{deleted text} shows text that was in HB0487 but was deleted in HB0487S01.

inserted text shows text that was not in HB0487 but was inserted into HB0487S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Bill Wright proposes the following substitute bill:

COUNTY USE OF LAND USE ORDINANCE

2011 GENERAL SESSION STATE OF UTAH

Chief Sponsor: Bill Wright

| Senate | Sponsor: | |
|--------|----------|--|
| | - | |

LONG TITLE

General Description:

This bill amends provisions relating to county land use ordinances.

Highlighted Provisions:

This bill:

- ► {defines terms;
- prohibits a county, a county recorder, or a land use authority from requiring that a person other than the current} provides that an owner of a platted lot is the owner of record {of property identified on a plat submitted for approval sign or dedicate the plat} sufficient to re-subdivide the lot in certain circumstances;
- amends exemptions from a plat requirement provisions; and
- make technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 17-27a-103, as last amended by Laws of Utah 2010, Chapters 269 and 330
- † 17-27a-603, as last amended by Laws of Utah 2010, Chapters 269 and 381

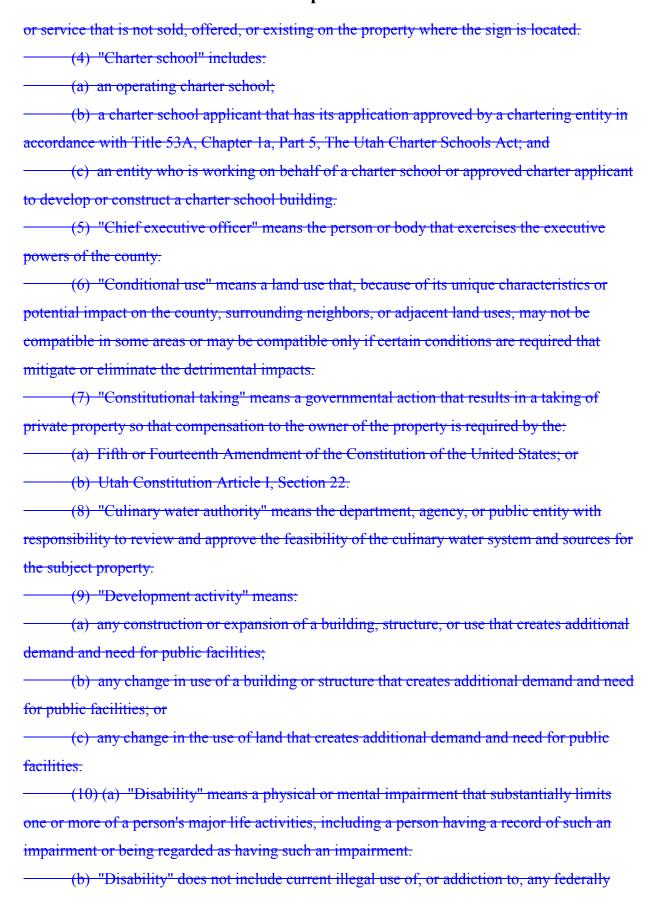
17-27a-604, as last amended by Laws of Utah 2010, Chapter 381

17-27a-605, as last amended by Laws of Utah 2010, Chapter 381

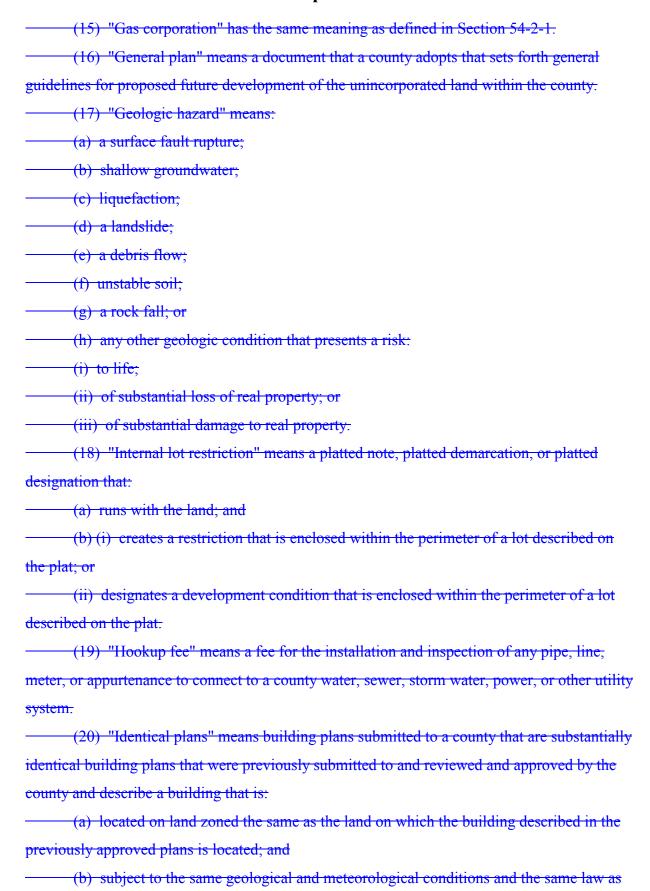
Be it enacted by the Legislature of the state of Utah:

