

SB0124S01 compared with SB0124

~~deleted text~~ shows text that was in SB0124 but was deleted in SB0124S01.

inserted text shows text that was not in SB0124 but was inserted into SB0124S01.

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Senator Jerry W. Stevenson proposes the following substitute bill:

LAND USE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: _____

LONG TITLE

General Description:

This bill amends municipal and county land use provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a municipality or county to make certain exceptions from specific zoning district standards;
- ▶ requires a surveyor to consult with an owner or operator of an existing or proposed underground facility or utility facility for verification of the surveyor's depiction;
- ▶ amends provisions related to the completion of landscaping and infrastructure improvement prior to recording a plat;
- ▶ amends provisions prohibiting certain counties from adopting a land use ordinance

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that requires an owner to landscape certain single family dwellings;

- ▶ prohibits a municipality or a county from denying a building permit for an incomplete nonessential improvement; and
- ▶ makes technical and conforming amendments.

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 2014, Chapters 136 and 363

10-9a-505, as last amended by Laws of Utah 2008, Chapter 326

10-9a-603, as last amended by Laws of Utah 2010, Chapters 269 and 381

10-9a-604.5, as repealed and reenacted by Laws of Utah 2013, Chapter 309

10-9a-606, as last amended by Laws of Utah 2010, Chapter 381

10-9a-802, as renumbered and amended by Laws of Utah 2005, Chapter 254

17-27a-103, as last amended by Laws of Utah 2014, Chapters 136 and 363

17-27a-505, as last amended by Laws of Utah 2013, Chapter 476

17-27a-603, as last amended by Laws of Utah 2011, Chapter 377

17-27a-604.5, as repealed and reenacted by Laws of Utah 2013, Chapter 309

17-27a-606, as last amended by Laws of Utah 2010, Chapter 381

17-27a-802, as renumbered and amended by Laws of Utah 2005, Chapter 254

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

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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 charter school authorizer 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

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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 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.

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(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.

(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

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(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.

(18) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure [~~that the land use authority has~~] improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) [~~beginning~~] development [~~activity~~] of a commercial, industrial, mixed use, or multifamily project.

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

(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

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(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) "Infrastructure improvement" means permanent infrastructure that an applicant must install:

(a) pursuant to published installation and inspection specifications for public improvements; and

(b) as a condition of:

(i) recording a subdivision plat; or

(ii) development of a commercial, industrial, mixed use, condominium, or multifamily project.

~~[(21)]~~ (22) "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)]~~ (23) "Land use application" means an application required by a municipality's land use ordinance.

~~[(23)]~~ (24) "Land use authority" means:

(a) a person, board, commission, agency, or 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)]~~ (25) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.

~~[(25)]~~ (26) "Land use permit" means a permit issued by a land use authority.

~~[(26)]~~ (27) "Legislative body" means the municipal council.

~~[(27)]~~ (28) "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.

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~~[(28)]~~ (29) "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)]~~ (30) "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)]~~ (31) "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)]~~ (32) "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)]~~ (33) "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 to the regulations that now govern the use of the land.

~~[(33)]~~ (34) "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)]~~ (35) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

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- (a) no additional parcel is created; and
- (b) each property identified in the agreement is unsubdivided land, including a

remainder of subdivided land.

~~[(35)]~~ (36) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(36)]~~ (37) "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)]~~ (38) "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)]~~ (39) "Potential geologic hazard area" means an area that:

- (a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or
- (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

~~[(39)]~~ (40) "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.

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~~[(40)]~~ (41) "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)]~~ (42) "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)]~~ (43) "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)]~~ (44) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

~~[(44)]~~ (45) "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)]~~ (46) "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.

~~[(46)]~~ (47) "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)]~~ (48) "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)]~~ (49) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

~~[(49)]~~ (50) "Specified public utility" means an electrical corporation, gas corporation,

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or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(50)]~~ (51) "State" includes any department, division, or agency of the state.

