

## HB0388S01 compared with HB0388

~~deleted text~~ shows text that was in HB0388 but was deleted in HB0388S01.

inserted text shows text that was not in HB0388 but was inserted into HB0388S01.

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Representative Logan Wilde proposes the following substitute bill:

### LAND USE DEVELOPMENT AND MANAGEMENT REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Logan Wilde**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill revises provisions applicable to municipal and county land use development and management.

##### Highlighted Provisions:

This bill:

- ▶ defines and modifies terms;
- ▶ modifies requirements applicable to certain land use recommendations made by a planning commission;
- ▶ modifies provisions applicable to certain exemptions from local plat requirements;
- ▶ modifies provisions applicable to a petition for a subdivision amendment;
- ▶ clarifies the powers of certain public utilities;
- ▶ limits the right to appeal the decision of a land use authority to certain persons; and

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- ▶ makes technical and conforming changes.

### **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 2019, Chapters 327, 384 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 384

**10-9a-302**, as last amended by Laws of Utah 2019, Chapter 384

**10-9a-404**, as last amended by Laws of Utah 2018, Chapter 218

**10-9a-408**, as last amended by Laws of Utah 2019, Chapter 327

**10-9a-509**, as last amended by Laws of Utah 2019, Chapter 384 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 384

**10-9a-603**, as last amended by Laws of Utah 2019, Chapters 35 and 384

**10-9a-604**, as last amended by Laws of Utah 2019, Chapter 35

**10-9a-605**, as last amended by Laws of Utah 2019, Chapter 384

**10-9a-608**, as last amended by Laws of Utah 2019, Chapter 384

**10-9a-609.5**, as last amended by Laws of Utah 2019, Chapter 384

**10-9a-611**, as last amended by Laws of Utah 2016, Chapter 303

**10-9a-701**, as last amended by Laws of Utah 2019, Chapter 384

**10-9a-703**, as last amended by Laws of Utah 2017, Chapter 17

**10-9a-704**, as last amended by Laws of Utah 2017, Chapter 17

**10-9a-801**, as last amended by Laws of Utah 2019, Chapter 384

**10-9a-802**, as last amended by Laws of Utah 2019, Chapter 384

**17-27a-103**, as last amended by Laws of Utah 2019, Chapters 327, 384 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 384

**17-27a-302**, as last amended by Laws of Utah 2019, Chapter 384

**17-27a-404**, as last amended by Laws of Utah 2018, Chapter 218

**17-27a-408**, as last amended by Laws of Utah 2019, Chapter 327

**17-27a-603**, as last amended by Laws of Utah 2019, Chapters 35 and 384

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17-27a-604, as last amended by Laws of Utah 2019, Chapter 35  
17-27a-605, as last amended by Laws of Utah 2019, Chapter 384  
17-27a-608, as last amended by Laws of Utah 2019, Chapter 384  
17-27a-609.5, as last amended by Laws of Utah 2019, Chapter 384  
17-27a-611, as renumbered and amended by Laws of Utah 2005, Chapter 254  
17-27a-701, as last amended by Laws of Utah 2011, Chapter 92  
17-27a-703, as last amended by Laws of Utah 2009, Chapter 356  
17-27a-704, as last amended by Laws of Utah 2006, Chapter 240  
17-27a-801, as last amended by Laws of Utah 2019, Chapter 384  
17-27a-802, as last amended by Laws of Utah 2019, Chapter 384  
63I-2-217, as last amended by Laws of Utah 2019, Chapters 136, 252, 327, 384, 510  
and last amended by Coordination Clause, Laws of Utah 2019, Chapter 384  
63J-4-607, as last amended by Laws of Utah 2019, Chapter 246

### ENACTS:

10-9a-529, Utah Code Annotated 1953

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

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

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

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision~~{; and}~~.

~~{ (i) participated by any means in a public hearing before the land use authority on the particular land use application or land use decision; or~~

~~(ii) owns real property that is located within an area that received mailed notice of the proposed land use application or land use decision as required by local ordinance.~~

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~~†~~ ~~(2)~~ (3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

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

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

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

~~(3)~~ (4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)(a); and

(c) determined to be legally referable under Section 20A-7-602.8.

~~(4)~~ (5) "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.

~~(5)~~ (6) "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.

~~(6)~~ (7) (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 53G, Chapter 5, Part 3, Charter School Authorization; or

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

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

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~~[(7)]~~ (8) "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.

~~[(8)]~~ (9) "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.

~~[(9)]~~ (10) "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.

~~[(10)]~~ (11) "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.

~~[(11)]~~ (12) (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.

~~[(12)]~~ (13) "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 ~~[(12)]~~

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(13)(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 [(12)]

(13)(a)(i); and

(B) used in support of the purposes of a building described in Subsection [(12)]

(13)(a)(i); or

(ii) a therapeutic school.

~~{ (14) (a) "Electrical corporation" includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing an electric plant as defined in Section 54-2-1, or in any way furnishing electric power for public service to its consumers or members for domestic, commercial, or industrial use, within the state;~~

~~\_\_\_\_\_ (b) "Electrical corporation" does not include:~~

~~\_\_\_\_\_ (i) an independent energy producer as defined in Section 54-2-1;~~

~~\_\_\_\_\_ (ii) where electricity is generated on or distributed by the producer solely for the producer's own use, or the use of the producer's tenants, or the use of members of an~~

~~association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally;~~

~~\_\_\_\_\_ (iii) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate;~~

~~\_\_\_\_\_ (iv) a nonutility energy supplier as defined in Section 54-2-1 who sells or provides electricity to:~~

~~\_\_\_\_\_ (A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or~~

~~\_\_\_\_\_ (B) the eligible customer's tenant or affiliate; or~~

~~\_\_\_\_\_ (v) an entity that sells electric vehicle battery charging services, unless the entity~~

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~~conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as an electrical corporation.~~

~~— (15) "Eligible customer" means the same as that term is defined in Section 54-2-1.~~

~~— (16) "Eligible customer's tenant or affiliate" means the same as that term is defined in Section 54-2-1.~~

‡ [(13)] (~~(17)~~14) "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.

