

Representative Melvin R. Brown proposes the following substitute bill:

LAND USE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Mike Schultz

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;
- ▶ requires a member of a planning commission to reside within the commission's jurisdiction;
- ▶ amends provisions prohibiting certain counties from adopting a land use ordinance 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.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **10-9a-103**, as last amended by Laws of Utah 2014, Chapters 136 and 363

33 **10-9a-505**, as last amended by Laws of Utah 2008, Chapter 326

34 **10-9a-603**, as last amended by Laws of Utah 2010, Chapters 269 and 381

35 **10-9a-604.5**, as repealed and reenacted by Laws of Utah 2013, Chapter 309

36 **10-9a-606**, as last amended by Laws of Utah 2010, Chapter 381

37 **10-9a-802**, as renumbered and amended by Laws of Utah 2005, Chapter 254

38 **17-27a-103**, as last amended by Laws of Utah 2014, Chapters 136 and 363

39 **17-27a-301**, as last amended by Laws of Utah 2014, Chapter 189

40 **17-27a-505**, as last amended by Laws of Utah 2013, Chapter 476

41 **17-27a-603**, as last amended by Laws of Utah 2011, Chapter 377

42 **17-27a-604.5**, as repealed and reenacted by Laws of Utah 2013, Chapter 309

43 **17-27a-606**, as last amended by Laws of Utah 2010, Chapter 381

44 **17-27a-802**, as renumbered and amended by Laws of Utah 2005, Chapter 254

45

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

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

48 **10-9a-103. Definitions.**

49 As used in this chapter:

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

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

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

59 (c) the entity has filed with the municipality a request for notice during the same
60 calendar year and before the municipality provides notice to an affected entity in compliance
61 with a requirement imposed under this chapter.

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

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

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

69 (i) an operating charter school;

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

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

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

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

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

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

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

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

86 (8) "Development activity" means:

87 (a) any construction or expansion of a building, structure, or use that creates additional

88 demand and need for public facilities;

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

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

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

96 (b) "Disability" does not include current illegal use of, or addiction to, any federally
97 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
98 802.

99 (10) "Educational facility":

100 (a) means:

101 (i) a school district's building at which pupils assemble to receive instruction in a
102 program for any combination of grades from preschool through grade 12, including
103 kindergarten and a program for children with disabilities;

104 (ii) a structure or facility:

105 (A) located on the same property as a building described in Subsection (10)(a)(i); and

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

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

109 (b) does not include:

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

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

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

115 (ii) a therapeutic school.

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

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

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

121 Management Agency; or

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

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

128 (14) "Geologic hazard" means:

129 (a) a surface fault rupture;

130 (b) shallow groundwater;

131 (c) liquefaction;

132 (d) a landslide;

133 (e) a debris flow;

134 (f) unstable soil;

135 (g) a rock fall; or

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

137 (i) to life;

138 (ii) of substantial loss of real property; or

139 (iii) of substantial damage to real property.

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

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

144 (a) are clearly marked as "identical plans";

145 (b) are substantially identical to building plans that were previously submitted to and
146 reviewed and approved by the municipality; and

147 (c) describe a building that:

148 (i) is located on land zoned the same as the land on which the building described in the
149 previously approved plans is located;

150 (ii) is subject to the same geological and meteorological conditions and the same law
151 as the building described in the previously approved plans;

152 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
153 and approved by the municipality; and

154 (iv) does not require any additional engineering or analysis.

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

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

161 (a) recording a subdivision plat; or

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

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

166 (a) complies with the municipality's written standards for design, materials, and
167 workmanship; and

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

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

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

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

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

176 (ii) has substantial evidence, on record:

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

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

180 (21) "Infrastructure improvement" means permanent infrastructure that an applicant

181 must install:

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

183 improvements; and

184 (b) as a condition of:

185 (i) recording a subdivision plat; or

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

187 project.

188 ~~[(21)]~~ (22) "Internal lot restriction" means a platted note, platted demarcation, or

189 platted designation that:

190 (a) runs with the land; and

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

192 the plat; or

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

194 described on the plat.

195 ~~[(22)]~~ (23) "Land use application" means an application required by a municipality's

196 land use ordinance.

197 ~~[(23)]~~ (24) "Land use authority" means:

198 (a) a person, board, commission, agency, or body, including the local legislative body,

199 designated by the local legislative body to act upon a land use application; or

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

201 agency, or body, the local legislative body.

202 ~~[(24)]~~ (25) "Land use ordinance" means a planning, zoning, development, or

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

204 ~~[(25)]~~ (26) "Land use permit" means a permit issued by a land use authority.

205 ~~[(26)]~~ (27) "Legislative body" means the municipal council.

206 ~~[(27)]~~ (28) "Local district" means an entity under Title 17B, Limited Purpose Local

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

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

209 ~~[(28)]~~ (29) "Lot line adjustment" means the relocation of the property boundary line in

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

211 ~~[(29)]~~ (30) "Moderate income housing" means housing occupied or reserved for

212 occupancy by households with a gross household income equal to or less than 80% of the
213 median gross income for households of the same size in the county in which the city is located.

214 ~~[(30)]~~ (31) "Nominal fee" means a fee that reasonably reimburses a municipality only
215 for time spent and expenses incurred in:

- 216 (a) verifying that building plans are identical plans; and
- 217 (b) reviewing and approving those minor aspects of identical plans that differ from the
218 previously reviewed and approved building plans.