~~[(51)]~~ (52) "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)]~~ (53) (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)]~~ (53)(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;

(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:

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(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)~~] (53) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

[~~(53)~~] (54) "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)~~] (55) "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.

[~~(55)~~] (56) "Transferable development right" means a right to develop and use land that

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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)]~~ (57) "Unincorporated" means the area outside of the incorporated area of a city or town.

~~[(57)]~~ (58) "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)]~~ (59) "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-505** is amended to read:

10-9a-505. Zoning districts.

(1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.

(b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.

(c) A municipality may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:

- (i) protect life; and
- (ii) prevent:
 - (A) the substantial loss of real property; or
 - (B) substantial damage to real property.

(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zoning district, but the regulations in one zone may differ from those in other zones.

(3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.

(b) Neither the size of a zoning district nor the number of landowners within the

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district may be used as evidence of the illegality of a zoning district or of the invalidity of a municipal decision.

(4) A municipality may by ordinance exempt from specific zoning district standards a subdivision of land to accommodate the siting of a public utility infrastructure.

Section 3. Section **10-9a-603** is amended to read:

10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground [facilities] facility, as defined in Section 54-8a-2, and for any other utility [facilities] facility.

(2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority [and] the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department considers its approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority before approving a plat.

(c) A municipality may not require that a plat be approved or signed by a person or entity who:

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(i) is not an employee or agent of the municipality; ~~or~~

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision; ~~or~~

~~or~~

(B) provide a utility or other service directly to a lot within the subdivision; ~~or~~

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision;

or

(iii) is not entitled to notice of the subdivision pursuant to Subsection 10-9a-509(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on the plat.

(3) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) A plat may not be submitted to a county recorder for recording unless:

(i) prior to recordation, each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

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

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

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

(c) (i) ~~[As applicable]~~ To the extent possible, the surveyor shall consult with the owner or operator of [the] an existing or proposed underground [and] facility or utility [facilities shall approve] facility within the proposed subdivision, or a representative designated by the owner

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or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the ~~[right-of-way and]~~ public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility ~~[facilities]~~ facility; and

(C) ~~[conditions or]~~ physical restrictions governing the location of the ~~[facilities within the right-of-way, and easement grants of records,]~~ underground facility and utility ~~[facilities]~~ facility within the subdivision.

(ii) The ~~[approval]~~ cooperation of an owner or operator under Subsection (4)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under:

(I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

(II) a recorded easement or right-of-way;

(III) the law applicable to prescriptive rights; or

(IV) any other provision of law.

(5) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, within the time period designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

Section 4. Section **10-9a-604.5** is amended to read:

10-9a-604.5. Subdivision plat recording or development activity before required infrastructure is completed -- Infrastructure completion assurance -- Infrastructure warranty.

(1) A land use authority shall establish objective inspection standards for acceptance of a required landscaping or infrastructure improvement ~~[required by the land use authority as a condition of:]~~.

~~[(a) subdivision; or]~~

~~[(b) development activity.]~~

(2) (a) A land use authority shall require an applicant to complete a required landscaping or infrastructure improvement prior to any plat recordation or development

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activity.

(b) Subsection (2)(a) does not apply if:

(i) upon the applicant's request, the land use authority has authorized the applicant to post an improvement completion assurance in a manner that is consistent with local ordinance; and

(ii) the land use authority has established a system for the partial release of the improvement completion assurance as portions of required improvements are completed and accepted.

(3) At any time up to the land use authority's acceptance of a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the developer to:

(a) execute an improvement warranty for the improvement warranty period; and

(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:

(i) municipal engineer's original estimated cost of completion; or

(ii) applicant's reasonable proven cost of completion.

(4) The provisions of this section may not be interpreted to supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 5. Section **10-9a-606** is amended to read:

10-9a-606. Common or community area parcels on a plat -- No separate ownership -- Ownership interest equally divided among other parcels on plat and included in description of other parcels.