[(14)] (~~(18)~~15) "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.

~~{ — (19) "Gas corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing a gas plant, as defined in Section 54-2-1, for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:~~

~~— (a) gas is made or produced on, and distributed by the maker or producer through, private property:~~

~~— (i) solely for the maker's or producer's own use or the use of the maker's or producer's tenants; and~~

~~— (ii) not for sale to others;~~

~~— (b) gas is compressed on private property solely for the owner's own use or the use of the owner's employees as a motor vehicle fuel; or~~

~~— (c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely for sale as a motor vehicle fuel.~~

‡ [(15)] (~~(20)~~16) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

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~~[(16)]~~ ~~(21;17)~~ "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)]~~ ~~(22;18)~~ "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

- (a) recommend land use regulations to preserve local historic districts or areas; and
- (b) administer local historic preservation land use regulations within a local historic district or area.

~~[(18)]~~ ~~(23;19)~~ "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.

~~[(19)]~~ ~~(24;20)~~ "Identical plans" means building plans submitted to a municipality that:

- (a) are clearly marked as "identical plans";
- (b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and
- (c) describe a building that:
  - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
  - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
  - (iii) has a floor plan identical to the building plan previously submitted to and reviewed



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and approved by the municipality; and

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

~~[(20)]~~ ~~(~~25~~;21)~~ "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

~~[(21)]~~ ~~(~~26~~;22)~~ "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 improvement required as a condition precedent to:

(a) recording a subdivision plat; or

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

~~[(22)]~~ ~~(~~27~~;23)~~ "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.

~~[(23)]~~ ~~(~~28~~;24)~~ "Improvement warranty period" means a period:

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

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

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

(ii) has substantial evidence, on record:

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

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

~~[(24)]~~ ~~(~~29~~;25)~~ "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public

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improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

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

~~[(25)]~~ ~~(30;26)~~ "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.

~~[(26)]~~ ~~(31;27)~~ "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

~~[(27)]~~ ~~(32;28)~~ "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

~~[(28)]~~ ~~(33;29)~~ "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.

~~[(29)]~~ ~~(34;30)~~ "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

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~~[(30)]~~ ~~(35;31)~~ "Land use permit" means a permit issued by a land use authority.

~~[(31)]~~ ~~(36;32)~~ "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

~~[(32)]~~ ~~(37;33)~~ "Legislative body" means the municipal council.

~~[(33)]~~ ~~(38;34)~~ "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.

~~[(34)]~~ ~~(39;35)~~ "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

~~[(35)]~~ ~~(40;36)~~ "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

~~[(36)]~~ ~~(41;37)~~ (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or parcels, whether or not the lots are located in the same subdivision, in accordance with Section 10-9a-608, with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

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(ii) constitutes a subdivision.

~~[(37)]~~ ~~(~~42~~;38)~~ "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

~~[(38)]~~ ~~(~~43~~;39)~~ "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.

~~[(39)]~~ ~~(~~44~~;40)~~ "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a ~~{f}~~ municipal ~~{f}~~ utility easement [~~or otherwise as a utility easement~~ ~~{dedica}~~ granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

~~[(c) the municipality or the municipality's affiliated governmental entity owns or creates, and]~~

~~[(d)(i) either:]~~

~~[(A) no person uses or occupies; or]~~

~~[(B)]~~ (c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; ~~[or]~~

~~[(ii) a person uses or occupies with or without an authorized franchise or other agreement with the municipality.]~~

~~(~~f~~;d)~~ is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement; ~~{or}~~

~~(~~f~~;e)~~ (i) is used or occupied by a specified public utility in accordance with an

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authorized franchise or other agreement; and

(ii) is located in a utility easement dedicated for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

~~(40)~~ ~~(45;41)~~ "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.

~~(41)~~ ~~(46;42)~~ "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.

~~(42)~~ ~~(47;43)~~ "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.

~~(43)~~ ~~(48;44)~~ "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.

~~(44)~~ ~~(49;45)~~ "Parcel" means any real property that is not a lot created by and shown on a subdivision plat recorded in the office of the county recorder.

~~(45)~~ ~~(50;46)~~ (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary

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line agreement in accordance with Section 57-1-45, if no additional parcel is created and:

- (i) none of the property identified in the agreement is subdivided land; or
- (ii) the adjustment is to the boundaries of a single person's parcels.
- (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary

line that:

- (i) creates an additional parcel; or
- (ii) constitutes a subdivision.

~~[(46)]~~ ~~(51;47)~~ "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(47)]~~ ~~(52;48)~~ "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

- (a) an estimate of the existing supply of moderate income housing located within the municipality;
- (b) an estimate of the need for moderate income housing in the municipality for the next five years;
- (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 municipality's program to encourage an adequate supply of moderate income housing.

~~[(48)]~~ ~~(53;49)~~ "Plat" means a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

~~[(49)]~~ ~~(54;50)~~ "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.

~~[(50)]~~ ~~(55;51)~~ "Public agency" means:

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- (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.

~~[(51)]~~ ~~(56;52)~~ "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

~~[(52)]~~ ~~(57;53)~~ "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

~~[(53)]~~ ~~(58;54)~~ "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, ~~[public trail or walk,]~~ public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

~~[(54)]~~ ~~(59;55)~~ "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.