219 ~~[(31)]~~ (32) "Noncomplying structure" means a structure that:

- 220 (a) legally existed before its current land use designation; and
- 221 (b) because of one or more subsequent land use ordinance changes, does not conform
222 to the setback, height restrictions, or other regulations, excluding those regulations, which
223 govern the use of land.

224 ~~[(32)]~~ (33) "Nonconforming use" means a use of land that:

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

230 ~~[(33)]~~ (34) "Official map" means a map drawn by municipal authorities and recorded in
231 a county recorder's office that:

- 232 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
233 highways and other transportation facilities;
- 234 (b) provides a basis for restricting development in designated rights-of-way or between
235 designated setbacks to allow the government authorities time to purchase or otherwise reserve
236 the land; and
- 237 (c) has been adopted as an element of the municipality's general plan.

238 ~~[(34)]~~ (35) "Parcel boundary adjustment" means a recorded agreement between owners
239 of adjoining properties adjusting their mutual boundary if:

- 240 (a) no additional parcel is created; and
- 241 (b) each property identified in the agreement is unsubdivided land, including a
242 remainder of subdivided land.

243 [~~(35)~~] (36) "Person" means an individual, corporation, partnership, organization,
244 association, trust, governmental agency, or any other legal entity.

245 [~~(36)~~] (37) "Plan for moderate income housing" means a written document adopted by
246 a city legislative body that includes:

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

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

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

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

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

256 [~~(37)~~] (38) "Plat" means a map or other graphical representation of lands being laid out
257 and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

258 [~~(38)~~] (39) "Potential geologic hazard area" means an area that:

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

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

265 [~~(39)~~] (40) "Public agency" means:

266 (a) the federal government;

267 (b) the state;

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

270 (d) a charter school.

271 [~~(40)~~] (41) "Public hearing" means a hearing at which members of the public are
272 provided a reasonable opportunity to comment on the subject of the hearing.

273 [~~(41)~~] (42) "Public meeting" means a meeting that is required to be open to the public

274 under Title 52, Chapter 4, Open and Public Meetings Act.

275 [~~(42)~~] (43) "Receiving zone" means an area of a municipality that the municipality
276 designates, by ordinance, as an area in which an owner of land may receive a transferable
277 development right.

278 [~~(43)~~] (44) "Record of survey map" means a map of a survey of land prepared in
279 accordance with Section 17-23-17.

280 [~~(44)~~] (45) "Residential facility for persons with a disability" means a residence:

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

282 (b) (i) which is licensed or certified by the Department of Human Services under Title
283 62A, Chapter 2, Licensure of Programs and Facilities; or

284 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
285 21, Health Care Facility Licensing and Inspection Act.

286 [~~(45)~~] (46) "Rules of order and procedure" means a set of rules that govern and
287 prescribe in a public meeting:

288 (a) parliamentary order and procedure;

289 (b) ethical behavior; and

290 (c) civil discourse.

291 [~~(46)~~] (47) "Sanitary sewer authority" means the department, agency, or public entity
292 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
293 wastewater systems.

294 [~~(47)~~] (48) "Sending zone" means an area of a municipality that the municipality
295 designates, by ordinance, as an area from which an owner of land may transfer a transferable
296 development right.

297 [~~(48)~~] (49) "Specified public agency" means:

298 (a) the state;

299 (b) a school district; or

300 (c) a charter school.

301 [~~(49)~~] (50) "Specified public utility" means an electrical corporation, gas corporation,
302 or telephone corporation, as those terms are defined in Section 54-2-1.

303 [~~(50)~~] (51) "State" includes any department, division, or agency of the state.

304 [~~(51)~~] (52) "Street" means a public right-of-way, including a highway, avenue,

305 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
306 or other way.

307 [~~(52)~~] (53) (a) "Subdivision" means any land that is divided, resubdivided or proposed
308 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
309 purpose, whether immediate or future, for offer, sale, lease, or development either on the
310 installment plan or upon any and all other plans, terms, and conditions.

311 (b) "Subdivision" includes:

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

314 (ii) except as provided in Subsection [~~(52)~~] (53)(c), divisions of land for residential and
315 nonresidential uses, including land used or to be used for commercial, agricultural, and
316 industrial purposes.

317 (c) "Subdivision" does not include:

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

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

324 (A) no new lot is created; and

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

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

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

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

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

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

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

335 (v) a bona fide division or partition of land by deed or other instrument where the land

336 use authority expressly approves in writing the division in anticipation of further land use
337 approvals on the parcel or parcels; or

338 (vi) a parcel boundary adjustment.

339 (d) The joining of a subdivided parcel of property to another parcel of property that has
340 not been subdivided does not constitute a subdivision under this Subsection [~~(52)~~] (53) as to
341 the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
342 subdivision ordinance.

343 [~~(53)~~] (54) "Suspect soil" means soil that has:

344 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
345 3% swell potential;

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

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

349 [~~(54)~~] (55) "Therapeutic school" means a residential group living facility:

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

351 (i) the owner of the facility; or

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

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

354 (i) at home;

355 (ii) in a public school; or

356 (iii) in a nonresidential private school; and

357 (c) that offers:

358 (i) room and board; and

359 (ii) an academic education integrated with:

360 (A) specialized structure and supervision; or

361 (B) services or treatment related to a disability, an emotional development, a
362 behavioral development, a familial development, or a social development.

363 [~~(55)~~] (56) "Transferable development right" means a right to develop and use land that
364 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
365 land use rights from a designated sending zone to a designated receiving zone.

