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LAND USE AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to land use.

Highlighted Provisions:

This bill:

- ▶ clarifies the definition of land use authority;
- ▶ 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
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 10-9a-103**, as last amended by Laws of Utah 2013, Chapters 309 and 334
- 10-9a-609**, as last amended by Laws of Utah 2010, Chapter 381
- 17-27a-103**, as last amended by Laws of Utah 2013, Chapters 309, 334, and 476
- 17-27a-609**, 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 **10-9a-103** is amended to read:

10-9a-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 public utility, property owner, property owners association, 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 municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality 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, or service that is not sold, offered, or existing on the property where the sign is located.

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

(i) an operating charter school;

(ii) 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; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(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:

93 (i) land or a structure, including land or a structure for inventory storage, equipment
94 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

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

96 and

97 (B) used in support of the purposes of a building described in Subsection (10)(a)(i); or

98 (ii) a therapeutic school.

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

102 (12) "Flood plain" means land that:

103 (a) is within the 100-year flood plain designated by the Federal Emergency

104 Management Agency; or

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

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

111 (14) "Geologic hazard" means:

112 (a) a surface fault rupture;

113 (b) shallow groundwater;

114 (c) liquefaction;

115 (d) a landslide;

116 (e) a debris flow;

117 (f) unstable soil;

118 (g) a rock fall; or

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

120 (i) to life;

- 121 (ii) of substantial loss of real property; or
- 122 (iii) of substantial damage to real property.
- 123 (15) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 124 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
- 125 utility system.
- 126 (16) "Identical plans" means building plans submitted to a municipality that:
- 127 (a) are clearly marked as "identical plans";
- 128 (b) are substantially identical to building plans that were previously submitted to and
- 129 reviewed and approved by the municipality; and
- 130 (c) describe a building that:
- 131 (i) is located on land zoned the same as the land on which the building described in the
- 132 previously approved plans is located;
- 133 (ii) is subject to the same geological and meteorological conditions and the same law
- 134 as the building described in the previously approved plans;
- 135 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 136 and approved by the municipality; and
- 137 (iv) does not require any additional engineering or analysis.
- 138 (17) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
- 139 Impact Fees Act.
- 140 (18) "Improvement completion assurance" means a surety bond, letter of credit, cash,
- 141 or other security required by a municipality to guaranty the proper completion of landscaping
- 142 or infrastructure that the land use authority has required as a condition precedent to:
- 143 (a) recording a subdivision plat; or
- 144 (b) beginning development activity.
- 145 (19) "Improvement warranty" means an applicant's unconditional warranty that the
- 146 accepted landscaping or infrastructure:
- 147 (a) complies with the municipality's written standards for design, materials, and
- 148 workmanship; and
- 149 (b) will not fail in any material respect, as a result of poor workmanship or materials,
- 150 within the improvement warranty period.
- 151 (20) "Improvement warranty period" means a period:

152 (a) no later than one year after a municipality's acceptance of required landscaping; or

153 (b) no later than one year after a municipality's acceptance of required infrastructure,

154 unless the municipality:

155 (i) determines for good cause that a one-year period would be inadequate to protect the

156 public health, safety, and welfare; and

157 (ii) has substantial evidence, on record:

158 (A) of prior poor performance by the applicant; or

159 (B) that the area upon which the infrastructure will be constructed contains suspect soil

160 and the municipality has not otherwise required the applicant to mitigate the suspect soil.

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

162 designation that:

163 (a) runs with the land; and

164 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on

165 the plat; or

166 (ii) designates a development condition that is enclosed within the perimeter of a lot

167 described on the plat.

168 (22) "Land use application" means an application required by a municipality's land use

169 ordinance.

170 (23) "Land use authority" means:

171 (a) a person, board, commission, agency, or ~~other~~ body, including the local legislative

172 body, designated by the local legislative body to act upon a land use application[-]; or

173 (b) if the local legislative body has not designated a person, board, commission,

174 agency, or body, the local legislative body.

175 (24) "Land use ordinance" means a planning, zoning, development, or subdivision

176 ordinance of the municipality, but does not include the general plan.