~~[(55)]~~ ~~(60;56)~~ "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

~~[(56)]~~ ~~(61;57)~~ "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.

~~[(57)]~~ ~~(62;58)~~ "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.

~~[(58)]~~ ~~(63;59)~~ "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or

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onsite wastewater systems.

~~[(59)]~~ ~~(~~64~~;~~60~~)~~ "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.

~~[(60)]~~ ~~(~~65~~;~~61~~)~~ "Specified public agency" means:

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

~~[(61)]~~ ~~(~~66~~;~~62~~)~~ "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation~~fff~~, as those terms are defined in Section 54-2-1~~fff~~.

~~[(62)]~~ ~~(~~67~~;~~63~~)~~ "State" includes any department, division, or agency of the state.

~~[(63)]~~ ~~(~~68~~;~~64~~)~~ "Subdivided land" means the land, tract, or lot described in a recorded subdivision plat.

~~[(64)]~~ ~~(~~69~~;~~65~~)~~ (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots 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, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection ~~[(64)]~~ ~~(~~69~~;~~65~~)~~(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) an agreement recorded with the county recorder's office between owners of adjoining unsubdivided properties adjusting the mutual boundary by a boundary line agreement



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in accordance with Section 57-1-45 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 parcel of property that is not subdivided land 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) an agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Section 10-9a-603 if:

- (A) no new dwelling lot or housing unit will result from the adjustment; and
- (B) the adjustment will not violate any applicable land use ordinance;

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

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat; ~~{}~~ or ~~{}~~

(ix) a deed or easement for a road, street, or highway purpose ~~{}~~; or

~~(x) a bona fide division or partition of land by a metes and bounds description where the deed expressly states that:~~

~~(A) the division or partition of land is in anticipation of future development; and~~

~~(B) the newly created parcel must be subdivided or receive written approval from the land use authority before a structure may be built on the parcel.~~

~~};~~

(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)]~~ ~~(69)~~ 65 as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

~~(70)~~ 66 "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

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- (a) vacates all or a portion of the subdivision;
- (b) alters the outside boundary of the subdivision;
- (c) ~~{increases}~~ changes the number of lots within the subdivision;
- (d) alters a public right-of-way, a public easement, or public infrastructure~~;~~, or other public dedication within the subdivision; or
- (e) alters a common area or other common amenity within the subdivision.

[~~(65)~~] (~~{71}~~) 67 "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.

~~{~~ ~~(72)~~ (a) ~~"Telephone corporation" means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.~~

~~(b) "Telephone corporation" does not include a corporation, partnership, or firm providing:~~

~~(i) intrastate telephone service offered by a provider of cellular, personal communication systems, or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;~~

~~(ii) internet service; or~~

~~(iii) resold intrastate toll service.~~

~~†~~ [~~(66)~~] (~~{73}~~) 68 "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:

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- (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.

[~~(67)~~] (~~(74)~~;69) "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.

[~~(68)~~] (~~(75)~~;70) "Unincorporated" means the area outside of the incorporated area of a city or town.

[~~(69)~~] (~~(76)~~;71) "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.

[~~(70)~~] (~~(77)~~;72) "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-302** is amended to read:

### **10-9a-302. Planning commission powers and duties.**

(1) The planning commission shall review and make a recommendation to the legislative body for:

- (a) a general plan and amendments to the general plan;
- (b) land use regulations[;], including:
  - (i) ordinances regarding the subdivision of land within the municipality; and
  - (ii) amendments to existing land use regulations;
- (c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;
- (d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and
- (e) application processes that:

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(i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(ii) shall protect the right of each:

(A) land use applicant and [third party] adversely affected party to require formal consideration of any application by a land use authority;

(B) land use applicant[;] or adversely affected party[; or municipal officer or employee] to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section 10-9a-404.

(3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.

(4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.

~~(2)~~ (5) Nothing in this section limits the right of a municipality to initiate or propose the actions described in this section.

Section 3. Section **10-9a-404** is amended to read:

**10-9a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.**

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 10-9a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

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(3) (a) The legislative body may adopt, reject, or make any revisions to the proposed general plan or amendment that it considers appropriate.

~~[(4)(a) The municipal legislative body may adopt or reject the proposed general plan or amendment either as proposed by the planning commission or after making any revision that the municipal legislative body considers appropriate.]~~

(b) If the municipal legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for ~~[its consideration]~~ the planning commission's review and recommendation.

~~[(5)]~~ (4) The legislative body shall adopt:

(a) a land use element as provided in Subsection 10-9a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 10-9a-403(2)(a)(ii); and

(c) for a municipality, other than a town, after considering the factors included in Subsection 10-9a-403(2)(b)(ii), a plan to provide a realistic opportunity to meet the need for additional moderate income housing within the next five years.

Section 4. Section **10-9a-408** is amended to read:

**10-9a-408. Reporting requirements and civil action regarding moderate income housing element of general plan.**

(1) The legislative body of a municipality described in Subsection 10-9a-401(3)(b) shall annually:

(a) review the moderate income housing plan element of the municipality's general plan and implementation of that element of the general plan;

(b) prepare a report on the findings of the review described in Subsection (1)(a); and

(c) post the report described in Subsection (1)(b) on the municipality's website.

(2) The report described in Subsection (1) shall include:

(a) a revised estimate of the need for moderate income housing in the municipality for the next five years;

(b) a description of progress made within the municipality to provide moderate income housing, demonstrated by analyzing and publishing data on the number of housing units in the municipality that are at or below:

(i) 80% of the adjusted median family income;

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- (ii) 50% of the adjusted median family income; and
- (iii) 30% of the adjusted median family income;
- (c) a description of any efforts made by the municipality to utilize a moderate income housing set-aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and
- (d) a description of how the municipality has implemented any of the recommendations related to moderate income housing described in Subsection 10-9a-403(2)(b)(iii).