366 [~~(56)~~] (57) "Unincorporated" means the area outside of the incorporated area of a city

367 or town.

368 [~~(57)~~] (58) "Water interest" means any right to the beneficial use of water, including:

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

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

371 (i) a contract; or

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

373 [~~(58)~~] (59) "Zoning map" means a map, adopted as part of a land use ordinance, that
374 depicts land use zones, overlays, or districts.

375 Section 2. Section 10-9a-505 is amended to read:

376 **10-9a-505. Zoning districts.**

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

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

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

385 (i) protect life; and

386 (ii) prevent:

387 (A) the substantial loss of real property; or

388 (B) substantial damage to real property.

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

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

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

397 (4) A municipality may by ordinance exempt from specific zoning district standards a

398 subdivision of land to accommodate the siting of a public utility infrastructure.

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

400 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**
401 **acknowledgment, surveyor certification, and underground utility facility owner**
402 **verification of plat -- Recording plat.**

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

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

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

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

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

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

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

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

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

427 (ii) does not:

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

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

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

433 (D) provide culinary public water service that has a source protection zone designated
434 as provided in Section 19-4-113 included, in whole or in part, within the proposed subdivision;
435 or

436 (iii) is not entitled to notice of the subdivision pursuant to Subsection
437 10-9a-509(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on
438 the plat.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

469 (III) the law applicable to prescriptive rights; or

470 (IV) any other provision of law.

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

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

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

477 **10-9a-604.5. Subdivision plat recording or development activity before required**
478 **infrastructure is completed -- Infrastructure completion assurance -- Infrastructure**
479 **warranty.**

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

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

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

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

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

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

491 and

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

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

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

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

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

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

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

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

506 **10-9a-606. Common or community area parcels on a plat -- No separate**
507 **ownership -- Ownership interest equally divided among other parcels on plat and**
508 **included in description of other parcels.**

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

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

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

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

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

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

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

519 (a) for purposes of assessment, be divided equally among all parcels created by the

520 plat, unless a different division of interest for assessment purposes is indicated on the plat or an

521 accompanying recorded document; and

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

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

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

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

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

533 (d) does not create a new buildable lot.

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

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

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

542 (c) does not create a new buildable lot.

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

544 **10-9a-802. Enforcement.**

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

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

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

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

552 (2) (a) [~~The~~] A municipality may enforce the municipality's ordinance by withholding a

553 building [~~permits~~] permit.

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

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

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

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

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

565 Section 7. Section **17-27a-103** is amended to read:

566 **17-27a-103. Definitions.**

567 As used in this chapter:

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

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

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

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

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

583 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or

584 residential property if the sign is designed or intended to direct attention to a business, product,
585 or service that is not sold, offered, or existing on the property where the sign is located.

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

587 (i) an operating charter school;

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

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

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

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

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

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

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

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

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

606 (9) "Development activity" means:

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

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

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

613 (10) (a) "Disability" means a physical or mental impairment that substantially limits
614 one or more of a person's major life activities, including a person having a record of such an

615 impairment or being regarded as having such an impairment.

616 (b) "Disability" does not include current illegal use of, or addiction to, any federally
617 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
618 802.

619 (11) "Educational facility":

620 (a) means:

621 (i) a school district's building at which pupils assemble to receive instruction in a
622 program for any combination of grades from preschool through grade 12, including
623 kindergarten and a program for children with disabilities;

624 (ii) a structure or facility:

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

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

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

629 (b) does not include:

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

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

633 and

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

635 (ii) a therapeutic school.

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

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

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

641 Management Agency; or

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

- 646 (14) "Gas corporation" has the same meaning as defined in Section 54-2-1.
- 647 (15) "General plan" means a document that a county adopts that sets forth general
- 648 guidelines for proposed future development of the unincorporated land within the county.
- 649 (16) "Geologic hazard" means:
- 650 (a) a surface fault rupture;
- 651 (b) shallow groundwater;
- 652 (c) liquefaction;
- 653 (d) a landslide;
- 654 (e) a debris flow;
- 655 (f) unstable soil;
- 656 (g) a rock fall; or
- 657 (h) any other geologic condition that presents a risk:
- 658 (i) to life;
- 659 (ii) of substantial loss of real property; or
- 660 (iii) of substantial damage to real property.
- 661 (17) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 662 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
- 663 system.
- 664 (18) "Identical plans" means building plans submitted to a county that:
- 665 (a) are clearly marked as "identical plans";
- 666 (b) are substantially identical building plans that were previously submitted to and
- 667 reviewed and approved by the county; and
- 668 (c) describe a building that:
- 669 (i) is located on land zoned the same as the land on which the building described in the
- 670 previously approved plans is located;
- 671 (ii) is subject to the same geological and meteorological conditions and the same law
- 672 as the building described in the previously approved plans;
- 673 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 674 and approved by the county; and
- 675 (iv) does not require any additional engineering or analysis.
- 676 (19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,

677 Impact Fees Act.

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

682 (a) recording a subdivision plat; or

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

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

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

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

691 (22) "Improvement warranty period" means a period:

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

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

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

697 (ii) has substantial evidence, on record:

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

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

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

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

705 (b) as a condition of:

706 (i) recording a subdivision plat; or

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

708 project.

709 [~~(23)~~] (24) "Internal lot restriction" means a platted note, platted demarcation, or
710 platted designation that:

711 (a) runs with the land; and

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

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

716 [~~(24)~~] (25) "Interstate pipeline company" means a person or entity engaged in natural
717 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
718 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

719 [~~(25)~~] (26) "Intrastate pipeline company" means a person or entity engaged in natural
720 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
721 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

722 [~~(26)~~] (27) "Land use application" means an application required by a county's land use
723 ordinance.

