

Representative Gage Froerer proposes the following substitute bill:

LAND USE AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill amends provisions related to land use.

Highlighted Provisions:

This bill:

- ▶ clarifies the definition of land use authority;
- ▶ allows a land use applicant a substantive review of the application in certain circumstances;
- ▶ requires the land use authority to provide notice of a petition to vacate or amend a plat to each entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the vacation or amendment of the plat;

§→ [→ ~~requires a municipality and a county, if enacting an ordinance that imposes a stricter requirement or higher standard than is required by the land use chapters in state statute, to justify the stricter requirement or higher standard;~~ ←§

- ▶ provides that a recorded, amended plat vacates a previously recorded plat;
- ▶ provides that a recorded vacating ordinance replaces a previously recorded plat described in the vacating ordinance;
- ▶ requires that an amended plat be signed by the land use authority; and

2nd Sub. H.B. 220



26 ▶ makes technical corrections.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **10-9a-103**, as last amended by Laws of Utah 2013, Chapters 309 and 334

34 ~~§→ [**10-9a-104**, as last amended by Laws of Utah 2013, Chapter 309] ←§~~

35 **10-9a-509**, as last amended by Laws of Utah 2012, Chapter 216

36 **10-9a-608**, as last amended by Laws of Utah 2010, Chapters 269 and 381

37 **10-9a-609**, as last amended by Laws of Utah 2010, Chapter 381

38 **17-27a-103**, as last amended by Laws of Utah 2013, Chapters 309, 334, and 476

39 ~~§→ [**17-27a-104**, as last amended by Laws of Utah 2013, Chapter 309] ←§~~

40 **17-27a-508**, as last amended by Laws of Utah 2012, Chapter 216

41 **17-27a-608**, as last amended by Laws of Utah 2010, Chapters 269 and 381

42 **17-27a-609**, as last amended by Laws of Utah 2010, Chapter 381



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

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

46 **10-9a-103. Definitions.**

47 As used in this chapter:

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

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

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

336 commonly associated with dissolution and collapse features.

337 (54) "Therapeutic school" means a residential group living facility:

338 (a) for four or more individuals who are not related to:

339 (i) the owner of the facility; or

340 (ii) the primary service provider of the facility;

341 (b) that serves students who have a history of failing to function:

342 (i) at home;

343 (ii) in a public school; or

344 (iii) in a nonresidential private school; and

345 (c) that offers:

346 (i) room and board; and

347 (ii) an academic education integrated with:

348 (A) specialized structure and supervision; or

349 (B) services or treatment related to a disability, an emotional development, a

350 behavioral development, a familial development, or a social development.

351 (55) "Transferable development right" means a right to develop and use land that

352 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer

353 land use rights from a designated sending zone to a designated receiving zone.

354 (56) "Unincorporated" means the area outside of the incorporated area of a city or

355 town.

356 (57) "Water interest" means any right to the beneficial use of water, including:

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

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

359 (i) a contract; or

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

361 (58) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts

362 land use zones, overlays, or districts.

363 ~~§→ [Section 2. Section 10-9a-104 is amended to read:~~

364 ~~10-9a-104. Stricter requirements.~~

365 ~~(1) Except as provided in Subsection (2), a municipality may enact an ordinance~~

366 ~~imposing a stricter [requirements] requirement or higher [standards] standard than [are] is~~ ←§

367 ~~§→required by this chapter[.], if the municipality:~~
 368 ~~—— (a) prepares in writing a justification of why imposing a stricter requirement or higher~~
 369 ~~standard is necessary;~~
 370 ~~—— (b) includes the written justification under Subsection (1)(a) with each publication of~~
 371 ~~the proposed or adopted ordinance being justified; and~~
 372 ~~—— (c) holds a public hearing on the written justification under Subsection (1)(a)~~
 373 ~~concurrent with the public hearing on the ordinance being justified.~~
 374 ~~—— (2) A municipality may not impose stricter requirements or higher standards than are~~
 375 ~~required by:~~
 376 ~~—— (a) Section 10-9a-305; and~~
 377 ~~—— (b) Section 10-9a-514.~~
 378 ~~—— (3) Before January 1, 2015, a municipality shall, for each ordinance in effect on May~~
 379 ~~13, 2014, that imposes a stricter requirement or higher standard than is required by this chapter:~~
 380 ~~—— (a) prepare in writing a justification of why a stricter requirement or higher standard is~~
 381 ~~necessary; and~~
 382 ~~—— (b) include the written justification under Subsection (3)(a) with the ordinance being~~
 383 ~~justified with each publication of the ordinance.] ←§~~

384 Section ~~§→~~ [3] 2 ←§ . Section 10-9a-509 is amended to read:

385 **10-9a-509. Applicant's entitlement to land use application approval -- Exceptions**
 386 **-- Application relating to land in a high priority transportation corridor -- Municipality's**
 387 **requirements and limitations -- Vesting upon submission of development plan and**
 388 **schedule.**

389 (1) (a) (i) An applicant who has filed a complete land use application, including the
 390 payment of all application fees, is entitled to substantive land use review of the land use
 391 application under the land use laws in effect on the date that the application is complete and as
 392 further provided in this section.