(3) The legislative body of each municipality described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services, the association of governments in which the municipality is located, and, if located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404[(5)](4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 5. Section **10-9a-509** is amended to read:

**10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.**

(1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

- (A) in effect on the date that the application is complete; and
- (B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

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

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(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

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

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

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

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

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

~~(e)~~ (f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance; or

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

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

(i) in a land use permit;

(ii) on the subdivision plat;

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

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

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(v) in this chapter; or

(vi) in a municipal ordinance.

~~[(g)]~~ (h) Except as provided in Subsection (1)~~[(h)]~~(i), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

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

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

~~[(h)]~~ (i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

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

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

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

(5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5)(a), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and



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(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Section 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:

- (i) the relevant land use approval; and
- (ii) any land use regulation enacted specifically in relation to the land use approval.

Section 6. Section ~~{10-9a-603}~~10-9a-529 is ~~{amended}~~enacted to read:

**10-9a-529. Specified public utility located in a municipal utility easement.**

A specified public utility may exercise each power of a public utility under Section 54-3-27 if the specified public utility uses an easement:

- (1) with the consent of a municipality; and
- (2) that is located within a municipal utility easement described in Subsection 10-9a-103(40)(a) through (e).

Section 7. 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 facility, as defined in Section 54-8a-2, and for any other utility facility.

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(2) (a) Subject to Subsections (3), (5), and (6), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A municipality 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 municipality; or

(ii) does not:

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

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

(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.

(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(f), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:

(A) Section 10-9a-211;

(B) Subsection 73-5-7(2); or

(C) Subsection (5)(c); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice described in Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

(A) access to the canal;

(B) maintenance of the canal;

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(C) canal protection; and

(D) canal safety.

(e) When applicable, the subdivision applicant shall comply with Section 73-1-15.5.

(f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or associated canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection (5)(c).

(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) Within 30 days after approving a final plat under this section, a municipality shall submit to the Automated Geographic Reference Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Automated Geographic Reference Center, a municipality that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection (4)(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection (4)(a) for inclusion in the unified statewide 911 emergency service database.

(5) (a) A county recorder may not record a plat unless:

(i) prior to recordation, the municipality has approved and signed the plat;

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(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (5)(a)(ii) 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) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility 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 public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection (5)(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 Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(6) (a) Except as provided in Subsection (5)(c), after the plat has been acknowledged, certified, and approved, the individual seeking to record the plat shall, within the time period and manner 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) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the land use authority.

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Section ~~{7}~~8. Section **10-9a-604** is amended to read:

### **10-9a-604. Subdivision plat approval procedure -- Effect of not complying.**

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection 10-9a-603(5)(a);

(b) the plat has been approved by:

(i) the land use authority of the municipality in which the land described in the plat is located; and

(ii) other officers that the municipality designates in its ordinance;

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the designated officers; and

(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(2) A subdivision plat recorded without the signatures required under this section is void.

(3) A transfer of land pursuant to a void plat is voidable by the land use authority.

Section ~~{8}~~9. Section **10-9a-605** is amended to read:

### **10-9a-605. Exemptions from plat requirement.**

~~[(1) Notwithstanding Sections 10-9a-603 and 10-9a-604, a municipality may establish a process to approve an administrative land use decision for a subdivision of 10 lots or less without a plat, by certifying in writing that:]~~

~~(1) Notwithstanding any other provision of law, a plat is not required if:~~

~~(a) a municipality establishes a process to approve an administrative land use decision for a subdivision of 10 or fewer lots without a plat; and~~

~~(b) the municipality provides in writing that:~~

~~[(a)] (i) the municipality has provided notice as required by ordinance; and~~

~~[(b)] (ii) the proposed subdivision:~~

~~[(c)] (A) is not traversed by the mapped lines of a proposed street as shown in the general plan unless the municipality has approved the location and dedication of any public~~

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street, municipal utility easement, any other easement, or any other land for public purposes as the municipality's ordinance requires;

~~[(ii)]~~ (B) has been approved by the culinary water authority and the sanitary sewer authority;

~~[(iii)]~~ (C) is located in a zoned area; and

~~[(iv)]~~ (D) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 10-9a-603 if the lot or parcel:

(i) qualifies as land in agricultural use under Section 59-2-502;

(ii) meets the minimum size requirement of applicable land use ordinances; and

(iii) is not used and will not be used for any nonagricultural purpose.

(b) The boundaries of each lot or parcel exempted under Subsection (2)(a) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under Section 10-9a-604, shall be recorded with the county recorder.

(c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the municipality may require the lot or parcel to comply with the requirements of Section 10-9a-603.

(3) (a) Documents recorded in the county recorder's office that divide property by a metes and bounds description do not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1) does not:

(i) prohibit the county recorder from recording a document; or

(ii) affect the validity of a recorded document.

(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached and that complies with Section 57-3-106.

Section ~~9~~10. Section **10-9a-608** is amended to read:

**10-9a-608. Subdivision amendments.**

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

(b) Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, ~~if approved by the land use authority,~~ record a plat in accordance with Section 10-9a-603 that:

(i) depicts only the portion of the subdivision that ~~has been~~ ~~is proposed to be~~ amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

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

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

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

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

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

(a) the petition seeks to:

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

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

(iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the

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adjoining lots or parcels join in the petition, regardless of whether the lots or parcels are located in the same subdivision;

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

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.

