to the beneficial use of water, including:

299 (a) each of the rights listed in Section 73-1-11; and

300 (b) an ownership interest in the right to the beneficial use of water represented by:

301 (i) a contract; or

302 (ii) a share in a water company, as defined in Section 73-3-3.5.

303 [~~(54)~~] (55) "Zoning map" means a map, adopted as part of a land use ordinance, that
304 depicts land use zones, overlays, or districts.

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

306 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**

307 **acknowledgment, surveyor certification, and underground utility facilities owner**
308 **approval of plat -- Recording plat.**

309 (1) Unless exempt under Section 10-9a-605 or excluded from the definition of
310 subdivision under [~~Subsection 10-9a-103(50)~~] Section 10-9a-103, whenever any land is laid
311 out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

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

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

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

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

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

326 (b) Municipalities are encouraged to receive a recommendation from the fire authority
327 before approving a plat.

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

331 (4) (a) The owner of the land shall acknowledge the plat before an officer authorized
332 by law to take the acknowledgment of conveyances of real estate and shall obtain the signature
333 of each individual designated by the municipality.

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

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

337 (ii) has completed a survey of the property described on the plat in accordance with

338 Section 17-23-17 and has verified all measurements; and
339 (iii) has placed monuments as represented on the plat.
340 (c) (i) As applicable, the owner or operator of the underground and utility facilities
341 shall approve the:
342 (A) boundary, course, dimensions, and intended use of the right-of-way and easement
343 grants of record;
344 (B) location of existing underground and utility facilities; and
345 (C) conditions or restrictions governing the location of the facilities within the
346 right-of-way, and easement grants of records, and utility facilities within the subdivision.
347 (ii) The approval of an owner or operator under Subsection (4)(c)(i):
348 (A) indicates only that the plat approximates the location of the existing underground
349 and utility facilities but does not warrant or verify their precise location; and
350 (B) does not affect a right that the owner or operator has under:
351 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;
352 (II) a recorded easement or right-of-way;
353 (III) the law applicable to prescriptive rights; or
354 (IV) any other provision of law.
355 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the
356 land shall, within the time period designated by ordinance, record the plat in the county
357 recorder's office in the county in which the lands platted and laid out are situated.
358 (b) An owner's failure to record a plat within the time period designated by ordinance
359 renders the plat voidable.
360 Section 3. Section **10-9a-608** is amended to read:
361 **10-9a-608. Vacating, altering, or amending a subdivision plat.**
362 (1) (a) A fee owner of land, as shown on the last county assessment roll, in a
363 subdivision that has been laid out and platted as provided in this part may file a written petition
364 with the land use authority to have some or all of the plat vacated, altered, or amended.
365 (b) If a petition is filed under Subsection (1)(a), the land use authority shall hold a
366 public hearing within 45 days after the day on which the petition is filed if:
367 (i) any owner within the plat notifies the municipality of the owner's objection in
368 writing within 10 days of mailed notification; or

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

371 (2) ~~[The]~~ Unless a local ordinance provides otherwise, the public hearing requirement
372 of Subsection (1)(b) does not apply and a land use authority may consider at a public meeting
373 an owner's petition to vacate, alter, or amend a subdivision plat if:

374 (a) the petition seeks to:

375 (i) join two or more of the petitioner fee owner's contiguous~~[-residential]~~ lots; ~~[and]~~

376 (ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not
377 result in a violation of a land use ordinance or a development condition;

378 (iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the
379 adjoining lots or parcels join in the petition, regardless of whether the lots or parcels are located
380 in the same subdivision;

381 (iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction
382 imposed by the local political subdivision; or

383 (v) alter the plat in a manner that does not change existing boundaries or other
384 attributes of lots within the subdivision that are not:

385 (A) owned by the petitioner; or

386 (B) designated as a common area; and

387 (b) notice has been given to adjacent property owners ~~[and pursuant to]~~ in accordance
388 with any applicable local ordinance.

389 (3) Each request to vacate or alter a plat that contains a request to vacate or alter a
390 public street, right-of-way, or easement is also subject to Section 10-9a-609.5.

391 (4) Each petition to vacate, alter, or amend an entire plat or a portion of a plat shall
392 include:

393 (a) the name and address of each owner of record of the land contained in the entire
394 plat; and

395 (b) the signature of each ~~[of these owners]~~ owner who consents to the petition.