393 (ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
 394 land use application if the application conforms to the requirements of the municipality's land
 395 use maps, zoning map, a municipal specification for public improvements applicable to a
 396 subdivision or development, and an applicable land use ordinance in effect when a complete
 397 application is submitted and all application fees have been paid, unless:

491 specified public agency vests in the municipality's applicable land use maps, zoning map,
 492 hookup fees, impact fees, other applicable development fees, and land use ordinances in effect
 493 on the date of submission.

494 Section ~~§~~ ~~→~~ [4] 3 ~~←~~ ~~§~~ . Section 10-9a-608 is amended to read:

495 **10-9a-608. Vacating, altering, or amending a subdivision plat.**

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

499 (b) If a petition is filed under Subsection (1)(a), the land use authority shall provide
 500 notice of the petition by mail, email, or other effective means to each ~~§~~ affected ~~←~~ ~~§~~ entity that
 500a provides a
 501 service to an owner of record of the portion of the plat that is being vacated or amended at least
 502 10 calendar days before the land use authority may approve the vacation or amendment of the
 503 plat.

504 [~~(b)~~] (c) If a petition is filed under Subsection (1)(a), the land use authority shall hold a
 505 public hearing within 45 days after the day on which the petition is filed if:

506 (i) any owner within the plat notifies the municipality of the owner's objection in
 507 writing within 10 days of mailed notification; or

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

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

513 (a) the petition seeks to:

514 (i) join two or more of the petitioner fee owner's contiguous lots;

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

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

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

553 plat making that change, as provided in this section and subject to Subsection (6)(c).

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

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

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

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

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

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

565 Section ~~§~~ → [5] 4 ← ~~§~~ . Section 10-9a-609 is amended to read:

566 **10-9a-609. Land use authority approval of vacation or amendment of plat --**

567 **Recording the amended plat.**

568 (1) The land use authority may approve the vacation or amendment of a plat by signing
569 an amended plat showing the vacation or amendment if the land use authority finds that:

570 (a) there is good cause for the vacation or amendment; and

571 (b) no public street, right-of-way, or easement has been vacated or amended.

572 (2) (a) The land use authority shall ensure that the amended plat showing the vacation
573 or amendment is recorded in the office of the county recorder in which the land is located.

574 (b) If the amended plat is approved and recorded in accordance with this section, the
575 recorded plat shall vacate, supersede, and replace any contrary provision in a previously
576 recorded plat of the same land.

577 (3) (a) A legislative body may vacate a subdivision or a portion of a subdivision by
578 recording in the county recorder's office an ordinance describing the subdivision or the portion
579 being vacated.

580 (b) The recorded vacating ordinance shall replace a previously recorded plat described
581 in the vacating ordinance.

582 (4) An amended plat may not be submitted to the county recorder for recording unless
583 it is ~~[signed, acknowledged, and dedicated by each owner of record of the portion of the plat~~

584 ~~that is amended.]:~~

585 (a) signed by the land use authority; and

586 (b) signed, acknowledged, and dedicated by each owner of record of the portion of the
587 plat that is amended.

588 (5) A management committee may sign and dedicate an amended plat as provided in
589 Title 57, Chapter 8, Condominium Ownership Act.

590 (6) A plat may be corrected as provided in Section 57-3-106.

591 Section ~~§~~ → [6] 5 ← ~~§~~ . Section 17-27a-103 is amended to read:

592 **17-27a-103. Definitions.**

593 As used in this chapter:

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

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

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

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

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

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

612 (4) (a) "Charter school" means:

613 (i) an operating charter school;

614 (ii) a charter school applicant that has its application approved by a chartering entity in

- 925 (a) each of the rights listed in Section 73-1-11; and
 926 (b) an ownership interest in the right to the beneficial use of water represented by:
 927 (i) a contract; or
 928 (ii) a share in a water company, as defined in Section 73-3-3.5.
 929 (64) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
 930 land use zones, overlays, or districts.

931 **§→ [Section 7. Section 17-27a-104 is amended to read:**

932 ~~17-27a-104. Stricter requirements.~~

933 ~~(1) Except as provided in Subsection (2), a county may enact an ordinance imposing a~~
 934 ~~stricter [requirements] requirement or higher [standards] standard than [are] is required by this~~
 935 ~~chapter[.], if the county:~~

936 ~~(a) prepares in writing a justification of why imposing a stricter requirement or higher~~
 937 ~~standard is necessary;~~

938 ~~(b) includes the written justification under Subsection (1)(a) with each publication of~~
 939 ~~the proposed or adopted ordinance being justified; and~~

940 ~~(c) holds a public hearing on the written justification under Subsection (1)(a)~~
 941 ~~concurrent with the public hearing on the ordinance being justified.~~

942 ~~(2) A county may not impose stricter requirements or higher standards than are~~
 943 ~~required by:~~