724 [~~(27)~~] (28) "Land use authority" means:

725 (a) a person, board, commission, agency, or body, including the local legislative body,
726 designated by the local legislative body to act upon a land use application; or

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

729 [~~(28)~~] (29) "Land use ordinance" means a planning, zoning, development, or
730 subdivision ordinance of the county, but does not include the general plan.

731 [~~(29)~~] (30) "Land use permit" means a permit issued by a land use authority.

732 [~~(30)~~] (31) "Legislative body" means the county legislative body, or for a county that
733 has adopted an alternative form of government, the body exercising legislative powers.

734 [~~(31)~~] (32) "Local district" means any entity under Title 17B, Limited Purpose Local
735 Government Entities - Local Districts, and any other governmental or quasi-governmental
736 entity that is not a county, municipality, school district, or the state.

737 [~~(32)~~] (33) "Lot line adjustment" means the relocation of the property boundary line in
738 a subdivision between two adjoining lots with the consent of the owners of record.

739 [~~(33)~~] (34) "Moderate income housing" means housing occupied or reserved for
740 occupancy by households with a gross household income equal to or less than 80% of the
741 median gross income for households of the same size in the county in which the housing is
742 located.

743 [~~(34)~~] (35) "Nominal fee" means a fee that reasonably reimburses a county only for
744 time spent and expenses incurred in:

- 745 (a) verifying that building plans are identical plans; and
- 746 (b) reviewing and approving those minor aspects of identical plans that differ from the
747 previously reviewed and approved building plans.

748 [~~(35)~~] (36) "Noncomplying structure" means a structure that:

- 749 (a) legally existed before its current land use designation; and
- 750 (b) because of one or more subsequent land use ordinance changes, does not conform
751 to the setback, height restrictions, or other regulations, excluding those regulations that govern
752 the use of land.

753 [~~(36)~~] (37) "Nonconforming use" means a use of land that:

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

759 [~~(37)~~] (38) "Official map" means a map drawn by county authorities and recorded in
760 the county recorder's office that:

- 761 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
762 highways and other transportation facilities;
- 763 (b) provides a basis for restricting development in designated rights-of-way or between
764 designated setbacks to allow the government authorities time to purchase or otherwise reserve
765 the land; and
- 766 (c) has been adopted as an element of the county's general plan.

767 [~~(38)~~] (39) "Parcel boundary adjustment" means a recorded agreement between owners
768 of adjoining properties adjusting their mutual boundary if:

- 769 (a) no additional parcel is created; and

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

772 [~~(39)~~] (40) "Person" means an individual, corporation, partnership, organization,
773 association, trust, governmental agency, or any other legal entity.

774 [~~(40)~~] (41) "Plan for moderate income housing" means a written document adopted by
775 a county legislative body that includes:

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

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

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

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

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

785 [~~(41)~~] (42) "Plat" means a map or other graphical representation of lands being laid out
786 and prepared in accordance with Section [17-27a-603](#), [17-23-17](#), or [57-8-13](#).

787 [~~(42)~~] (43) "Potential geologic hazard area" means an area that:

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

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

794 [~~(43)~~] (44) "Public agency" means:

795 (a) the federal government;

796 (b) the state;

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

799 (d) a charter school.

800 [~~(44)~~] (45) "Public hearing" means a hearing at which members of the public are

801 provided a reasonable opportunity to comment on the subject of the hearing.

802 ~~[(45)]~~ (46) "Public meeting" means a meeting that is required to be open to the public
803 under Title 52, Chapter 4, Open and Public Meetings Act.

804 ~~[(46)]~~ (47) "Receiving zone" means an unincorporated area of a county that the county
805 designates, by ordinance, as an area in which an owner of land may receive a transferable
806 development right.

807 ~~[(47)]~~ (48) "Record of survey map" means a map of a survey of land prepared in
808 accordance with Section 17-23-17.

809 ~~[(48)]~~ (49) "Residential facility for persons with a disability" means a residence:

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

811 (b) (i) which is licensed or certified by the Department of Human Services under Title
812 62A, Chapter 2, Licensure of Programs and Facilities; or

813 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
814 21, Health Care Facility Licensing and Inspection Act.

815 ~~[(49)]~~ (50) "Rules of order and procedure" means a set of rules that govern and
816 prescribe in a public meeting:

817 (a) parliamentary order and procedure;

818 (b) ethical behavior; and

819 (c) civil discourse.

820 ~~[(50)]~~ (51) "Sanitary sewer authority" means the department, agency, or public entity
821 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
822 wastewater systems.

823 ~~[(51)]~~ (52) "Sending zone" means an unincorporated area of a county that the county
824 designates, by ordinance, as an area from which an owner of land may transfer a transferable
825 development right.

826 ~~[(52)]~~ (53) "Site plan" means a document or map that may be required by a county
827 during a preliminary review preceding the issuance of a building permit to demonstrate that an
828 owner's or developer's proposed development activity meets a land use requirement.

829 ~~[(53)]~~ (54) "Specified public agency" means:

830 (a) the state;

831 (b) a school district; or

832 (c) a charter school.

833 [~~54~~] (55) "Specified public utility" means an electrical corporation, gas corporation,
834 or telephone corporation, as those terms are defined in Section 54-2-1.