(3) ~~[Each request to vacate or amend a plat]~~ A petition under Subsection (1)(a) that contains a request to ~~[vacate or]~~ amend a public street or municipal utility easement is also subject to Section 10-9a-609.5.

(4) ~~[Each]~~ A petition ~~[to vacate or]~~ under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and

(b) the signature of each owner described in Subsection (4)(a) who consents to the petition.

(5) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

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

(C) recites the descriptions of both the original parcels and the parcels created by the



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exchange of title; and

(ii) a document of conveyance shall be recorded in the office of the county recorder.

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

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

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

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

Section ~~10-9a-11~~11. Section **10-9a-609.5** is amended to read:

### **10-9a-609.5. Petition to vacate a public street.**

(1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 10-9a-603 through 10-9a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.

(2) A petition to vacate some or all of a public street or municipal utility easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street or municipal utility easement between the two nearest public street intersections; or

(ii) accessed exclusively by or within 300 feet of the public street or municipal utility easement;

(b) proof of written notice to operators of utilities located within the bounds of the

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public street or municipal utility easement sought to be vacated; and

(c) the signature of each owner under Subsection (2)(a) who consents to the vacation.

(3) If a petition is submitted containing a request to vacate some or all of a public street or municipal utility easement, the legislative body shall hold a public hearing in accordance with Section 10-9a-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

(4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or municipal utility easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

(5) If the legislative body adopts an ordinance vacating some or all of a public street or municipal utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

(a) a plat reflecting the vacation; or

(b) (i) an ordinance described in Subsection (4); and

(ii) a legal description of the public street to be vacated.

(6) The action of the legislative body vacating some or all of a public street or municipal utility easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the municipality's fee in the vacated public street or municipal utility easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any parcel or lot owner; or

(ii) the rights of any public utility.

(7) (a) A municipality may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.

(b) If a municipality submits a petition and initiates a process under Subsection (7)(a):

(i) the legislative body shall hold a public hearing;

(ii) the petition and process may not apply to or affect a public utility easement, except

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to the extent:

- (A) the easement is not a protected utility easement as defined in Section 54-3-27;
- (B) the easement is included within the public street; and
- (C) the notice to vacate the public street also contains a notice to vacate the easement;

and

(iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

~~{ (8) A specified public utility that holds an easement that is located within a municipal utility easement may exercise each power of a public utility under Section 54-3-27.~~

‡ Section ~~{11}~~12. Section **10-9a-611** is amended to read:

### **10-9a-611. Prohibited acts.**

(1) (a) (i) ~~[Am]~~ If a subdivision requires a plat, an owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.

(ii) A violation of Subsection (1)(a)(i) is an infraction.

(b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.

(c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:

(i) does not affect the validity of the instrument or other document; and

(ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable municipal ordinances on land use and development.

(2) (a) A municipality may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.

(b) An action under this Subsection (2) may include an injunction~~[, abatement, merger of title,]~~ or any other appropriate action or proceeding to prevent~~[,]~~ or enjoin~~[, or abate]~~ the violation.

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

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Section ~~{12}~~13. Section **10-9a-701** is amended to read:

### **10-9a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.**

(1) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:

- (a) requests for variances from the terms of the land use ordinances;
- (b) appeals from decisions applying the land use ordinances; and
- (c) appeals from a fee charged in accordance with Section 10-9a-510.

(2) As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a land use authority's decision, in accordance with local ordinance.

(3) An appeal authority:

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances, except as provided in Title 11, Chapter 58, Part 4, Appeals to Appeals Panel, for an appeal of an inland port use appeal decision, as defined in Section 11-58-401; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a municipality may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority it designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that it can raise in district court;

(d) not require ~~[an]~~ a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of ~~[the adversely affected]~~ an appealing party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

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(5) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of its members of any meeting or hearing of the board, body, or panel;

(b) provide each of its members with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of its members is present; and

(d) act only upon the vote of a majority of its convened members.

Section ~~{13}~~14. Section **10-9a-703** is amended to read:

### **10-9a-703. Appealing a land use authority's decision -- Panel of experts for appeals of geologic hazard decisions -- Automatic appeal for certain decisions.**

(1) The land use applicant, a board or officer of the municipality, or [~~any person adversely affected by the land use authority's decision administering or interpreting a land use ordinance~~] an adversely affected party may, within the applicable time period, appeal that decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.

(2) (a) [~~An~~] A land use applicant who has appealed a decision of the land use authority administering or interpreting the municipality's geologic hazard ordinance may request the municipality to assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(b) If [~~an~~] a land use applicant makes a request under Subsection (2)(a), the municipality shall assemble the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the applicant and municipality:

(i) one expert designated by the municipality;

(ii) one expert designated by the land use applicant; and

(iii) one expert chosen jointly by the municipality's designated expert and the land use applicant's designated expert.

(c) A member of the panel assembled by the municipality under Subsection (2)(b) may not be associated with the application that is the subject of the appeal.

(d) The land use applicant shall pay:

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- (i) 1/2 of the cost of the panel; and
- (ii) the municipality's published appeal fee.

Section ~~{14}~~15. Section **10-9a-704** is amended to read:

### **10-9a-704. Time to appeal.**

(1) The municipality shall enact an ordinance establishing a reasonable time of not less than 10 days to appeal to an appeal authority a written decision issued by a land use authority.

(2) In the absence of an ordinance establishing a reasonable time to appeal, ~~[an]~~ a land use applicant or adversely affected party shall have 10 calendar days to appeal to an appeal authority a written decision issued by a land use authority.

(3) Notwithstanding Subsections (1) and (2), for an appeal from a decision of a historic preservation authority regarding a land use application, the land use applicant may appeal the decision within 30 days after the day on which the historic preservation authority issues a written decision.