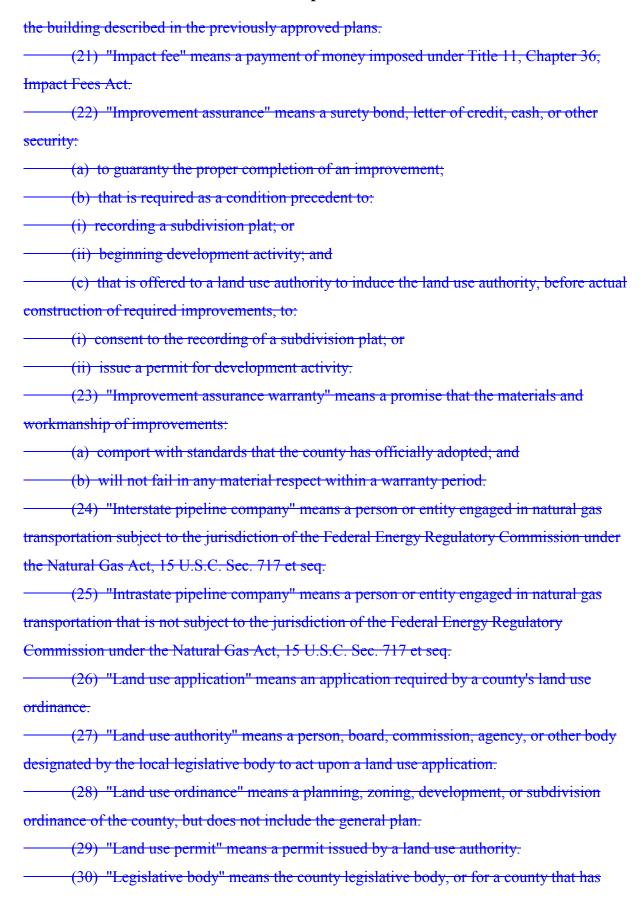
Section 1. Section $\frac{17-27a-103}{17-27a-603}$ is amended to read:

- { 17-27a-103. Definitions.
- As used in this chapter:
- (1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:
- (a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
- (b) the entity has filed with the county a copy of the entity's general or long-range plan; or
- (c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter:
- (2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.
- (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product,



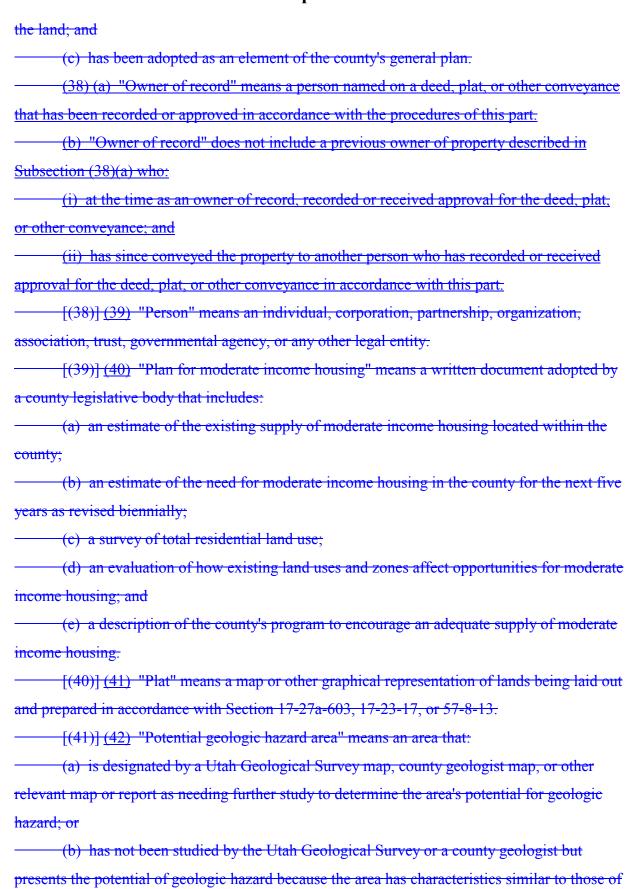
controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802. (11) "Educational facility": (a) means: (i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities; (ii) a structure or facility: (A) located on the same property as a building described in Subsection (11)(a)(i); and (B) used in support of the use of that building; and (iii) a building to provide office and related space to a school district's administrative personnel; and (b) does not include land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is: (i) not located on the same property as a building described in Subsection (11)(a)(i); and (ii) used in support of the purposes of a building described in Subsection (11)(a)(i). (12) "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently. (13) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property. (14) "Flood plain" means land that: (a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or (b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