944 ~~(a) Section 17-27a-305; and~~

945 ~~(b) Section 17-27a-513.~~

946 ~~(3) Before January 1, 2015, a county shall, for each ordinance in effect on May 13,~~
 947 ~~2014, that imposes a stricter requirement or higher standard than is required by this chapter:~~

948 ~~(a) prepare in writing a justification of why a stricter requirement or higher standard is~~
 949 ~~necessary; and~~

950 ~~(b) include the written justification under Subsection (3)(a) with the ordinance being~~
 951 ~~justified with each publication of the ordinance.] ←§~~

952 Section **§→ [8] 6 ←§** . Section 17-27a-508 is amended to read:

953 **17-27a-508. Applicant's entitlement to land use application approval --**

954 **Exceptions -- Application relating to land in a high priority transportation corridor --**

955 **County's requirements and limitations -- Vesting upon submission of development plan**

1049 subdivision plat; or

1050 (ii) in this chapter or the county's ordinances.

1051 (2) A county is bound by the terms and standards of applicable land use ordinances and
1052 shall comply with mandatory provisions of those ordinances.

1053 (3) A county may not, as a condition of land use application approval, require a person
1054 filing a land use application to obtain documentation regarding a school district's willingness,
1055 capacity, or ability to serve the development proposed in the land use application.

1056 (4) Upon a specified public agency's submission of a development plan and schedule as
1057 required in Subsection 17-27a-305(8) that complies with the requirements of that subsection,
1058 the specified public agency vests in the county's applicable land use maps, zoning map, hookup
1059 fees, impact fees, other applicable development fees, and land use ordinances in effect on the
1060 date of submission.

1061 Section ~~§~~ [9] 7 ~~←~~ ~~§~~ . Section 17-27a-608 is amended to read:

1062 **17-27a-608. Vacating or amending a subdivision plat.**

1063 (1) (a) A fee owner of land, as shown on the last county assessment roll, in a
1064 subdivision that has been laid out and platted as provided in this part may file a written petition
1065 with the land use authority to have some or all of the plat vacated or amended.

1066 (b) If a petition is filed under Subsection (1)(a), the land use authority shall provide
1067 notice of the petition by mail, email, or other effective means to each ~~§~~ affected ~~←~~ ~~§~~ entity that
1068 provides a
1069 service to an owner of record of the portion of the plat that is being vacated or amended at least
1070 10 calendar days before the land use authority may approve the vacation or amendment of the
1071 plat.

1071 [~~(b)~~] (c) If a petition is filed under Subsection (1)(a), the land use authority shall hold a
1072 public hearing within 45 days after the day on which the petition is filed if:

1073 (i) any owner within the plat notifies the county of the owner's objection in writing
1074 within 10 days of mailed notification; or

1075 (ii) a public hearing is required because all of the owners in the subdivision have not
1076 signed the revised plat.

1077 (2) Unless a local ordinance provides otherwise, the public hearing requirement of
1078 Subsection (1)[~~(b)~~](c) does not apply and a land use authority may consider at a public meeting
1079 an owner's petition to vacate or amend a subdivision plat if:

1111 (B) contains an acknowledgment for each party executing the notice in accordance with
 1112 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

1113 (C) recites the descriptions of both the original parcels and the parcels created by the
 1114 exchange of title; and

1115 (ii) a document of conveyance of title reflecting the approved change shall be recorded
 1116 in the office of the county recorder.

1117 (d) A notice of approval recorded under this Subsection (5) does not act as a
 1118 conveyance of title to real property and is not required to record a document conveying title to
 1119 real property.

1120 (6) (a) The name of a recorded subdivision may be changed by recording an amended
 1121 plat making that change, as provided in this section and subject to Subsection (6)(c).

1122 (b) The surveyor preparing the amended plat shall certify that the surveyor:

1123 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
 1124 Professional Land Surveyors Licensing Act;

1125 (ii) has completed a survey of the property described on the plat in accordance with
 1126 Section 17-23-17 and has verified all measurements; and

1127 (iii) has placed monuments as represented on the plat.

1128 (c) An owner of land may not submit for recording an amended plat that gives the
 1129 subdivision described in the amended plat the same name as a subdivision recorded in the
 1130 county recorder's office.

1131 (d) Except as provided in Subsection (6)(a), the recording of a declaration or other
 1132 document that purports to change the name of a recorded plat is void.

1133 Section ~~§ 17-27a-609~~ **§ 17-27a-609** is amended to read:

1134 **17-27a-609. Land use authority approval of vacation or amendment of plat --**

1135 **Recording the amended plat.**

1136 (1) The land use authority may approve the vacation or amendment of a plat by signing
 1137 an amended plat showing the vacation or amendment if the land use authority finds that:

1138 (a) there is good cause for the vacation or amendment; and

1139 (b) no public street, right-of-way, or easement has been vacated or amended.

1140 (2) (a) The land use authority shall ensure that the amended plat showing the vacation
 1141 or amendment is recorded in the office of the county recorder in which the land is located.