Section ~~{15}~~16. Section **10-9a-801** is amended to read:

### **10-9a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.**

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) ~~[Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter]~~ A land use applicant or adversely affected party may file a petition for review of the decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional

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taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall:

(i) presume that a final decision of a land use authority or an appeal authority is valid; and

(ii) uphold the decision unless the decision is:

(A) arbitrary and capricious; or

(B) illegal.

(c) (i) A decision is arbitrary and capricious if the decision is not supported by substantial evidence in the record.

(ii) A decision is illegal if the decision is:

(A) based on an incorrect interpretation of a land use regulation; or

(B) contrary to law.

(d) (i) A court may affirm or reverse the decision of a land use authority.

(ii) If the court reverses a land use authority's decision, the court shall remand the matter to the land use authority with instructions to issue a decision consistent with the court's ruling.

(4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes final action on a land use application [~~for any adversely affected third party~~], if the municipality conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending decision.

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(5) If the municipality has complied with Section 10-9a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders, and, if available, a true and correct transcript of its proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that it was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the decision of the land use authority or [authority] appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, [~~the aggrieved party~~] a land use applicant may petition the appeal authority to stay its decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed pending district court review if the appeal authority finds it to be in the best interest of the municipality.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's decision.

(10) If the court determines that a party initiated or pursued a challenge to the decision on a land use application in bad faith, the court may award attorney fees.

Section ~~{16}~~17. Section **10-9a-802** is amended to read:



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### 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~~] or an adversely affected party 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 municipality need only establish the violation to obtain the injunction.

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

(b) It is an infraction 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) 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 or certificate of occupancy 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 or certificate of occupancy under the building code and fire code; and
- (ii) for which the municipality has accepted an improvement completion assurance for landscaping or infrastructure improvements for the development.

Section ~~{17}~~18. Section **17-27a-103** is amended to read:

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

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision ~~{, and}~~.

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~~{ (i) participated by any means in a public hearing before the land use authority on the particular land use application or land use decision; or~~

~~— (ii) owns real property that is located within an area that received mailed notice of the proposed land use application or land use decision as required by local ordinance.~~

† [(2)] (3) "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.

[(3)] (4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)(a); and

(c) determined to be legally referable under Section 20A-7-602.8.

[(4)] (5) "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.

[(5)] (6) "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.

[(6)] (7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school

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authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; 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.

~~[(7)]~~ (8) "Chief executive officer" means the person or body that exercises the executive powers of the county.

~~[(8)]~~ (9) "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.

~~[(9)]~~ (10) "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.

~~[(10)]~~ (11) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

~~[(11)]~~ (12) "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.

~~[(12)]~~ (13) "Development activity" means:

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(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.

~~[(13)]~~ (14) (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. Sec. 802.

~~[(14)]~~ (15) "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 ~~[(14)]~~  
(15)(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 ~~[(14)]~~  
(15)(a)(i); and

(B) used in support of the purposes of a building described in Subsection ~~[(14)]~~  
(15)(a)(i); or

(ii) a therapeutic school.

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~~[(15)]~~ (16) "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.

~~[(16)]~~ (17) "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.

~~[(17)]~~ (18) "Gas corporation" has the same meaning as defined in Section 54-2-1.

~~[(18)]~~ (19) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

- (a) the unincorporated land within the county; or
- (b) for a mountainous planning district, the land within the mountainous planning district.

~~[(19)]~~ (20) "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.

~~[(20)]~~ (21) "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.

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~~[(21)]~~ (22) "Identical plans" means building plans submitted to a county that:

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

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

(c) describe a building that:

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

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

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

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

~~[(22)]~~ (23) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

~~[(23)]~~ (24) "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 improvement required as a condition precedent to:

(a) recording a subdivision plat; or

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

~~[(24)]~~ (25) "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.

~~[(25)]~~ (26) "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

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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.

~~[(26)]~~ (27) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

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

~~[(28)]~~ (29) "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.

~~[(29)]~~ (30) "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.

~~[(30)]~~ (31) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

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~~[(31)]~~ (32) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

~~[(32)]~~ (33) "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.

~~[(33)]~~ (34) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

~~[(34)]~~ (35) "Land use permit" means a permit issued by a land use authority.

~~[(35)]~~ (36) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

~~[(36)]~~ (37) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.



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~~[(37)]~~ (38) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

~~[(38)]~~ (39) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

~~[(39)]~~ (40) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or parcels, whether or not the lots are located in the same subdivision, in accordance with Section 17-27a-608, with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

- (i) creates an additional lot; or
- (ii) constitutes a subdivision.

~~[(40)]~~ (41) "Major transit investment corridor" means public transit service that uses or occupies:

- (a) public transit rail right-of-way;
- (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

- (i) a public transit district as defined in Section 17B-2a-802; or
- (ii) an eligible political subdivision as defined in Section 59-12-2219.

~~[(41)]~~ (42) "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.

~~[(42)]~~ (43) "Mountainous planning district" means an area:

- (a) designated by a county legislative body in accordance with Section 17-27a-901; and
- (b) that is not otherwise exempt under Section 10-9a-304.

~~[(43)]~~ (44) "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

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previously reviewed and approved building plans.

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

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

~~[(46)]~~ (47) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

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

~~[(47)]~~ (48) "Parcel" means any real property that is not a lot created by and shown on a subdivision plat recorded in the office of the county recorder.

~~[(48)]~~ (49) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 57-1-45, if no additional parcel is created and:

- (i) none of the property identified in the agreement is subdivided land; or
  - (ii) the adjustment is to the boundaries of a single person's parcels.
- (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:
- (i) creates an additional parcel; or
  - (ii) constitutes a subdivision.