835 [~~55~~] (56) "State" includes any department, division, or agency of the state.

836 [~~56~~] (57) "Street" means a public right-of-way, including a highway, avenue,
837 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
838 or other way.

839 [~~57~~] (58) (a) "Subdivision" means any land that is divided, resubdivided or proposed
840 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
841 purpose, whether immediate or future, for offer, sale, lease, or development either on the
842 installment plan or upon any and all other plans, terms, and conditions.

843 (b) "Subdivision" includes:

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

846 (ii) except as provided in Subsection [~~57~~] (58)(c), divisions of land for residential and
847 nonresidential uses, including land used or to be used for commercial, agricultural, and
848 industrial purposes.

849 (c) "Subdivision" does not include:

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

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

853 (A) no new lot is created; and

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

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

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

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

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

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

- 863 (B) a natural gas pipeline or a regulation station; or
864 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
865 utility service regeneration, transformation, retransmission, or amplification facility;
866 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
867 their mutual boundary if:
868 (A) no new dwelling lot or housing unit will result from the adjustment; and
869 (B) the adjustment will not violate any applicable land use ordinance;
870 (vi) a bona fide division or partition of land by deed or other instrument where the land
871 use authority expressly approves in writing the division in anticipation of further land use
872 approvals on the parcel or parcels; or
873 (vii) a parcel boundary adjustment.
874 (d) The joining of a subdivided parcel of property to another parcel of property that has
875 not been subdivided does not constitute a subdivision under this Subsection [~~(57)~~] (58) as to
876 the unsubdivided parcel of property or subject the unsubdivided parcel to the county's
877 subdivision ordinance.
878 [~~(58)~~] (59) "Suspect soil" means soil that has:
879 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
880 3% swell potential;
881 (b) bedrock units with high shrink or swell susceptibility; or
882 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
883 commonly associated with dissolution and collapse features.
884 [~~(59)~~] (60) "Therapeutic school" means a residential group living facility:
885 (a) for four or more individuals who are not related to:
886 (i) the owner of the facility; or
887 (ii) the primary service provider of the facility;
888 (b) that serves students who have a history of failing to function:
889 (i) at home;
890 (ii) in a public school; or
891 (iii) in a nonresidential private school; and
892 (c) that offers:
893 (i) room and board; and

894 (ii) an academic education integrated with:
 895 (A) specialized structure and supervision; or
 896 (B) services or treatment related to a disability, an emotional development, a
 897 behavioral development, a familial development, or a social development.

898 ~~[(60)]~~ (61) "Township" means a contiguous, geographically defined portion of the
 899 unincorporated area of a county, established under this part or reconstituted or reinstated under
 900 Section 17-27a-306, with planning and zoning functions as exercised through the township
 901 planning commission, as provided in this chapter, but with no legal or political identity
 902 separate from the county and no taxing authority, except that "township" means a former
 903 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

904 ~~[(61)]~~ (62) "Transferable development right" means a right to develop and use land that
 905 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
 906 land use rights from a designated sending zone to a designated receiving zone.

907 ~~[(62)]~~ (63) "Unincorporated" means the area outside of the incorporated area of a
 908 municipality.

909 ~~[(63)]~~ (64) "Water interest" means any right to the beneficial use of water, including:

- 910 (a) each of the rights listed in Section 73-1-11; and
- 911 (b) an ownership interest in the right to the beneficial use of water represented by:
 - 912 (i) a contract; or
 - 913 (ii) a share in a water company, as defined in Section 73-3-3.5.

914 ~~[(64)]~~ (65) "Zoning map" means a map, adopted as part of a land use ordinance, that
 915 depicts land use zones, overlays, or districts.

916 Section 8. Section 17-27a-301 is amended to read:

917 **17-27a-301. Ordinance establishing planning commission required -- Exception --**
 918 **Ordinance requirements -- Township planning commission -- Compensation.**

919 (1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
 920 establishing a countywide planning commission for the unincorporated areas of the county not
 921 within a township.

922 (b) Subsection (1)(a) does not apply if all of the county is included within any
 923 combination of:

- 924 (i) municipalities; and

925 (ii) townships with their own planning commissions.

926 (2) (a) The ordinance shall define:

927 (i) the number and terms of the members and, if the county chooses, alternate
928 members;

929 (ii) the mode of appointment;

930 (iii) the procedures for filling vacancies and removal from office;

931 (iv) the authority of the planning commission;

932 (v) subject to Subsection (2)(b), the rules of order and procedure for use by the
933 planning commission in a public meeting; and

934 (vi) other details relating to the organization and procedures of the planning
935 commission.

936 (b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with
937 Title 52, Chapter 4, Open and Public Meetings Act.

938 (c) Each member of a planning commission other than a township planning
939 commission shall be a registered voter residing within an unincorporated area that is subject to
940 the jurisdiction of the planning commission.

941 (3) (a) (i) If the county establishes a township planning commission, the county
942 legislative body shall enact an ordinance that defines:

943 (A) appointment procedures;

944 (B) procedures for filling vacancies and removing members from office;

945 (C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the
946 township planning commission in a public meeting; and

947 (D) details relating to the organization and procedures of each township planning
948 commission.

949 (ii) Subsection (3)(a)(i)(C) does not affect the township planning commission's duty to
950 comply with Title 52, Chapter 4, Open and Public Meetings Act.