(1) (a) A parcel designated as a common or community area on a plat recorded in compliance with this part may not be separately owned or conveyed independent of the other lots, units, or parcels created by the plat unless:

(i) the parcel is being acquired by a municipality for a governmental purpose; and

(ii) the conveyance is approved by the owners of at least 75% of the lots, units, or parcels on the plat, after the municipality gives its approval.

(b) A notice of the owner approval described in Subsection (1)(a)(ii) shall be:

(i) attached as an exhibit to the document of conveyance; or

(ii) recorded concurrently with the conveyance as a separate document.

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(2) The ownership interest in a parcel described in Subsection (1) shall:

(a) for purposes of assessment, be divided equally among all parcels created by the plat, unless a different division of interest for assessment purposes is indicated on the plat or an accompanying recorded document; and

(b) be considered to be included in the description of each instrument describing a parcel on the plat by its identifying plat number, even if the common or community area interest is not explicitly stated in the instrument.

(3) A parcel designated as common or community area on a plat before, on, or after May 12, 2015, may be modified in size and location if the modification:

(a) is approved as part of a subdivision plat amendment by the local government;

(b) is approved by at least 75% of the voting interests in a homeowners association having an interest in the common or community area, if any;

(c) is approved by at least 75% of the owners of lots, units, or parcels on the plat if there is no homeowners association having an interest in the common or community area, if any; and

(d) does not create a new buildable lot.

(4) A parcel designated as common or community area on a plat before, on, or after May 12, 2015, may be modified in size without a subdivision plat amendment approval by the local government, if the modification:

(a) is a lot line adjustment approved by at least 75% of the voting interests in a homeowners association having an interest in the common or community area, if any;

(b) is approved by at least 75% of the owners of lots, units, or parcels on the plat if there is no homeowners association having an interest in the common or community area, if any; and

(c) does not create a new buildable lot.

Section 6. Section 10-9a-802 is amended to read:

10-9a-802. Enforcement.

(1) (a) A municipality or any adversely affected owner of real estate within the municipality in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur may, in addition to other remedies provided by law, institute:

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- (i) injunctions, mandamus, abatement, or any other appropriate actions; or
- (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- (b) A municipality need only establish the violation to obtain the injunction.

(2) (a) ~~The~~ A municipality may enforce the municipality's ordinance by withholding a building ~~permits~~ permit.

(b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within a municipality without approval of a building permit.

(c) ~~The~~ A municipality may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A municipality may not deny an applicant a building permit because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit under the building code and fire code; and

(ii) for which the municipality has accepted an infrastructure improvement assurance for infrastructure improvements for the development.

Section ~~6~~ 7. 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.

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(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 charter school authorizer 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) "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

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(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;

(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

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(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;
- (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.

(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.

(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;

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(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.

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

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

(a) recording a subdivision plat; or

(b) [~~beginning~~] development [~~activity~~] of a commercial, industrial, mixed use, or multifamily project.

(21) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county'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.

(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.

(23) "Infrastructure improvement" means permanent infrastructure that an applicant must install:

(a) pursuant to published installation and inspection specifications for public

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improvements; and

(b) as a condition of:

(i) recording a subdivision plat; or

(ii) development of a commercial, industrial, mixed use, condominium, or multifamily project.

~~[(23)]~~ (24) "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)]~~ (25) "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)]~~ (26) "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)]~~ (27) "Land use application" means an application required by a county's land use ordinance.

~~[(27)]~~ (28) "Land use authority" means:

(a) a person, board, commission, agency, or 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.

~~[(28)]~~ (29) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the county, but does not include the general plan.

~~[(29)]~~ (30) "Land use permit" means a permit issued by a land use authority.