177 (25) "Land use permit" means a permit issued by a land use authority.

178 (26) "Legislative body" means the municipal council.

179 (27) "Local district" means an entity under Title 17B, Limited Purpose Local

180 Government Entities - Local Districts, and any other governmental or quasi-governmental

181 entity that is not a county, municipality, school district, or the state.

182 (28) "Lot line adjustment" means the relocation of the property boundary line in a

183 subdivision between two adjoining lots with the consent of the owners of record.

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

187 (30) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
188 spent and expenses incurred in:

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

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

192 (31) "Noncomplying structure" means a structure that:

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

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

197 (32) "Nonconforming use" means a use of land that:

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

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

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

203 (33) "Official map" means a map drawn by municipal authorities and recorded in a
204 county recorder's office that:

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

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

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

211 (34) "Parcel boundary adjustment" means a recorded agreement between owners of
212 adjoining properties adjusting their mutual boundary if:

213 (a) no additional parcel is created; and

214 (b) each property identified in the agreement is unsubdivided land, including a
215 remainder of subdivided land.

216 (35) "Person" means an individual, corporation, partnership, organization, association,
217 trust, governmental agency, or any other legal entity.

218 (36) "Plan for moderate income housing" means a written document adopted by a city
219 legislative body that includes:

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

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

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

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

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

229 (37) "Plat" means a map or other graphical representation of lands being laid out and
230 prepared in accordance with Section [10-9a-603](#), [17-23-17](#), or [57-8-13](#).

231 (38) "Potential geologic hazard area" means an area that:

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

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

238 (39) "Public agency" means:

239 (a) the federal government;

240 (b) the state;

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

243 (d) a charter school.

244 (40) "Public hearing" means a hearing at which members of the public are provided a

245 reasonable opportunity to comment on the subject of the hearing.

246 (41) "Public meeting" means a meeting that is required to be open to the public under
247 Title 52, Chapter 4, Open and Public Meetings Act.

248 (42) "Receiving zone" means an area of a municipality that the municipality
249 designates, by ordinance, as an area in which an owner of land may receive a transferable
250 development right.

251 (43) "Record of survey map" means a map of a survey of land prepared in accordance
252 with Section 17-23-17.

253 (44) "Residential facility for persons with a disability" means a residence:

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

255 (b) (i) which is licensed or certified by the Department of Human Services under Title
256 62A, Chapter 2, Licensure of Programs and Facilities; or

257 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
258 21, Health Care Facility Licensing and Inspection Act.

259 (45) "Rules of order and procedure" means a set of rules that govern and prescribe in a
260 public meeting:

261 (a) parliamentary order and procedure;

262 (b) ethical behavior; and

263 (c) civil discourse.

264 (46) "Sanitary sewer authority" means the department, agency, or public entity with
265 responsibility to review and approve the feasibility of sanitary sewer services or onsite
266 wastewater systems.

267 (47) "Sending zone" means an area of a municipality that the municipality designates,
268 by ordinance, as an area from which an owner of land may transfer a transferable development
269 right.

270 (48) "Specified public agency" means:

271 (a) the state;

272 (b) a school district; or

273 (c) a charter school.

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

276 (50) "State" includes any department, division, or agency of the state.

277 (51) "Street" means a public right-of-way, including a highway, avenue, boulevard,
278 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
279 way.

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

284 (b) "Subdivision" includes:

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

287 (ii) except as provided in Subsection (52)(c), divisions of land for residential and
288 nonresidential uses, including land used or to be used for commercial, agricultural, and
289 industrial purposes.