396 (5) (a) The owners of record of adjacent parcels that are described by either a metes
397 and bounds description or a recorded plat may exchange title to portions of those parcels if the
398 exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

399 (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if

400 the exchange of title will not result in a violation of any land use ordinance.

401 (c) If an exchange of title is approved under Subsection (5)(b):

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

403 (A) is executed by each owner included in the exchange and by the land use authority;

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

406 (C) recites the descriptions of both the original parcels and the parcels created by the
407 exchange of title; and

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

410 (d) A notice of approval recorded under this Subsection (5) does not act as a
411 conveyance of title to real property and is not required for the recording of a document
412 purporting to convey title to real property.

413 (6) (a) The name of a recorded subdivision may be changed by recording an amended
414 plat making that change, as provided in this section and subject to Subsection (6)(c).

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

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

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

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

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

424 (d) Except as provided in Subsection (6)(a), the recording of a declaration or other
425 document that purports to change the name of a recorded plat is voidable.

426 Section 4. Section **17-27a-103** is amended to read:

427 **17-27a-103. Definitions.**

428 As used in this chapter:

429 (1) "Affected entity" means a county, municipality, local district, special service
430 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal

431 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
432 property owner, property owners association, public utility, or the Utah Department of
433 Transportation, if:

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

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

438 (c) the entity has filed with the county a request for notice during the same calendar
439 year and before the county provides notice to an affected entity in compliance with a
440 requirement imposed under this chapter.

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

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

447 (4) "Charter school" includes:

448 (a) an operating charter school;

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

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

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

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

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

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

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

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

466 (9) "Development activity" means:

467 (a) any construction or expansion of a building, structure, or use that creates additional
468 demand and need for public facilities;

469 (b) any change in use of a building or structure that creates additional demand and need
470 for public facilities; or

471 (c) any change in the use of land that creates additional demand and need for public
472 facilities.

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

476 (b) "Disability" does not include current illegal use of, or addiction to, any federally
477 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
478 802.

479 (11) "Educational facility":

480 (a) means:

481 (i) a school district's building at which pupils assemble to receive instruction in a
482 program for any combination of grades from preschool through grade 12, including
483 kindergarten and a program for children with disabilities;

484 (ii) a structure or facility:

485 (A) located on the same property as a building described in Subsection (11)(a)(i); and

486 (B) used in support of the use of that building; and

487 (iii) a building to provide office and related space to a school district's administrative
488 personnel; and

489 (b) does not include land or a structure, including land or a structure for inventory
490 storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or
491 other use in support of providing instruction to pupils, that is:

492 (i) not located on the same property as a building described in Subsection (11)(a)(i);

493 and

494 (ii) used in support of the purposes of a building described in Subsection (11)(a)(i).

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

498 (13) "Fire authority" means the department, agency, or public entity with responsibility
499 to review and approve the feasibility of fire protection and suppression services for the subject
500 property.

501 (14) "Flood plain" means land that:

502 (a) is within the 100-year flood plain designated by the Federal Emergency
503 Management Agency; or

504 (b) has not been studied or designated by the Federal Emergency Management Agency
505 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
506 the land has characteristics that are similar to those of a 100-year flood plain designated by the
507 Federal Emergency Management Agency.

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

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

511 (17) "Geologic hazard" means:

512 (a) a surface fault rupture;

513 (b) shallow groundwater;

514 (c) liquefaction;

515 (d) a landslide;

516 (e) a debris flow;

517 (f) unstable soil;

518 (g) a rock fall; or

519 (h) any other geologic condition that presents a risk:

520 (i) to life;

521 (ii) of substantial loss of real property; or

522 (iii) of substantial damage to real property.

523 (18) "Internal lot restriction" means a platted note, platted demarcation, or platted

524 designation that:

525 (a) runs with the land; and

526 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
527 the plat; or

528 (ii) designates a development condition that is enclosed within the perimeter of a lot
529 described on the plat.

530 ~~[(18)]~~ (19) "Hookup fee" means a fee for the installation and inspection of any pipe,
531 line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other
532 utility system.

533 ~~[(19)]~~ (20) "Identical plans" means building plans submitted to a county that are
534 substantially identical building plans that were previously submitted to and reviewed and
535 approved by the county and describe a building that is:

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

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

540 ~~[(20)]~~ (21) "Impact fee" means a payment of money imposed under Title 11, Chapter
541 36, Impact Fees Act.