~~[(30)]~~ (31) "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)]~~ (32) "Local district" means any entity under Title 17B, Limited Purpose Local

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Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

~~[(32)]~~ (33) "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)]~~ (34) "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)]~~ (35) "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)]~~ (36) "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)]~~ (37) "Nonconforming use" means a use of land that:

- (a) legally existed before its current land use designation;
- (b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and
- (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

~~[(37)]~~ (38) "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

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

~~[(38)]~~ (39) "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)]~~ (40) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(40)]~~ (41) "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)]~~ (42) "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)]~~ (43) "Potential geologic hazard area" means an area that:

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

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

~~[(43)]~~ (44) "Public agency" means:

(a) the federal government;

(b) the state;

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

(d) a charter school.

~~[(44)]~~ (45) "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)]~~ (46) "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)]~~ (47) "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)]~~ (48) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

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

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

(b) (i) 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)]~~ (50) "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)]~~ (51) "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.

~~[(51)]~~ (52) "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)]~~ (53) "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

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owner's or developer's proposed development activity meets a land use requirement.

~~[(53)]~~ (54) "Specified public agency" means:

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

~~[(54)]~~ (55) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(55)]~~ (56) "State" includes any department, division, or agency of the state.

~~[(56)]~~ (57) "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)]~~ (58) (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)]~~ (58)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

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

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

(A) no new lot is created; and

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

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

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

(B) joining a subdivided parcel of property to another parcel of property that has not

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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)~~] (58) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

[~~(58)~~] (59) "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.

[~~(59)~~] (60) "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;

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- (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)]~~ (61) "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)]~~ (62) "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)]~~ (63) "Unincorporated" means the area outside of the incorporated area of a municipality.

~~[(63)]~~ (64) "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.

~~[(64)]~~ (65) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section ~~{7}~~8. Section **17-27a-505** is amended to read:

17-27a-505. Zoning districts.

(1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.

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(b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.

(c) A county may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:

- (i) protect life; and
- (ii) prevent:
 - (A) the substantial loss of real property; or
 - (B) substantial damage to real property.

(d) A county of the second, third, fourth, fifth, or sixth class may not adopt a land use ordinance requiring a property owner to revegetate or landscape a single family dwelling disturbance area unless the property is located in a flood zone or geologic hazard except as required in Title 19, Chapter 5, Water Quality Act, to comply with federal law related to water pollution.

(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zone, but the regulations in one zone may differ from those in other zones.

(3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.

(b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a county decision.

(4) A county may by ordinance exempt from specific zoning district standards a subdivision of land to accommodate the siting of a public utility infrastructure.

Section ~~17-27a-603~~9. Section **17-27a-603** is amended to read:

17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

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(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground [facilities] facility, as defined in Section 54-8a-2, and for any other utility [facilities] facility.

(2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority ~~[and]~~ the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department considers its approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the county; ~~or~~

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision; ~~or~~

(B) provide a utility or other service directly to a lot within the subdivision ~~or~~;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision; or

(iii) is not entitled to notice of the subdivision pursuant to Subsection

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17-27a-508(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on the plat.

(3) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) A plat may not be submitted to a county recorder for recording unless, subject to Subsection 17-27a-604(2):

(i) prior to recordation, each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

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

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

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

(c) (i) ~~[As applicable]~~ To the extent possible, the surveyor shall consult with the owner or operator of [the] an existing or proposed underground [and] facility or utility [facilities shall approve] facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the ~~[right-of-way and]~~ public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing facility underground and utility ~~[facilities]~~ facility; and

(C) ~~[conditions or]~~ physical restrictions governing the location of the ~~[facilities within the right-of-way, and easement grants of records,]~~ underground facility and utility ~~[facilities]~~ facility within the subdivision.

(ii) The ~~[approval]~~ cooperation of an owner or operator under Subsection (4)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under:

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- (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;
- (II) a recorded easement or right-of-way;
- (III) the law applicable to prescriptive rights; or
- (IV) any other provision of law.