951 (b) The planning commission for each township shall consist of seven members who,
952 except as provided in Subsection (4), shall be appointed by:

953 (i) in a county operating under a form of government in which the executive and
954 legislative functions of the governing body are separated, the county executive with the advice
955 and consent of the county legislative body; or

956 (ii) in a county operating under a form of government in which the executive and
957 legislative functions of the governing body are not separated, the county legislative body.

958 (c) (i) Members shall serve four-year terms and until their successors are appointed or,
959 as provided in Subsection (4), elected and qualified.

960 (ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in
961 Subsection (4), members of the first planning commissions shall be appointed so that, for each
962 commission, the terms of at least one member and no more than two members expire each
963 year.

964 (d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township
965 planning commission shall be a registered voter residing within the township.

966 (ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission
967 of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established
968 under Subsection 17-27a-306(1)(k)(i) may be an appointed member who is a registered voter
969 residing outside the township if that member:

970 (I) is an owner of real property located within the township; and

971 (II) resides within the county in which the township is located.

972 (B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township
973 planning commission from a list of three persons submitted by the county legislative body.

974 (II) If the township planning commission has not notified the county legislative body of
975 its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning
976 commission's receipt of the list, the county legislative body may appoint one of the three
977 persons on the list or a registered voter residing within the township as a member of the
978 township planning commission.

979 (4) (a) The legislative body of each county in which a township reconstituted under
980 Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection
981 17-27a-306(1)(k)(i) is located shall on or before January 1, 2012, enact an ordinance that
982 provides for the election of at least three members of the planning commission of that
983 township.

984 (b) (i) Beginning with the 2012 general election, the election of planning commission
985 members under Subsection (4)(a) shall coincide with the election of other county officers
986 during even-numbered years.

987 (ii) Approximately half the elected planning commission members shall be elected
988 every four years during elections held on even-numbered years, and the remaining elected
989 members shall be elected every four years on alternating even-numbered years.

990 (c) If no person files a declaration of candidacy in accordance with Section [20A-9-202](#)
991 for an open township planning commission member position:

992 (i) the position may be appointed in accordance with Subsection (3)(b); and

993 (ii) a person appointed under Subsection (4)(c)(i) may not serve for a period of time
994 that exceeds the elected term for which there was no candidate.

995 (5) (a) A legislative body described in Subsection (4)(a) shall on or before January 1,
996 2012, enact an ordinance that:

997 (i) designates the seats to be elected; and

998 (ii) subject to Subsection (6)(b), appoints a member of the planning and zoning board
999 of the former township, established under Laws of Utah 1996, Chapter 308, as a member of the
1000 planning commission of the reconstituted or reinstated township.

1001 (b) A member appointed under Subsection (5)(a) is considered an elected member.

1002 (6) (a) Except as provided in Subsection (6)(b), the term of each member appointed
1003 under Subsection (5)(a) shall continue until the time that the member's term as an elected
1004 member of the former township planning and zoning board would have expired.

1005 (b) (i) Notwithstanding Subsection (6)(a), the county legislative body may adjust the
1006 terms of the members appointed under Subsection (5)(a) so that the terms of those members
1007 coincide with the schedule under Subsection (4)(b) for elected members.

1008 (ii) Subject to Subsection (6)(b)(iii), the legislative body of a county in which a
1009 township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established
1010 under Subsection [17-27a-306\(1\)\(k\)\(i\)](#) is located may enact an ordinance allowing each
1011 appointed member of the planning and zoning board of the former township, established under
1012 Laws of Utah 1996, Chapter 308, to continue to hold office as a member of the planning
1013 commission of the reconstituted or reinstated township until the time that the member's term as
1014 a member of the former township's planning and zoning board would have expired.

1015 (iii) If a planning commission of a township reconstituted under Laws of Utah 1997,
1016 Chapter 389, or reinstated or established under Subsection [17-27a-306\(1\)\(k\)\(i\)](#) has more than
1017 one appointed member who resides outside the township, the legislative body of the county in

1018 which that township is located shall, within 15 days of the effective date of this Subsection
1019 (6)(b)(iii), dismiss all but one of the appointed members who reside outside the township, and a
1020 new member shall be appointed under Subsection (3)(b) to fill the position of each dismissed
1021 member.

1022 (7) (a) Except as provided in Subsection (7)(b), upon the appointment or election of all
1023 members of a township planning commission, each township planning commission under this
1024 section shall begin to exercise the powers and perform the duties provided in Section
1025 17-27a-302 with respect to all matters then pending that previously had been under the
1026 jurisdiction of the countywide planning commission or township planning and zoning board.

1027 (b) Notwithstanding Subsection (7)(a), if the members of a former township planning
1028 and zoning board continue to hold office as members of the planning commission of the
1029 township planning district under an ordinance enacted under Subsection (5)(a), the township
1030 planning commission shall immediately begin to exercise the powers and perform the duties
1031 provided in Section 17-27a-302 with respect to all matters then pending that had previously
1032 been under the jurisdiction of the township planning and zoning board.

1033 (8) The legislative body may fix per diem compensation for the members of the
1034 planning commission, based on necessary and reasonable expenses and on meetings actually
1035 attended.

1036 Section 9. Section 17-27a-505 is amended to read:

1037 **17-27a-505. Zoning districts.**

1038 (1) (a) The legislative body may divide the territory over which it has jurisdiction into
1039 zoning districts of a number, shape, and area that it considers appropriate to carry out the
1040 purposes of this chapter.

1041 (b) Within those zoning districts, the legislative body may regulate and restrict the
1042 erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and
1043 the use of land.