542 ~~[(21)]~~ (22) "Improvement assurance" means a surety bond, letter of credit, cash, or
543 other security:

544 (a) to guaranty the proper completion of an improvement;

545 (b) that is required as a condition precedent to:

546 (i) recording a subdivision plat; or

547 (ii) beginning development activity; and

548 (c) that is offered to a land use authority to induce the land use authority, before actual
549 construction of required improvements, to:

550 (i) consent to the recording of a subdivision plat; or

551 (ii) issue a permit for development activity.

552 ~~[(22)]~~ (23) "Improvement assurance warranty" means a promise that the materials and
553 workmanship of improvements:

554 (a) comport with standards that the county has officially adopted; and

555 (b) will not fail in any material respect within a warranty period.

556 [~~(23)~~] (24) "Interstate pipeline company" means a person or entity engaged in natural
557 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
558 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

559 [~~(24)~~] (25) "Intrastate pipeline company" means a person or entity engaged in natural
560 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
561 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

562 [~~(25)~~] (26) "Land use application" means an application required by a county's land use
563 ordinance.

564 [~~(26)~~] (27) "Land use authority" means a person, board, commission, agency, or other
565 body designated by the local legislative body to act upon a land use application.

566 [~~(27)~~] (28) "Land use ordinance" means a planning, zoning, development, or
567 subdivision ordinance of the county, but does not include the general plan.

568 [~~(28)~~] (29) "Land use permit" means a permit issued by a land use authority.

569 [~~(29)~~] (30) "Legislative body" means the county legislative body, or for a county that
570 has adopted an alternative form of government, the body exercising legislative powers.

571 [~~(30)~~] (31) "Local district" means any entity under Title 17B, Limited Purpose Local
572 Government Entities - Local Districts, and any other governmental or quasi-governmental
573 entity that is not a county, municipality, school district, or the state.

574 [~~(31)~~] (32) "Lot line adjustment" means the relocation of the property boundary line in
575 a subdivision between two adjoining lots with the consent of the owners of record.

576 [~~(32)~~] (33) "Moderate income housing" means housing occupied or reserved for
577 occupancy by households with a gross household income equal to or less than 80% of the
578 median gross income for households of the same size in the county in which the housing is
579 located.

580 [~~(33)~~] (34) "Nominal fee" means a fee that reasonably reimburses a county only for
581 time spent and expenses incurred in:

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

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

585 [~~(34)~~] (35) "Noncomplying structure" means a structure that:

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

590 [~~35~~] (36) "Nonconforming use" means a use of land that:

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

596 [~~36~~] (37) "Official map" means a map drawn by county authorities and recorded in
597 the county recorder's office that:

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

604 [~~37~~] (38) "Person" means an individual, corporation, partnership, organization,
605 association, trust, governmental agency, or any other legal entity.

606 [~~38~~] (39) "Plan for moderate income housing" means a written document adopted by
607 a county legislative body that includes:

608 (a) an estimate of the existing supply of moderate income housing located within the
609 county;
610 (b) an estimate of the need for moderate income housing in the county for the next five
611 years as revised biennially;
612 (c) a survey of total residential land use;
613 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
614 income housing; and
615 (e) a description of the county's program to encourage an adequate supply of moderate
616 income housing.

617 [~~(39)~~] (40) "Plat" means a map or other graphical representation of lands being laid out
618 and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

619 [~~(40)~~] (41) "Potential geologic hazard area" means an area that:

620 (a) is designated by a Utah Geological Survey map, county geologist map, or other
621 relevant map or report as needing further study to determine the area's potential for geologic
622 hazard; or

623 (b) has not been studied by the Utah Geological Survey or a county geologist but
624 presents the potential of geologic hazard because the area has characteristics similar to those of
625 a designated geologic hazard area.

626 [~~(41)~~] (42) "Public agency" means:

627 (a) the federal government;

628 (b) the state;

629 (c) a county, municipality, school district, local district, special service district, or other
630 political subdivision of the state; or

631 (d) a charter school.

632 [~~(42)~~] (43) "Public hearing" means a hearing at which members of the public are
633 provided a reasonable opportunity to comment on the subject of the hearing.

634 [~~(43)~~] (44) "Public meeting" means a meeting that is required to be open to the public
635 under Title 52, Chapter 4, Open and Public Meetings Act.

636 [~~(44)~~] (45) "Receiving zone" means an unincorporated area of a county that the
637 county's land use authority designates as an area in which an owner of land may receive
638 transferrable development rights.