(5) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, within the time period designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

Section ~~9~~10. Section **17-27a-604.5** is amended to read:

17-27a-604.5. Subdivision plat recording or development activity before required infrastructure is completed -- Infrastructure completion assurance -- Infrastructure warranty.

(1) A land use authority shall establish objective inspection standards for acceptance of a required landscaping or infrastructure improvement [~~required by the land use authority as a condition of:~~].

~~[(a) subdivision; or]~~

~~[(b) development activity.]~~

(2) (a) A land use authority shall require an applicant to complete a required landscaping or infrastructure improvement prior to any plat recordation or development activity.

(b) Subsection (2)(a) does not apply if:

(i) upon the applicant's request, the land use authority has authorized the applicant to post an improvement completion assurance in a manner that is consistent with local ordinance; and

(ii) the land use authority has established a system for the partial release of the improvement completion assurance as portions of required improvements are completed and accepted.

(3) At any time up to the land use authority's acceptance of a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the developer to:

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(a) execute an improvement warranty for the improvement warranty period; and
(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the county, in the amount of up to 10% of the lesser of the:

- (i) county engineer's original estimated cost of completion; or
- (ii) applicant's reasonable proven cost of completion.

(4) The provisions of this section may not be interpreted to supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section ~~10~~11. Section **17-27a-606** is amended to read:

17-27a-606. Common or community area parcels on a plat -- No separate ownership -- Ownership interest equally divided among other parcels on plat and included in description of other parcels.

(1) (a) A parcel designated as a common or community area on a plat recorded in compliance with this part may not be separately owned or conveyed independent of the other lots, units, or parcels created by the plat unless:

- (i) the parcel is being acquired by a county for a governmental purpose; and
- (ii) the conveyance is approved by the owners of at least 75% of the lots, units, or parcels on the plat, after the county gives its approval.

(b) A notice of the approval required in Subsection (1)(a)(ii) shall be:

- (i) attached as an exhibit to the document of conveyance; or
- (ii) recorded concurrently with the conveyance as a separate document.

(2) The ownership interest in a parcel described in Subsection (1) shall:

(a) for purposes of assessment, be divided equally among all parcels created by the plat, unless a different division of interest for assessment purposes is indicated on the plat or an accompanying recorded document; and

(b) be considered to be included in the description of each instrument describing a parcel on the plat by its identifying plat number, even if the common or community area interest is not explicitly stated in the instrument.

(3) A parcel designated as common or community area on a plat before, on, or after May 12, 2015, may be modified in size and location if the modification:

- (a) is approved as part of a subdivision plat amendment by the local government;
- (b) is approved by at least 75% of the voting interests in a homeowners association

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having an interest in the common or community area, if any;

(c) is approved by at least 75% of the owners of lots, units, or parcels on the plat if there is no homeowners association having an interest in the common or community area, if any; and

(d) does not create a new buildable lot.

†

Legislative Review Note

— as of 1-28-15 3:25 PM

~~Office of Legislative Research and General Counsel~~ (4) A parcel designated as common or community area on a plat before, on, or after May 12, 2015, may be modified in size without a subdivision plat amendment approval by the local government, if the modification:

(a) is a lot line adjustment approved by at least 75% of the voting interests in a homeowners association having an interest in the common or community area, if any;

(b) is approved by at least 75% of the owners of lots, units, or parcels on the plat if there is no homeowners association having an interest in the common or community area, if any; and

(c) does not create a new buildable lot.

Section 12. Section 17-27a-802 is amended to read:

17-27a-802. Enforcement.

(1) (a) A county or any adversely affected owner of real estate within the county in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A county need only establish the violation to obtain the injunction.

(2) (a) [The] A county may enforce the county's ordinance by withholding a building [permits] permit.

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(b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within a county without approval of a building permit.

(c) The county may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A county may not deny an applicant a building permit because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit under the building code and fire code; and

(ii) for which the county has accepted an infrastructure improvement assurance for infrastructure improvements for the development.