290 (c) "Subdivision" does not include:

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

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

297 (A) no new lot is created; and

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

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

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

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

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

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

- 307 (B) the adjustment will not violate any applicable land use ordinance;
- 308 (v) a bona fide division or partition of land by deed or other instrument where the land
- 309 use authority expressly approves in writing the division in anticipation of further land use
- 310 approvals on the parcel or parcels; or
- 311 (vi) a parcel boundary adjustment.
- 312 (d) The joining of a subdivided parcel of property to another parcel of property that has
- 313 not been subdivided does not constitute a subdivision under this Subsection (52) as to the
- 314 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
- 315 subdivision ordinance.
- 316 (53) "Suspect soil" means soil that has:
- 317 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
- 318 3% swell potential;
- 319 (b) bedrock units with high shrink or swell susceptibility; or
- 320 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
- 321 commonly associated with dissolution and collapse features.
- 322 (54) "Therapeutic school" means a residential group living facility:
- 323 (a) for four or more individuals who are not related to:
- 324 (i) the owner of the facility; or
- 325 (ii) the primary service provider of the facility;
- 326 (b) that serves students who have a history of failing to function:
- 327 (i) at home;
- 328 (ii) in a public school; or
- 329 (iii) in a nonresidential private school; and
- 330 (c) that offers:
- 331 (i) room and board; and
- 332 (ii) an academic education integrated with:
- 333 (A) specialized structure and supervision; or
- 334 (B) services or treatment related to a disability, an emotional development, a
- 335 behavioral development, a familial development, or a social development.
- 336 (55) "Transferable development right" means a right to develop and use land that
- 337 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer

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

339 (56) "Unincorporated" means the area outside of the incorporated area of a city or
340 town.

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

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

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

344 (i) a contract; or

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

346 (58) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
347 land use zones, overlays, or districts.

348 Section 2. Section 10-9a-609 is amended to read:

349 **10-9a-609. Land use authority approval of vacation or amendment of plat --**

350 **Recording the amended plat.**

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

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

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

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

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

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

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

365 (4) An amended plat may not be submitted to the county recorder for recording unless
366 it is [~~signed, acknowledged, and dedicated by each owner of record of the portion of the plat~~
367 ~~that is amended.~~];

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

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

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

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

374 Section 3. Section 17-27a-103 is amended to read:

375 **17-27a-103. Definitions.**

376 As used in this chapter:

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

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

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

385 or

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

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

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

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

396 (i) an operating charter school;

397 (ii) a charter school applicant that has its application approved by a chartering entity in
398 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

399 (iii) an entity that is working on behalf of a charter school or approved charter

400 applicant to develop or construct a charter school building.

401 (b) "Charter school" does not include a therapeutic school.

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

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

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

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

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

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

415 (9) "Development activity" means:

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

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

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

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

425 (b) "Disability" does not include current illegal use of, or addiction to, any federally
426 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
427 802.

428 (11) "Educational facility":

429 (a) means:

430 (i) a school district's building at which pupils assemble to receive instruction in a

431 program for any combination of grades from preschool through grade 12, including
432 kindergarten and a program for children with disabilities;

433 (ii) a structure or facility:

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

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

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

438 (b) does not include:

439 (i) land or a structure, including land or a structure for inventory storage, equipment
440 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

441 (A) not located on the same property as a building described in Subsection (11)(a)(i);
442 and

443 (B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

444 (ii) a therapeutic school.

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

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

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

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

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

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

458 (16) "Geologic hazard" means:

459 (a) a surface fault rupture;

460 (b) shallow groundwater;

461 (c) liquefaction;

- 462 (d) a landslide;
- 463 (e) a debris flow;
- 464 (f) unstable soil;
- 465 (g) a rock fall; or
- 466 (h) any other geologic condition that presents a risk:
- 467 (i) to life;
- 468 (ii) of substantial loss of real property; or
- 469 (iii) of substantial damage to real property.

470 [~~18~~] (17) "Hookup fee" means a fee for the installation and inspection of any pipe,
471 line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other
472 utility system.

473 [~~19~~] (18) "Identical plans" means building plans submitted to a county that:

- 474 (a) are clearly marked as "identical plans";
- 475 (b) are substantially identical building plans that were previously submitted to and
476 reviewed and approved by the county; and
- 477 (c) describe a building that:
 - 478 (i) is located on land zoned the same as the land on which the building described in the
479 previously approved plans is located;
 - 480 (ii) is subject to the same geological and meteorological conditions and the same law
481 as the building described in the previously approved plans;
 - 482 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
483 and approved by the county; and
 - 484 (iv) does not require any additional engineering or analysis.