639 [~~(45)~~] (46) "Record of survey map" means a map of a survey of land prepared in
640 accordance with Section 17-23-17.

641 [~~(46)~~] (47) "Residential facility for elderly persons" means a single-family or
642 multiple-family dwelling unit that meets the requirements of Section 17-27a-515, but does not
643 include a health care facility as defined by Section 26-21-2.

644 [~~(47)~~] (48) "Residential facility for persons with a disability" means a residence:

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

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

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

650 [~~(48)~~] (49) "Sanitary sewer authority" means the department, agency, or public entity
651 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
652 wastewater systems.

653 [~~(49)~~] (50) "Sending zone" means an unincorporated area of a county that the county's
654 land use authority designates as an area from which an owner of land may transfer transferrable
655 development rights to an owner of land in a receiving zone.

656 [~~(50)~~] (51) "Specified public agency" means:

- 657 (a) the state;
- 658 (b) a school district; or
- 659 (c) a charter school.

660 [~~(51)~~] (52) "Specified public utility" means an electrical corporation, gas corporation,
661 or telephone corporation, as those terms are defined in Section 54-2-1.

662 [~~(52)~~] (53) "State" includes any department, division, or agency of the state.

663 [~~(53)~~] (54) "Street" means a public right-of-way, including a highway, avenue,
664 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
665 or other way.

666 [~~(54)~~] (55) (a) "Subdivision" means any land that is divided, resubdivided or proposed
667 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
668 purpose, whether immediate or future, for offer, sale, lease, or development either on the
669 installment plan or upon any and all other plans, terms, and conditions.

670 (b) "Subdivision" includes:

- 671 (i) the division or development of land whether by deed, metes and bounds description,
672 devise and testacy, map, plat, or other recorded instrument; and
- 673 (ii) except as provided in Subsection [~~(54)~~] (55)(c), divisions of land for residential and
674 nonresidential uses, including land used or to be used for commercial, agricultural, and
675 industrial purposes.

676 (c) "Subdivision" does not include:

- 677 (i) a bona fide division or partition of agricultural land for agricultural purposes;
- 678 (ii) a recorded agreement between owners of adjoining properties adjusting their

679 mutual boundary if:

680 (A) no new lot is created; and

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

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

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

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

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

689 [~~(A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
690 corporation, interstate pipeline company, or intrastate pipeline company; or]~~

691 (A) an electrical transmission line or a substation;

692 (B) a natural gas pipeline or a regulation station; or

693 [~~(B)~~] (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
694 utility service regeneration, transformation, retransmission, or amplification facility; or

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

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

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

699 (d) The joining of a subdivided parcel of property to another parcel of property that has
700 not been subdivided does not constitute a subdivision under this Subsection [~~(54)~~] (55) as to
701 the unsubdivided parcel of property or subject the unsubdivided parcel to the county's
702 subdivision ordinance.

703 [~~(55)~~] (56) "Township" means a contiguous, geographically defined portion of the
704 unincorporated area of a county, established under this part or reconstituted or reinstated under
705 Section 17-27a-306, with planning and zoning functions as exercised through the township
706 planning commission, as provided in this chapter, but with no legal or political identity
707 separate from the county and no taxing authority, except that "township" means a former
708 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

709 [~~(56)~~] (57) "Transferrable development right" means the entitlement to develop land

710 within a sending zone that would vest according to the county's existing land use ordinances on
711 the date that a completed land use application is filed seeking the approval of development
712 activity on the land.

713 [(57)] (58) "Unincorporated" means the area outside of the incorporated area of a
714 municipality.

715 [(58)] (59) "Water interest" means any right to the beneficial use of water, including:

- 716 (a) each of the rights listed in Section 73-1-11; and
- 717 (b) an ownership interest in the right to the beneficial use of water represented by:
 - 718 (i) a contract; or
 - 719 (ii) a share in a water company, as defined in Section 73-3-3.5.

720 [(59)] (60) "Zoning map" means a map, adopted as part of a land use ordinance, that
721 depicts land use zones, overlays, or districts.

722 Section 5. Section 17-27a-603 is amended to read:

723 **17-27a-603. Plat required when land is subdivided -- Approval of plat --**

724 **Recording plat.**

725 (1) Unless exempt under Section 17-27a-605 or excluded from the definition of
726 subdivision under [~~Subsection 17-27a-103(48)~~] Section 17-27a-103, whenever any land is laid
727 out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

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

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

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

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

739 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's
740 ordinances and this part and has been approved by the culinary water authority and the sanitary

741 sewer authority, the county shall approve the plat.