1044 (c) A county may enact an ordinance regulating land use and development in a flood
1045 plain or potential geologic hazard area to:

1046 (i) protect life; and

1047 (ii) prevent:

1048 (A) the substantial loss of real property; or

1049 (B) substantial damage to real property.

1050 (d) A county of the second, third, fourth, fifth, or sixth class may not adopt a land use
1051 ordinance requiring a property owner to revegetate or landscape a single family dwelling
1052 disturbance area unless the property is located in a flood zone or geologic hazard except as
1053 required in Title 19, Chapter 5, Water Quality Act, to comply with federal law related to water
1054 pollution.

1055 (2) The legislative body shall ensure that the regulations are uniform for each class or
1056 kind of buildings throughout each zone, but the regulations in one zone may differ from those
1057 in other zones.

1058 (3) (a) There is no minimum area or diversity of ownership requirement for a zone
1059 designation.

1060 (b) Neither the size of a zoning district nor the number of landowners within the
1061 district may be used as evidence of the illegality of a zoning district or of the invalidity of a
1062 county decision.

1063 (4) A county may by ordinance exempt from specific zoning district standards a
1064 subdivision of land to accommodate the siting of a public utility infrastructure.

1065 Section 10. Section **17-27a-603** is amended to read:

1066 **17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner**
1067 **acknowledgment, surveyor certification, and underground utility facility owner**
1068 **verification of plat -- Recording plat.**

1069 (1) Unless exempt under Section **17-27a-605** or excluded from the definition of
1070 subdivision under Section **17-27a-103**, whenever any land is laid out and platted, the owner of
1071 the land shall provide an accurate plat that describes or specifies:

1072 (a) a subdivision name that is distinct from any subdivision name on a plat recorded in
1073 the county recorder's office;

1074 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
1075 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is
1076 intended to be used as a street or for any other public use, and whether any such area is
1077 reserved or proposed for dedication for a public purpose;

1078 (c) the lot or unit reference, block or building reference, street or site address, street
1079 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length

1080 and width of the blocks and lots intended for sale; and

1081 (d) every existing right-of-way and easement grant of record for an underground
1082 [~~facilities~~] facility, as defined in Section [54-8a-2](#), and for any other utility [~~facilities~~] facility.

1083 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's
1084 ordinances and this part and has been approved by the culinary water authority [~~and~~], the
1085 sanitary sewer authority, and the local health department, as defined in Section [26A-1-102](#), if
1086 the local health department considers its approval necessary, the county shall approve the plat.

1087 (b) Counties are encouraged to receive a recommendation from the fire authority before
1088 approving a plat.

1089 (c) A county may not require that a plat be approved or signed by a person or entity
1090 who:

1091 (i) is not an employee or agent of the county;

1092 (ii) does not:

1093 (A) have a legal or equitable interest in the property within the proposed subdivision;

1094 (B) provide a utility or other service directly to a lot within the subdivision;

1095 (C) own an easement or right-of-way adjacent to the proposed subdivision who signs
1096 for the purpose of confirming the accuracy of the location of the easement or right-of-way in
1097 relation to the plat; or

1098 (D) provide culinary public water service that has a source protection zone designated
1099 as provided in Section [19-4-113](#) included, in whole or in part, within the proposed subdivision;

1100 or

1101 (iii) is not entitled to notice of the subdivision pursuant to Subsection
1102 [17-27a-508\(1\)\(b\)\(iv\)](#) for the purpose of determining the accuracy of the information depicted
1103 on the plat.

1104 (3) The county may withhold an otherwise valid plat approval until the owner of the
1105 land provides the legislative body with a tax clearance indicating that all taxes, interest, and
1106 penalties owing on the land have been paid.

1107 (4) (a) A plat may not be submitted to a county recorder for recording unless, subject to
1108 Subsection [17-27a-604\(2\)](#):

1109 (i) prior to recordation, each owner of record of land described on the plat has signed
1110 the owner's dedication as shown on the plat; and

1111 (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as
1112 provided by law.

1113 (b) The surveyor making the plat shall certify that the surveyor:

1114 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
1115 Professional Land Surveyors Licensing Act;

1116 (ii) has completed a survey of the property described on the plat in accordance with
1117 Section 17-23-17 and has verified all measurements; and

1118 (iii) has placed monuments as represented on the plat.

1119 (c) (i) ~~[As applicable]~~ To the extent possible, the surveyor shall consult with the owner
1120 or operator of [the] an existing or proposed underground [and] facility or utility [facilities shall
1121 approve] facility within the proposed subdivision, or a representative designated by the owner
1122 or operator, to verify the accuracy of the surveyor's depiction of the:

1123 (A) boundary, course, dimensions, and intended use of the ~~[right-of-way and]~~ public
1124 rights-of-way, a public or private easement, or grants of record;

1125 (B) location of an existing facility underground and utility ~~[facilities]~~ facility; and

1126 (C) ~~[conditions or]~~ physical restrictions governing the location of the ~~[facilities within~~
1127 ~~the right-of-way, and easement grants of records,]~~ underground facility and utility ~~[facilities]~~
1128 facility within the subdivision.

1129 (ii) The ~~[approval]~~ cooperation of an owner or operator under Subsection (4)(c)(i):

1130 (A) indicates only that the plat approximates the location of the existing underground
1131 and utility facilities but does not warrant or verify their precise location; and

1132 (B) does not affect a right that the owner or operator has under:

1133 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

1134 (II) a recorded easement or right-of-way;

1135 (III) the law applicable to prescriptive rights; or

1136 (IV) any other provision of law.