485 [~~20~~] (19) "Impact fee" means a payment of money imposed under Title 11, Chapter
486 36a, Impact Fees Act.

487 [~~21~~] (20) "Improvement completion assurance" means a surety bond, letter of credit,
488 cash, or other security required by a county to guaranty the proper completion of landscaping or
489 infrastructure that the land use authority has required as a condition precedent to:

- 490 (a) recording a subdivision plat; or
- 491 (b) beginning development activity.

492 [~~22~~] (21) "Improvement warranty" means an applicant's unconditional warranty that

493 the accepted landscaping or infrastructure:

494 (a) complies with the county's written standards for design, materials, and
495 workmanship; and

496 (b) will not fail in any material respect, as a result of poor workmanship or materials,
497 within the improvement warranty period.

498 [~~(23)~~] (22) "Improvement warranty period" means a period:

499 (a) no later than one year after a county's acceptance of required landscaping; or

500 (b) no later than one year after a county's acceptance of required infrastructure, unless
501 the county:

502 (i) determines for good cause that a one-year period would be inadequate to protect the
503 public health, safety, and welfare; and

504 (ii) has substantial evidence, on record:

505 (A) of prior poor performance by the applicant; or

506 (B) that the area upon which the infrastructure will be constructed contains suspect soil
507 and the county has not otherwise required the applicant to mitigate the suspect soil.

508 [~~(17)~~] (23) "Internal lot restriction" means a platted note, platted demarcation, or
509 platted designation that:

510 (a) runs with the land; and

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

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

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

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

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

523 (27) "Land use authority" means:

524 (a) a person, board, commission, agency, or ~~other~~ body, including the local legislative
525 body, designated by the local legislative body to act upon a land use application[-]; or

526 (b) if the local legislative body has not designated a person, board, commission,
527 agency, or body, the local legislative body.

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

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

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

533 (31) "Local district" means any entity under Title 17B, Limited Purpose Local
534 Government Entities - Local Districts, and any other governmental or quasi-governmental
535 entity that is not a county, municipality, school district, or the state.

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

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

541 (34) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
542 and expenses incurred in:

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

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

546 (35) "Noncomplying structure" means a structure that:

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

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

551 (36) "Nonconforming use" means a use of land that:

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

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

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

557 (37) "Official map" means a map drawn by county authorities and recorded in the
558 county recorder's office that:

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

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

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

565 (38) "Parcel boundary adjustment" means a recorded agreement between owners of
566 adjoining properties adjusting their mutual boundary if:

567 (a) no additional parcel is created; and

568 (b) each property identified in the agreement is unsubdivided land, including a
569 remainder of subdivided land.

570 (39) "Person" means an individual, corporation, partnership, organization, association,
571 trust, governmental agency, or any other legal entity.

572 (40) "Plan for moderate income housing" means a written document adopted by a
573 county legislative body that includes:

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

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

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

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

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

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

585 (42) "Potential geologic hazard area" means an area that:

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

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

592 (43) "Public agency" means:

593 (a) the federal government;

594 (b) the state;

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

597 (d) a charter school.

598 (44) "Public hearing" means a hearing at which members of the public are provided a
599 reasonable opportunity to comment on the subject of the hearing.

600 (45) "Public meeting" means a meeting that is required to be open to the public under
601 Title 52, Chapter 4, Open and Public Meetings Act.

602 (46) "Receiving zone" means an unincorporated area of a county that the county
603 designates, by ordinance, as an area in which an owner of land may receive a transferable
604 development right.

605 (47) "Record of survey map" means a map of a survey of land prepared in accordance
606 with Section [17-23-17](#).

607 (48) "Residential facility for persons with a disability" means a residence:

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

609 (b) (i) which is licensed or certified by the Department of Human Services under Title
610 62A, Chapter 2, Licensure of Programs and Facilities; or

611 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
612 21, Health Care Facility Licensing and Inspection Act.

613 (49) "Rules of order and procedure" means a set of rules that govern and prescribe in a
614 public meeting:

615 (a) parliamentary order and procedure;

616 (b) ethical behavior; and

617 (c) civil discourse.