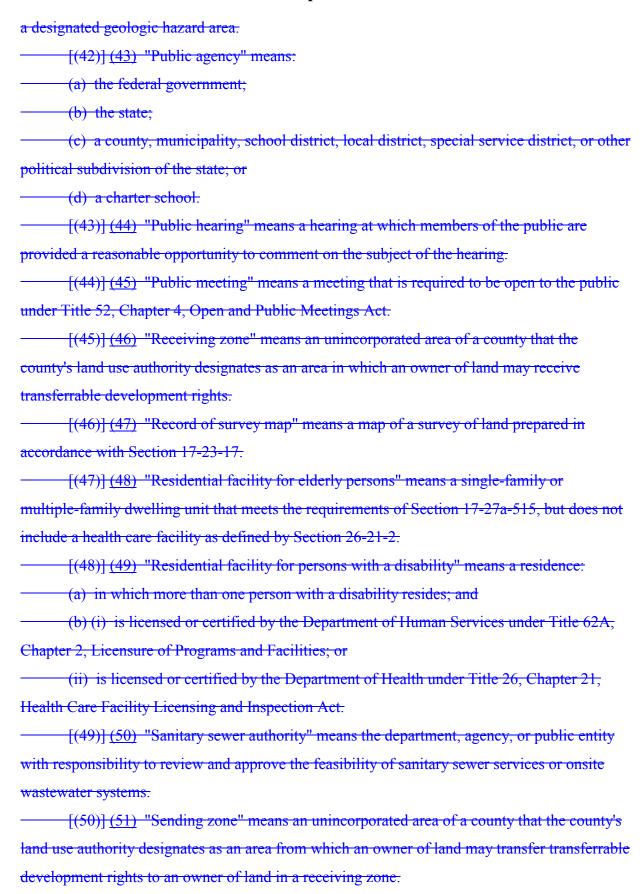


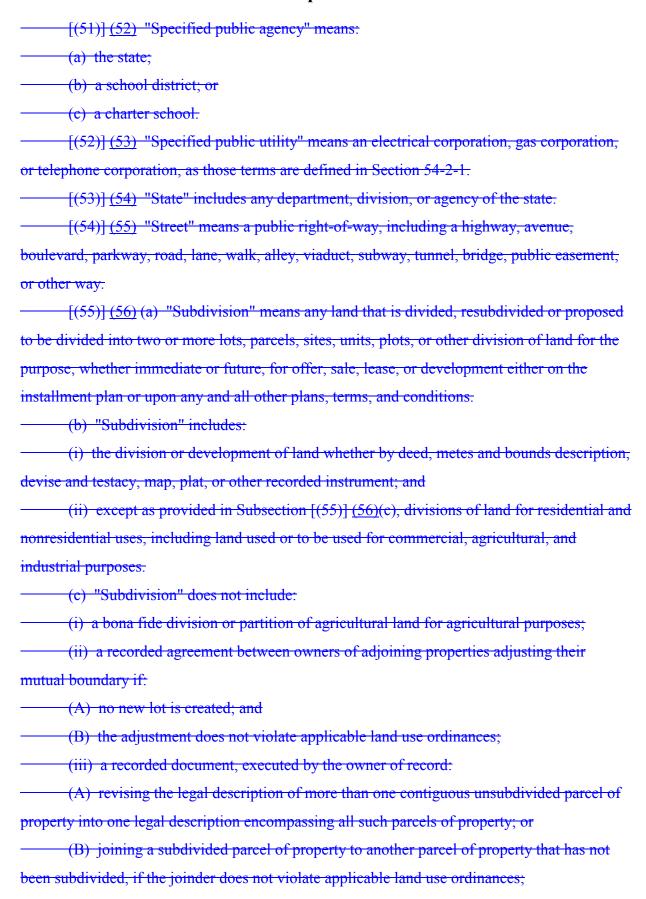


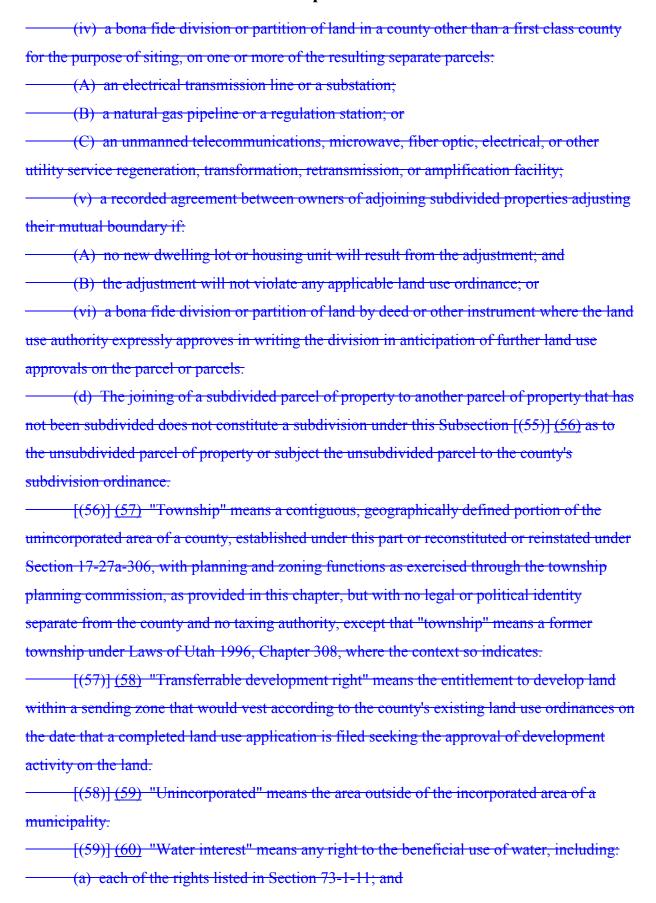
adopted an alternative form of government, the body exercising legislative powers. (31) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state. (32) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record. (33) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located. (34) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in: (a) verifying that building plans are identical plans; and (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans. (35) "Noncomplying structure" means a structure that: (a) legally existed before its current land use designation; and (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land. (36) "Nonconforming use" means a use of land that: (a) legally existed before its current land use designation; (b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land. (37) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that: (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities; (b) provides a basis for restricting development in designated rights-of-way or between

designated setbacks to allow the government authorities time to purchase or otherwise reserve









- (b) an ownership interest in the right to the beneficial use of water represented by:
 (i) a contract; or
 (ii) a share in a water company, as defined in Section 73-3-3.5.
 [(60)] (61) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.
 - Section 2. Section 17-27a-603 is amended to read:

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

- (1) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:
- (a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;
- (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;
- (c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and
- (d) every existing right-of-way and easement grant of record for underground facilities, as defined in Section 54-8a-2, and for other utility facilities.
- (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority and the sanitary sewer authority, the county shall approve the plat.
- (b) Counties are encouraged to receive a recommendation from the fire authority before approving a plat.
- (3) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.
 - (4) (a) A plat may not be submitted to a county recorder for recording unless, subject to

Subsection 17-27a-604(2):

- (i) prior to recordation, each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and
- (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as provided by law.
 - (b) The surveyor making the plat shall certify that the surveyor:
- (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;
- (ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and
 - (iii) has placed monuments as represented on the plat.
- (c) (i) As applicable, the owner or operator of the underground and utility facilities shall approve the:
- (A) boundary, course, dimensions, and intended use of the right-of-way and easement grants of record;
 - (B) location of existing underground and utility facilities; and
- (C) conditions or restrictions governing the location of the facilities within the right-of-way, and easement grants of records, and utility facilities within the subdivision.
 - (ii) The approval of an owner or operator under Subsection (4)(c)(i):
- (A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and
 - (B) does not affect a right that the owner or operator has under:
 - (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;
 - (II) a recorded easement or right-of-way;
 - (III) the law applicable to prescriptive rights; or
 - (IV) any other provision of law.
- (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, within the time period designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.
- (b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