1137 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the
1138 land shall, within the time period designated by ordinance, record the plat in the county
1139 recorder's office in the county in which the lands platted and laid out are situated.

1140 (b) An owner's failure to record a plat within the time period designated by ordinance
1141 renders the plat voidable.

1142 Section 11. Section 17-27a-604.5 is amended to read:

1143 **17-27a-604.5. Subdivision plat recording or development activity before required**
1144 **infrastructure is completed -- Infrastructure completion assurance -- Infrastructure**
1145 **warranty.**

1146 (1) A land use authority shall establish objective inspection standards for acceptance of
1147 a required landscaping or infrastructure improvement [~~required by the land use authority as a~~
1148 ~~condition of:~~].

1149 [~~(a) subdivision; or~~]

1150 [~~(b) development activity.~~]

1151 (2) (a) A land use authority shall require an applicant to complete a required
1152 landscaping or infrastructure improvement prior to any plat recordation or development
1153 activity.

1154 (b) Subsection (2)(a) does not apply if:

1155 (i) upon the applicant's request, the land use authority has authorized the applicant to
1156 post an improvement completion assurance in a manner that is consistent with local ordinance;
1157 and

1158 (ii) the land use authority has established a system for the partial release of the
1159 improvement completion assurance as portions of required improvements are completed and
1160 accepted.

1161 (3) At any time up to the land use authority's acceptance of a landscaping or
1162 infrastructure improvement, and for the duration of each improvement warranty period, the
1163 land use authority may require the developer to:

1164 (a) execute an improvement warranty for the improvement warranty period; and

1165 (b) post a cash deposit, surety bond, letter of credit, or other similar security, as

1166 required by the county, in the amount of up to 10% of the lesser of the:

1167 (i) county engineer's original estimated cost of completion; or

1168 (ii) applicant's reasonable proven cost of completion.

1169 (4) The provisions of this section may not be interpreted to supersede the terms of a
1170 valid development agreement, an adopted phasing plan, or the state construction code.

1171 Section 12. Section 17-27a-606 is amended to read:

1172 **17-27a-606. Common or community area parcels on a plat -- No separate**

1173 **ownership -- Ownership interest equally divided among other parcels on plat and**
1174 **included in description of other parcels.**

1175 (1) (a) A parcel designated as a common or community area on a plat recorded in
1176 compliance with this part may not be separately owned or conveyed independent of the other
1177 lots, units, or parcels created by the plat unless:

1178 (i) the parcel is being acquired by a county for a governmental purpose; and
1179 (ii) the conveyance is approved by the owners of at least 75% of the lots, units, or
1180 parcels on the plat, after the county gives its approval.

1181 (b) A notice of the approval required in Subsection (1)(a)(ii) shall be:

1182 (i) attached as an exhibit to the document of conveyance; or
1183 (ii) recorded concurrently with the conveyance as a separate document.

1184 (2) The ownership interest in a parcel described in Subsection (1) shall:

1185 (a) for purposes of assessment, be divided equally among all parcels created by the
1186 plat, unless a different division of interest for assessment purposes is indicated on the plat or an
1187 accompanying recorded document; and

1188 (b) be considered to be included in the description of each instrument describing a
1189 parcel on the plat by its identifying plat number, even if the common or community area
1190 interest is not explicitly stated in the instrument.

1191 (3) A parcel designated as common or community area on a plat before, on, or after
1192 May 12, 2015, may be modified in size and location if the modification:

1193 (a) is approved as part of a subdivision plat amendment by the local government;

1194 (b) is approved by at least 75% of the voting interests in a homeowners association
1195 having an interest in the common or community area, if any;

1196 (c) is approved by at least 75% of the owners of lots, units, or parcels on the plat if
1197 there is no homeowners association having an interest in the common or community area, if
1198 any; and

1199 (d) does not create a new buildable lot.

1200 (4) A parcel designated as common or community area on a plat before, on, or after
1201 May 12, 2015, may be modified in size without a subdivision plat amendment approval by the
1202 local government, if the modification:

1203 (a) is a lot line adjustment approved by at least 75% of the voting interests in a

1204 homeowners association having an interest in the common or community area, if any;
1205 (b) is approved by at least 75% of the owners of lots, units, or parcels on the plat if
1206 there is no homeowners association having an interest in the common or community area, if
1207 any; and

1208 (c) does not create a new buildable lot.

1209 Section 13. Section **17-27a-802** is amended to read:

1210 **17-27a-802. Enforcement.**

1211 (1) (a) A county or any adversely affected owner of real estate within the county in
1212 which violations of this chapter or ordinances enacted under the authority of this chapter occur
1213 or are about to occur may, in addition to other remedies provided by law, institute:

- 1214 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
- 1215 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

1216 (b) A county need only establish the violation to obtain the injunction.

1217 (2) (a) [~~The~~] A county may enforce the county's ordinance by withholding a building
1218 [permits] permit.

1219 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any
1220 building or other structure within a county without approval of a building permit.

1221 (c) The county may not issue a building permit unless the plans of and for the proposed
1222 erection, construction, reconstruction, alteration, or use fully conform to all regulations then in
1223 effect.

1224 (d) A county may not deny an applicant a building permit because the applicant has not
1225 completed an infrastructure improvement:

1226 (i) that is not essential to meet the requirements for the issuance of a building permit
1227 under the building code and fire code; and

1228 (ii) for which the county has accepted an infrastructure improvement assurance for
1229 infrastructure improvements for the development.