

HB0220S01 compared with HB0220

~~text~~ shows text that was in HB0220 but was deleted in HB0220S01.

text shows text that was not in HB0220 but was inserted into HB0220S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Gage Froerer proposes the following substitute bill:

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;
- ▶ allows a land use applicant a substantive review of the application in certain circumstances;
- ▶ 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.

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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-509, as last amended by Laws of Utah 2012, Chapter 216](#)

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-508, as last amended by Laws of Utah 2012, Chapter 216](#)

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

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

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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 potential impact on the municipality, 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.

(6) "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.

(7) "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.

(8) "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.

(9) (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

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impairment or being regarded as having such an impairment.

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

(10) "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 (10)(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:

(i) 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:

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

and

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

(ii) a therapeutic school.

(11) "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.

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

(14) "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.

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

(16) "Identical plans" means building plans submitted to a municipality that:

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

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

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(18) "Improvement completion assurance" means a surety bond, letter of credit, cash, or other security required by a municipality to guaranty the proper completion of landscaping or infrastructure that the land use authority has required as a condition precedent to:

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

(19) "Improvement warranty" means an applicant's unconditional warranty that the accepted landscaping or infrastructure:

- (a) complies with the municipality's written standards for design, materials, and workmanship; and
- (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(20) "Improvement warranty period" means a period:

- (a) no later than one year after a municipality's acceptance of required landscaping; or
- (b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

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

- (ii) has substantial evidence, on record:

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

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

(21) "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.

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

(23) "Land use authority" means:

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

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

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

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

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

(27) "Local district" means an 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.

(28) "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.

(29) "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 city is located.

(30) "Nominal fee" means a fee that reasonably reimburses a municipality 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.

(31) "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, which govern the use of land.

(32) "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 governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform

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to the regulations that now govern the use of the land.

(33) "Official map" means a map drawn by municipal authorities and recorded in a 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 the land; and

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

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

(a) no additional parcel is created; and

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

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

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

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

(b) an estimate of the need for moderate income housing in the city 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 city's program to encourage an adequate supply of moderate income housing.

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

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

(a) is designated by a Utah Geological Survey map, county geologist map, or other

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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 a designated geologic hazard area.

(39) "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.

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

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

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

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

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

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

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

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

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

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

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(46) "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.

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

(48) "Specified public agency" means:

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

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

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

(51) "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.

(52) (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 (52)(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 the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

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(ii) a recorded agreement between owners of adjoining unsubdivided 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;

(iv) 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;

(v) 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; or

(vi) a parcel boundary adjustment.

(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 (52) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

(53) "Suspect soil" means soil that has:

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

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

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

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

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

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

- (i) at home;
- (ii) in a public school; or
- (iii) in a nonresidential private school; and

(c) that offers:

- (i) room and board; and
- (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

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

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

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

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

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

Section 2. Section 10-9a-509 is amended to read:

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

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

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

~~[(i)]~~ (A) the land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or

~~[(ii)]~~ (B) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.

(b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval of a land use application until the requirements of this Subsection (1)(b) have been met if the land use application relates to land located within the boundaries of a high priority transportation corridor designated in accordance with Section 72-5-403.

(ii) (A) A municipality shall notify the executive director of the Department of Transportation of any land use applications that relate to land located within the boundaries of a high priority transportation corridor.

(B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by certified or registered mail to the executive director of the Department of Transportation.

(iii) Except as provided in Subsection (1)(c), a municipality may not approve a land use application that relates to land located within the boundaries of a high priority transportation corridor until:

(A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for a building permit; or

(B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for any land use other than a building permit.

(iv) (A) If an application is an application for a subdivision approval, including any land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal, the land use authority shall:

(I) within 30 days after the day on which the application is filed, notify the canal

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company or canal operator responsible for the canal, if the canal company or canal operator has provided information under Section 10-9a-211; and

(II) wait at least 10 days after the day on which the land use authority notifies a canal company or canal operator under Subsection (1)(b)(iv)(A)(I) to approve or reject the subdivision application described in Subsection (1)(b)(iv)(A).

(B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by certified or registered mail to the canal company or canal operator contact described in Section 10-9a-211.

(C) The location of land described in Subsection (1)(b)(iv)(A) shall be:

(I) provided by a canal company or canal operator to the land use authority; and

(II) (Aa) determined by use of mapping-grade global positioning satellite units; or

(Bb) digitized from the most recent aerial photo available to the canal company or canal operator.

(c) (i) A land use application is exempt from the requirements of Subsections (1)(b)(i) and (ii) if:

(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(i)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(ii) A municipality may approve a land use application without making the required notifications under Subsection (1)(b)(ii)(A) if:

(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(ii)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(d) After a municipality has complied with the requirements of Subsection (1)(b) for a land use application, the municipality may not withhold approval of the land use application for which the applicant is otherwise entitled under Subsection (1)(a).

(e) The municipality shall process an application without regard to proceedings initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the proceedings were initiated; and

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(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(f) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

(g) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(h) A municipality may not impose on an applicant who has submitted a complete application for preliminary subdivision approval a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance; or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(i) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a municipal ordinance.