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~~[(49)]~~ (50) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(50)]~~ (51) "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;
- (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.

~~[(51)]~~ (52) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

~~[(52)]~~ (53) "Plat" means a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

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

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

~~[(55)]~~ (56) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

~~[(56)]~~ (57) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

~~[(57)]~~ (58) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, ~~[public trail or walk,]~~ public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

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

~~[(59)]~~ (60) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

~~[(60)]~~ (61) "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.

~~[(61)]~~ (62) "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.

~~[(62)]~~ (63) "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.

~~[(63)]~~ (64) "Sending zone" means an unincorporated area of a county that the county

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designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

~~[(64)]~~ (65) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

~~[(65)]~~ (66) "Specified public agency" means:

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

~~[(66)]~~ (67) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(67)]~~ (68) "State" includes any department, division, or agency of the state.

~~[(68)]~~ (69) "Subdivided land" means the land, tract, or lot described in a recorded subdivision plat.

~~[(69)]~~ (70) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots 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, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection ~~[(69)]~~ (70)(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) an agreement recorded with the county recorder's office between owners of adjoining properties adjusting the mutual boundary by a boundary line agreement in accordance with Section 57-1-45 if:

(A) no new lot is created; and

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- (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 parcel of property that is not subdivided land into one legal description encompassing all such parcels of property; or
  - (B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;
- (iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:
  - (A) an electrical transmission line or a substation;
  - (B) a natural gas pipeline or a regulation station; or
  - (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;
- (v) an agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Section 10-9a-603 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;
  - (vii) a parcel boundary adjustment;
  - (viii) a lot line adjustment;
  - (ix) a road, street, or highway dedication plat; ~~{}~~ or ~~{}~~
  - (x) a deed or easement for a road, street, or highway purpose ~~{}~~. ~~{}~~ or ~~{}~~
  - ~~{~~ (xi) a bona fide division or partition of land by a metes and bounds description where the deed expressly states that:
    - ~~\_\_\_\_\_~~ (A) the division or partition of land is in anticipation of future development; and
    - ~~\_\_\_\_\_~~ (B) the newly created parcel must be subdivided or receive written approval from the land use authority before a structure may be built on the parcel.
- ‡ (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 [~~(69)~~] (70) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's

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subdivision ordinance.

(71) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

- (a) vacates all or a portion of the subdivision;
- (b) alters the outside boundary of the subdivision;
- (c) ~~increases~~ changes the number of lots within the subdivision;
- (d) alters a public right-of-way, a public easement, ~~or~~ public infrastructure ~~;~~ ~~or other public dedication~~ within the subdivision; or
- (e) alters a common area or other common amenity within the subdivision.

~~[(70)]~~ (72) "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.

~~[(71)]~~ (73) "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.

~~[(72)]~~ (74) "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

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

~~[(73)]~~ (75) "Unincorporated" means the area outside of the incorporated area of a municipality.

~~[(74)]~~ (76) "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.

~~[(75)]~~ (77) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section ~~{18}~~19. Section **17-27a-302** is amended to read:

### **17-27a-302. Planning commission powers and duties.**

(1) Each countywide planning advisory area or mountainous planning district planning commission shall, with respect to the unincorporated area of the county, the planning advisory area, or the mountainous planning district, review and make a recommendation to the county legislative body for:

- (a) a general plan and amendments to the general plan;
- (b) land use regulations~~;~~, including:
  - (i) ordinances regarding the subdivision of land within the county; and
  - (ii) amendments to existing land use regulations;
- (c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;
- (d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and
- (e) application processes that:
  - (i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and
  - (ii) shall protect the right of each:
    - (A) land use applicant and [third party] adversely affected party to require formal consideration of any application by a land use authority;



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(B) land use applicant[;] or adversely affected party[, ~~or county officer or employee~~] to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section 17-27a-404.

(3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.

(4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.

~~(2)~~ (5) Nothing in this section limits the right of a county to initiate or propose the actions described in this section.

Section ~~(19)~~20. Section 17-27a-404 is amended to read:

**17-27a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.**

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 17-27a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide notice of its intent to consider the general plan proposal.

(b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection 17-27a-401(4). The hearing procedure shall comply with this Subsection (3)(b).

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(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

(c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(4) are complete.

(ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.

(iii) Public notice shall be given by publication:

(A) in at least one major Utah newspaper having broad general circulation in the state;

(B) in at least one Utah newspaper having a general circulation focused mainly on the county where the proposed high-level nuclear waste or greater than class C radioactive waste site is to be located; and

(C) on the Utah Public Notice Website created in Section 63F-1-701.

(iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding the provisions of Subsection 17-27a-401(4), including:

(A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before the date of the hearing to be held under this Subsection (3); and

(B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the date of the hearing to be held under this Subsection (3).

(4) (a) After the public hearing required under this section, the legislative body may adopt, reject, or make any revisions to the proposed general plan that it considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection (3).

~~[(5) (a) The county legislative body may adopt or reject the proposed general plan or amendment either as proposed by the planning commission or after making any revision the county legislative body considers appropriate.]~~

~~[(b)]~~ (c) If the county legislative body rejects the proposed general plan or amendment,

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it may provide suggestions to the planning commission for ~~[its consideration]~~ the planning commission's review and recommendation.

~~[(6)]~~ (5) The legislative body shall adopt:

(a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii);

(c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to provide a realistic opportunity to meet the need for additional moderate income housing; and

(d) before August 1, 2017, a resource management plan as provided by Subsection 17-27a-403(2)(a)(iv).