Section $\frac{3}{2}$. Section 17-27a-604 is amended to read:

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

- (1) A person may not submit a subdivision plat to the county recorder's office for recording unless:
 - (a) the person has complied with the requirements of Subsection 17-27a-603(4)(a);
 - (b) the plat has been approved by:
- (i) the land use authority of the county in whose unincorporated area the land described in the plat is located; and
 - (ii) other officers that the county designates in its ordinance; and
- (c) all approvals described in Subsection (1)(b) are entered in writing on the plat by designated officers.
- (2) {A county, county recorder, or land use authority may not require that a person other than the current} An owner of a platted lot is the owner of record {of property identified on a plat submitted for approval sign or dedicate the plat} sufficient to re-subdivide the lot if the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a, Community Association Act.
 - [(2)] (3) A plat recorded without the signatures required under this section is void.
 - [(3)] (4) A transfer of land pursuant to a void plat is voidable.

Section $\frac{4}{3}$. Section 17-27a-605 is amended to read:

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

- (1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority {{} may{} shall} approve the subdivision of unincorporated land into 10 lots or less without a plat, by certifying in writing that:
 - (a) the county has provided notice as required by ordinance; and
 - (b) the proposed subdivision:
- (i) is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;
 - (ii) has been approved by the culinary water authority and the sanitary sewer authority;
 - (iii) is located in a zoned area; and
- (iv) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

- (2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 17-27a-603 if the lot or parcel:
 - (i) qualifies as land in agricultural use under Section 59-2-502;
 - (ii) meets the minimum size requirement of applicable land use ordinances; and
 - (iii) is not used and will not be used for any nonagricultural purpose.
- (b) The boundaries of each lot or parcel exempted under Subsection (2)(a) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under Section 17-27a-604, shall be recorded with the county recorder.
- (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the county [may] shall require the lot or parcel to comply with the requirements of Section 17-27a-603.
- (3) (a) Except as provided in Subsection (4), a document recorded in the county recorder's office that divides property by a metes and bounds description does not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.
- (b) The absence of the certificate or written approval required by Subsection (1) does not:
 - (i) prohibit the county recorder from recording a document; or
 - (ii) affect the validity of a recorded document.
- (c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached in accordance with Section 57-3-106.
 - (4) (a) As used in this Subsection (4):
 - (i) "Divided land" means land that:
 - (A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and
 - (B) has been divided by a minor subdivision.
- (ii) "Land to be divided" means land that is proposed to be divided by a minor subdivision.
- (iii) "Minor subdivision" means a division of at least 100 contiguous acres of agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that, after the division, is separate from the remainder of the original 100 or more contiguous acres

of agricultural land.

- (iv) "Minor subdivision lot" means a lot created by a minor subdivision.
- (b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least 100 contiguous acres of agricultural land may make a minor subdivision by submitting for recording in the office of the recorder of the county in which the land to be divided is located:
 - (i) a recordable deed containing the legal description of the minor subdivision lot; and
 - (ii) a notice:
 - (A) indicating that the owner of the land to be divided is making a minor subdivision;
- (B) referring specifically to this section as the authority for making the minor subdivision; and
 - (C) containing the legal description of:
 - (I) the land to be divided; and
 - (II) the minor subdivision lot.
 - (c) A minor subdivision lot:
 - (i) may not be less than one acre in size;
 - (ii) may not be within 1,000 feet of another minor subdivision lot; and
- (iii) is not subject to the subdivision ordinance of the county in which the minor subdivision lot is located.
 - (d) Land to be divided by a minor subdivision may not include divided land.
 - (e) A county:
 - (i) may not deny a building permit to an owner of a minor subdivision lot based on:
 - (A) the lot's status as a minor subdivision lot; or
 - (B) the absence of standards described in Subsection (4)(e)(ii); and
- (ii) may, in connection with the issuance of a building permit, subject a minor subdivision lot to reasonable health, safety, and access standards that the county has established and made public.

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