618 (50) "Sanitary sewer authority" means the department, agency, or public entity with
619 responsibility to review and approve the feasibility of sanitary sewer services or onsite
620 wastewater systems.

621 (51) "Sending zone" means an unincorporated area of a county that the county
622 designates, by ordinance, as an area from which an owner of land may transfer a transferable
623 development right.

624 (52) "Site plan" means a document or map that may be required by a county during a
625 preliminary review preceding the issuance of a building permit to demonstrate that an owner's
626 or developer's proposed development activity meets a land use requirement.

627 (53) "Specified public agency" means:

628 (a) the state;

629 (b) a school district; or

630 (c) a charter school.

631 (54) "Specified public utility" means an electrical corporation, gas corporation, or
632 telephone corporation, as those terms are defined in Section [54-2-1](#).

633 (55) "State" includes any department, division, or agency of the state.

634 (56) "Street" means a public right-of-way, including a highway, avenue, boulevard,
635 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
636 way.

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

641 (b) "Subdivision" includes:

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

644 (ii) except as provided in Subsection (57)(c), divisions of land for residential and
645 nonresidential uses, including land used or to be used for commercial, agricultural, and
646 industrial purposes.

647 (c) "Subdivision" does not include:

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

649 (ii) a recorded agreement between owners of adjoining properties adjusting their

650 mutual boundary if:

651 (A) no new lot is created; and

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

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

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

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

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

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

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

662 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
663 utility service regeneration, transformation, retransmission, or amplification facility;

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

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

667 (B) the adjustment will not violate any applicable land use ordinance;

668 (vi) a bona fide division or partition of land by deed or other instrument where the land
669 use authority expressly approves in writing the division in anticipation of further land use
670 approvals on the parcel or parcels; or

671 (vii) a parcel boundary adjustment.

672 (d) The joining of a subdivided parcel of property to another parcel of property that has
673 not been subdivided does not constitute a subdivision under this Subsection (57) as to the
674 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
675 ordinance.

676 (58) "Suspect soil" means soil that has:

677 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
678 3% swell potential;

679 (b) bedrock units with high shrink or swell susceptibility; or
680 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
681 commonly associated with dissolution and collapse features.

682 (59) "Therapeutic school" means a residential group living facility:

- 683 (a) for four or more individuals who are not related to:
 - 684 (i) the owner of the facility; or
 - 685 (ii) the primary service provider of the facility;
- 686 (b) that serves students who have a history of failing to function:
 - 687 (i) at home;
 - 688 (ii) in a public school; or
 - 689 (iii) in a nonresidential private school; and
- 690 (c) that offers:
 - 691 (i) room and board; and
 - 692 (ii) an academic education integrated with:
 - 693 (A) specialized structure and supervision; or
 - 694 (B) services or treatment related to a disability, an emotional development, a

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

696 (60) "Township" means a contiguous, geographically defined portion of the
697 unincorporated area of a county, established under this part or reconstituted or reinstated under
698 Section [17-27a-306](#), with planning and zoning functions as exercised through the township
699 planning commission, as provided in this chapter, but with no legal or political identity
700 separate from the county and no taxing authority, except that "township" means a former
701 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

702 (61) "Transferable development right" means a right to develop and use land that
703 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
704 land use rights from a designated sending zone to a designated receiving zone.

705 (62) "Unincorporated" means the area outside of the incorporated area of a
706 municipality.

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

- 708 (a) each of the rights listed in Section [73-1-11](#); and
- 709 (b) an ownership interest in the right to the beneficial use of water represented by:

710 (i) a contract; or

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

712 (64) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
713 land use zones, overlays, or districts.

714 Section 4. Section 17-27a-609 is amended to read:

715 **17-27a-609. Land use authority approval of vacation or amendment of plat --**
716 **Recording the amended plat.**

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

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

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

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

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

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

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

731 (4) An amended plat may not be submitted to the county recorder for recording unless
732 it is [~~signed, acknowledged, and dedicated by each owner of record of the portion of the plat~~
733 ~~that is amended.~~];

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

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

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

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

Legislative Review Note
as of 1-30-14 10:34 AM

Office of Legislative Research and General Counsel