(j) A municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

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

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

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

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use ordinances in effect on the date of submission.

Section ~~(2)~~3. Section **10-9a-609** is amended to read:

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

Recording the amended plat.

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

- (a) there is good cause for the vacation or amendment; and
- (b) no public street, right-of-way, or easement has been vacated or amended.

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

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

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

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

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

(a) signed by the land use authority; and

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

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

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

Section ~~3~~4. Section **17-27a-103** 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, 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.

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(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 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;

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(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:

(i) 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:

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

and

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

(ii) a therapeutic school.

(12) "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.

(13) "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.

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

(15) "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.

(16) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

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- (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)]~~ (17) "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.

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

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

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

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

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

~~[(22)]~~ (21) "Improvement warranty" means an applicant's unconditional warranty that the accepted landscaping or infrastructure:

- (a) complies with the county's written standards for design, materials, and

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workmanship; and

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

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

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

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

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

(ii) has substantial evidence, on record:

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

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

~~[(17)]~~ (23) "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.

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

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

(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 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.

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(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 the land; and

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

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

(a) no additional parcel is created; and

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

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

(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.

(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.

(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

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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 a designated geologic hazard area.

(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.

(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.

(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.

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

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

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

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

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

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

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

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(50) "Sanitary sewer authority" means the department, agency, or public entity with

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

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

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

(53) "Specified public agency" means:

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

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

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

(56) "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.

(57) (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 (57)(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

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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;

(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;

(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; or

(vii) a parcel boundary adjustment.

(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 (57) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

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

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

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum

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commonly associated with dissolution and collapse features.

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

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

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

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

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

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

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

(60) "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.

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

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

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

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

(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.

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

Section 5. Section 17-27a-508 is amended to read:

**17-27a-508. Applicant's entitlement to land use application approval --
Exceptions -- Application relating to land in a high priority transportation corridor --
County's requirements and limitations -- Vesting upon submission of development plan
and schedule.**

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

(ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a land use application if the application conforms to the requirements of the county's land use maps, zoning map, and applicable land use ordinance in effect when a complete application is submitted and all application fees have been paid, unless:

(i) (A) the land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or

(ii) (B) in the manner provided by local ordinance and before the application is submitted, the county has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.

(b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval of a land use application until the requirements of this Subsection (1)(b)(i) and Subsection (1)(b)(ii) have been met if the land use application relates to land located within the boundaries of a high priority transportation corridor designated in accordance with Section 72-5-403.

(ii) (A) A county shall notify the executive director of the Department of Transportation of any land use applications that relate to land located within the boundaries of a high priority transportation corridor.

(B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by certified or registered mail to the executive director of the Department of Transportation.

(iii) Except as provided in Subsection (1)(c), a county may not approve a land use application that relates to land located within the boundaries of a high priority transportation

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corridor until:

(A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for a building permit; or

(B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for any land use other than a building permit.

(iv) (A) If an application is an application for a subdivision approval, including any land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal, the land use authority shall:

(I) within 30 days after the day on which the application is filed, notify the canal company or canal operator responsible for the canal, if the canal company or canal owner has provided information under Section 17-27a-211; and

(II) wait at least 10 days after the day on which the land use authority notifies a canal company or canal operator under Subsection (1)(b)(iv)(A)(I) to approve or reject the subdivision application described in Subsection (1)(b)(iv)(A).

(B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by certified or registered mail to the canal company or canal operator contact described in Section 17-27a-211.

(C) The location of land described in Subsection (1)(b)(iv)(A) shall be:

(I) provided by a canal company or canal operator to the land use authority; and

(II) (Aa) determined by use of mapping-grade global positioning satellite units; or

(Bb) digitized from the most recent aerial photo available to the canal company or canal operator.

(c) (i) A land use application is exempt from the requirements of Subsection (1)(b)(i) if:

(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(i)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(ii) A county may approve a land use application without making the required notifications under Subsections (1)(b)(i) and (ii) if:

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(A) the land use application relates to land that was the subject of a previous land use application; and

(B) the previous land use application described under Subsection (1)(c)(ii)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).

(d) After a county has complied with the requirements of Subsection (1)(b) for a land use application, the county may not withhold approval of the land use application for which the applicant is otherwise entitled under Subsection (1)(a).

(e) The county shall process an application without regard to proceedings initiated to amend the county's ordinances as provided in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the proceedings were initiated; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(f) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

(g) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(h) A county may not impose on an applicant who has submitted a complete application for preliminary subdivision approval a requirement that is not expressed:

(i) in this chapter;

(ii) in a county ordinance; or

(iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(i) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

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(vi) in a county ordinance.

(j) A county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

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

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

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

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

Section ~~4~~6. Section **17-27a-609** is amended to read:

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

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

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

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

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

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

(3) (a) A legislative body may vacate a subdivision or a portion of a subdivision by

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recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.

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

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

(a) signed by the land use authority; and

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

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

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

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Legislative Review Note

~~as of 1-30-14 10:34 AM~~

~~Office of Legislative Research and General Counsel~~