742 (b) Counties are encouraged to receive a recommendation from the fire authority before
743 approving a plat.

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

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

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

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

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

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

756 (c) (i) As applicable, the owner or operator of the underground and utility facilities
757 shall approve the:

758 (A) boundary, course, dimensions, and intended use of the right-of-way and easement
759 grants of record;

760 (B) location of existing underground and utility facilities; and

761 (C) conditions or restrictions governing the location of the facilities within the
762 right-of-way, and easement grants of records, and utility facilities within the subdivision.

763 (ii) The approval of an owner or operator under Subsection (4)(c)(i):

764 (A) indicates only that the plat approximates the location of the existing underground
765 and utility facilities but does not warrant or verify their precise location; and

766 (B) does not affect a right that the owner or operator has under:

767 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

768 (II) a recorded easement or right-of-way;

769 (III) the law applicable to prescriptive rights; or

770 (IV) any other provision of law.

771 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the

772 land shall, within the time period designated by ordinance, record the plat in the county
773 recorder's office in the county in which the lands platted and laid out are situated.

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

776 Section 6. Section **17-27a-608** is amended to read:

777 **17-27a-608. Vacating, altering, or amending a subdivision plat.**

778 (1) (a) A fee owner of land, as shown on the last county assessment roll, in a
779 subdivision that has been laid out and platted as provided in this part may file a written petition
780 with the land use authority to have some or all of the plat vacated, altered, or amended.

781 (b) If a petition is filed under Subsection (1)(a), the land use authority shall hold a
782 public hearing within 45 days after the day on which the petition is filed if:

783 (i) any owner within the plat notifies the county of the owner's objection in writing
784 within 10 days of mailed notification; or

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

787 (2) ~~[The]~~ Unless a local ordinance provides otherwise, the public hearing requirement
788 of Subsection (1)(b) does not apply and a land use authority may consider at a public meeting
789 an owner's petition to vacate, alter, or amend a subdivision plat if:

790 (a) the petition seeks to:

791 (i) join two or more of the petitioning fee owner's contiguous~~[-, residential]~~ lots; ~~[and]~~

792 (ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not
793 result in a violation of a land use ordinance or a development condition;

794 (iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the
795 adjoining lots or parcels join the petition, regardless of whether the lots or parcels are located in
796 the same subdivision;

797 (iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction
798 imposed by the local political subdivision; or

799 (v) alter the plat in a manner that does not change existing boundaries or other
800 attributes of lots within the subdivision that are not:

801 (A) owned by the petitioner; or

802 (B) designated as a common area; and

803 (b) notice has been given to adjacent property owners [~~and pursuant to~~] in accordance
804 with any applicable local ordinance.

805 (3) Each request to vacate or alter a plat that contains a request to vacate or alter a
806 public street, right-of-way, or easement is also subject to Section 17-27a-609.5.

807 (4) Each petition to vacate, alter, or amend an entire plat or a portion of a plat shall
808 include:

809 (a) the name and address of each owner of record of the land contained in the entire
810 plat; and

811 (b) the signature of each [~~of these owners~~] owner who consents to the petition.

812 (5) (a) The owners of record of adjacent parcels that are described by either a metes
813 and bounds description or a recorded plat may exchange title to portions of those parcels if the
814 exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

815 (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if
816 the exchange of title will not result in a violation of any land use ordinance.

817 (c) If an exchange of title is approved under Subsection (5)(b):

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

819 (A) is executed by each owner included in the exchange and by the land use authority;

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

822 (C) recites the descriptions of both the original parcels and the parcels created by the
823 exchange of title; and

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

826 (d) A notice of approval recorded under this Subsection (5) does not act as a
827 conveyance of title to real property and is not required for the recording of a document
828 purporting to convey title to real property.

829 (6) (a) The name of a recorded subdivision may be changed by recording an amended
830 plat making that change, as provided in this section and subject to Subsection (6)(c).

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

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

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

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

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

840 (d) Except as provided in Subsection (6)(a), the recording of a declaration or other
841 document that purports to change the name of a recorded plat is voidable.

Legislative Review Note
as of 2-1-10 11:59 AM

Office of Legislative Research and General Counsel

S.B. 126 - Subdivision Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
