

# HB0487S01 compared with HB0487

~~{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.

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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: \_\_\_\_\_

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### 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:

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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

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

Section 1. Section ~~{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,~~

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~~or service that is not sold, offered, or existing on the property where the sign is located.~~

~~—— (4) "Charter school" includes:~~

~~—— (a) an operating charter school;~~

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

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

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

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

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

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

~~—— (b) Utah Constitution Article I, Section 22.~~

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

~~—— (9) "Development activity" means:~~

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

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

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

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

~~—— (b) "Disability" does not include current illegal use of, or addiction to, any federally~~

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~~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.~~

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- ~~———— (15) "Gas corporation" has the same meaning as defined in Section 54-2-1.~~
- ~~———— (16) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of the unincorporated land within the county.~~
- ~~———— (17) "Geologic hazard" means:~~
  - ~~———— (a) a surface fault rupture;~~
  - ~~———— (b) shallow groundwater;~~
  - ~~———— (c) liquefaction;~~
  - ~~———— (d) a landslide;~~
  - ~~———— (e) a debris flow;~~
  - ~~———— (f) unstable soil;~~
  - ~~———— (g) a rock fall; or~~
  - ~~———— (h) any other geologic condition that presents a risk:~~
    - ~~———— (i) to life;~~
    - ~~———— (ii) of substantial loss of real property; or~~
    - ~~———— (iii) of substantial damage to real property.~~
- ~~———— (18) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:~~
  - ~~———— (a) runs with the land; and~~
  - ~~———— (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or~~
    - ~~———— (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.~~
- ~~———— (19) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.~~
- ~~———— (20) "Identical plans" means building plans submitted to a county that are substantially identical building plans that were previously submitted to and reviewed and approved by the county and describe a building that is:~~
  - ~~———— (a) located on land zoned the same as the land on which the building described in the previously approved plans is located; and~~
  - ~~———— (b) subject to the same geological and meteorological conditions and the same law as~~

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~~the building described in the previously approved plans:~~

~~—— (21) "Impact fee" means a payment of money imposed under Title 11, Chapter 36, Impact Fees Act.~~

~~—— (22) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:~~

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

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

~~—— (i) recording a subdivision plat; or~~

~~—— (ii) beginning development activity; and~~

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

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

~~—— (ii) issue a permit for development activity.~~

~~—— (23) "Improvement assurance warranty" means a promise that the materials and workmanship of improvements:~~

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

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

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

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

~~—— (26) "Land use application" means an application required by a county's land use ordinance.~~

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

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

~~—— (29) "Land use permit" means a permit issued by a land use authority.~~

~~—— (30) "Legislative body" means the county legislative body, or for a county that has~~

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~~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~~

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the land; and

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

~~\_\_\_\_\_ (38) (a) "Owner of record" means a person named on a deed, plat, or other conveyance that has been recorded or approved in accordance with the procedures of this part.~~

~~\_\_\_\_\_ (b) "Owner of record" does not include a previous owner of property described in Subsection (38)(a) who:~~

~~\_\_\_\_\_ (i) at the time as an owner of record, recorded or received approval for the deed, plat, or other conveyance; and~~

~~\_\_\_\_\_ (ii) has since conveyed the property to another person who has recorded or received approval for the deed, plat, or other conveyance in accordance with this part.~~

~~\_\_\_\_\_ [(38)] (39) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.~~

~~\_\_\_\_\_ [(39)] (40) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:~~

~~\_\_\_\_\_ (a) an estimate of the existing supply of moderate income housing located within the county;~~

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

~~\_\_\_\_\_ (c) a survey of total residential land use;~~

~~\_\_\_\_\_ (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and~~

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

~~\_\_\_\_\_ [(40)] (41) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.~~

~~\_\_\_\_\_ [(41)] (42) "Potential geologic hazard area" means an area that:~~

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

~~\_\_\_\_\_ (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of~~



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~~a designated geologic hazard area:~~

~~—— [(42)] (43) "Public agency" means:~~

~~—— (a) the federal government;~~

~~—— (b) the state;~~

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

~~—— (d) a charter school.~~

~~—— [(43)] (44) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.~~

~~—— [(44)] (45) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.~~

~~—— [(45)] (46) "Receiving zone" means an unincorporated area of a county that the county's land use authority designates as an area in which an owner of land may receive transferrable development rights.~~

~~—— [(46)] (47) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.~~

~~—— [(47)] (48) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Section 17-27a-515, but does not include a health care facility as defined by Section 26-21-2.~~

~~—— [(48)] (49) "Residential facility for persons with a disability" means a residence:~~

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

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

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

~~—— [(49)] (50) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.~~

~~—— [(50)] (51) "Sending zone" means an unincorporated area of a county that the county's land use authority designates as an area from which an owner of land may transfer transferrable development rights to an owner of land in a receiving zone.~~

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~~\_\_\_\_\_ [(51)] (52) "Specified public agency" means:~~

~~\_\_\_\_\_ (a) the state;~~

~~\_\_\_\_\_ (b) a school district; or~~

~~\_\_\_\_\_ (c) a charter school.~~

~~\_\_\_\_\_ [(52)] (53) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.~~

~~\_\_\_\_\_ [(53)] (54) "State" includes any department, division, or agency of the state.~~

~~\_\_\_\_\_ [(54)] (55) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.~~

~~\_\_\_\_\_ [(55)] (56) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.~~

~~\_\_\_\_\_ (b) "Subdivision" includes:~~

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

~~\_\_\_\_\_ (ii) except as provided in Subsection [(55)] (56)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.~~

~~\_\_\_\_\_ (c) "Subdivision" does not include:~~

~~\_\_\_\_\_ (i) a bona fide division or partition of agricultural land for agricultural purposes;~~

~~\_\_\_\_\_ (ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:~~

~~\_\_\_\_\_ (A) no new lot is created; and~~

~~\_\_\_\_\_ (B) the adjustment does not violate applicable land use ordinances;~~

~~\_\_\_\_\_ (iii) a recorded document, executed by the owner of record:~~

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

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

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- ~~—— (iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:~~
  - ~~—— (A) an electrical transmission line or a substation;~~
  - ~~—— (B) a natural gas pipeline or a regulation station; or~~
  - ~~—— (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;~~
- ~~—— (v) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:~~
  - ~~—— (A) no new dwelling lot or housing unit will result from the adjustment; and~~
  - ~~—— (B) the adjustment will not violate any applicable land use ordinance; or~~
- ~~—— (vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels.~~
- ~~—— (d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection [(55)] (56) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.~~
- ~~—— [(56)] (57) "Township" means a contiguous, geographically defined portion of the unincorporated area of a county, established under this part or reconstituted or reinstated under Section 17-27a-306, with planning and zoning functions as exercised through the township planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority, except that "township" means a former township under Laws of Utah 1996, Chapter 308, where the context so indicates.~~
- ~~—— [(57)] (58) "Transferrable development right" means the entitlement to develop land within a sending zone that would vest according to the county's existing land use ordinances on the date that a completed land use application is filed seeking the approval of development activity on the land.~~
- ~~—— [(58)] (59) "Unincorporated" means the area outside of the incorporated area of a municipality.~~
- ~~—— [(59)] (60) "Water interest" means any right to the beneficial use of water, including:~~
  - ~~—— (a) each of the rights listed in Section 73-1-11; and~~

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~~(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

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### 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.

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Section ~~{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 ~~{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.

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(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

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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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**HB0487S01 compared with HB0487**

~~as of 2-21-11 9:26 AM~~

~~Office of Legislative Research and General Counsel}~~