Section ~~{20}~~21. Section **17-27a-408** is amended to read:

**17-27a-408. Reporting requirements and civil action regarding moderate income housing element of general plan.**

(1) The legislative body of each county of the first, second, or third class, which has a population in the county's unincorporated areas of more than 5,000 residents, shall annually:

(a) review the moderate income housing plan element of the county's general plan and implementation of that element of the general plan;

(b) prepare a report on the findings of the review described in Subsection (1)(a); and

(c) post the report described in Subsection (1)(b) on the county's website.

(2) The report described in Subsection (1) shall include:

(a) a revised estimate of the need for moderate income housing in the unincorporated areas of the county for the next five years;

(b) a description of progress made within the unincorporated areas of the county to provide moderate income housing demonstrated by analyzing and publishing data on the number of housing units in the county that are at or below:

(i) 80% of the adjusted median family income;

(ii) 50% of the adjusted median family income; and

(iii) 30% of the adjusted median family income;

(c) a description of any efforts made by the county to utilize a moderate income housing set-aside from a community reinvestment agency, redevelopment agency, or a community development and renewal agency; and

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(d) a description of how the county has implemented any of the recommendations related to moderate income housing described in Subsection 17-27a-403(2)(b)(ii).

(3) The legislative body of each county described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services, the association of governments in which the county is located, and, if the unincorporated area of the county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404[(6)](5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section ~~{21}~~22. 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:

(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 facility, as defined in Section 54-8a-2, and for any other utility facility.

(2) (a) Subject to Subsections (3), (5), and (6), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local

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health department and the county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority and the public safety answering point 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;

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

(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.

(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(f), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:

(A) Section 17-27a-211;

(B) Subsection 73-5-7(2); or

(C) Subsection (5)(c); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice under Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

(A) access to the canal;

(B) maintenance of the canal;

(C) canal protection; and

(D) canal safety.

(e) When applicable, the subdivision applicant shall comply with Section 73-1-15.5.

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(f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 17-27a-211 using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection (5)(c).

(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) Within 30 days after approving a final plat under this section, a county shall submit to the Automated Geographic Reference Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Automated Geographic Reference Center, a county that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection (4)(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection (4)(a) for inclusion in the unified statewide 911 emergency service database.

(5) (a) A county recorder may not record a plat unless, subject to Subsection 17-27a-604(1):

(i) prior to recordation, the county has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

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(iii) the signature of each owner described in Subsection (5)(a)(ii) 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) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility 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 public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection (5)(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 Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(6) (a) Except as provided in Subsection (5)(c), after the plat has been acknowledged, certified, and approved, the individual seeking to record the plat shall, within the time period and manner 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) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the land use authority.

Section ~~22~~23. Section **17-27a-604** is amended to read:

**17-27a-604. Subdivision plat approval procedure -- Effect of not complying.**

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(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection 17-27a-603(5)(a);

(b) the plat has been approved by:

(i) the land use authority of the:

(A) county in whose unincorporated area the land described in the plat is located; or

(B) mountainous planning district in whose area the land described in the plat is located; and

(ii) other officers that the county designates in its ordinance;

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by designated officers; and

(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(2) An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a, Community Association Act.

(3) A plat recorded without the signatures required under this section is void.

(4) A transfer of land pursuant to a void plat is voidable by the land use authority.

Section ~~23~~24. Section **17-27a-605** is amended to read:

### **17-27a-605. Exemptions from plat requirement.**

~~[(1) Notwithstanding Sections 17-27a-603 and 17-27a-604, a county may establish a process to approve an administrative land use decision for the subdivision of unincorporated land or mountainous planning district land into 10 lots or less without a plat, by certifying in writing that:]~~

(1) Notwithstanding any other provision of law, a plat is not required if:

(a) a county establishes a process to approve an administrative land use decision for the subdivision of unincorporated land or mountainous planning district land into 10 or fewer lots without a plat; and

(b) the county provides in writing that:



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~~[(a)]~~ (i) the county has provided notice as required by ordinance; and

~~[(b)]~~ (ii) the proposed subdivision:

~~[(+)]~~ (A) is not traversed by the mapped lines of a proposed street as shown in the general plan unless the county has approved the location and dedication of any public street, county utility easement, any other easement, or any other land for public purposes as the county's ordinance requires;

~~[(+)]~~ (B) has been approved by the culinary water authority and the sanitary sewer authority;

~~[(+)]~~ (C) is located in a zoned area; and

~~[(+)]~~ (D) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 17-27a-603 if:

(i) the lot or parcel:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used and will not be used for any nonagricultural purpose; and

(ii) the new owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel by legal description; and

(B) stating that the lot or parcel is created for agricultural purposes as defined in Section 59-2-502 and will remain so until a future zoning change permits other uses.

(b) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the county shall require the lot or parcel to comply with the requirements of Section 17-27a-603 and all applicable land use ordinance requirements.

(3) (a) Except as provided in Subsection (4), a document recorded in the county recorder's office that divides property by a metes and bounds description does not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1) does not:

(i) prohibit the county recorder from recording a document; or

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(ii) affect the validity of a recorded document.

(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached and that complies with Section 57-3-106.

(4) (a) As used in this Subsection (4):

(i) "Divided land" means land that:

(A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and

(B) has been divided by a minor subdivision.

(ii) "Land to be divided" means land that is proposed to be divided by a minor subdivision.

(iii) "Minor subdivision" means a division of at least 100 contiguous acres of agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that, after the division, is separate from the remainder of the original 100 or more contiguous acres of agricultural land.

(iv) "Minor subdivision lot" means a lot created by a minor subdivision.

(b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least 100 contiguous acres of agricultural land may make a minor subdivision by submitting for recording in the office of the recorder of the county in which the land to be divided is located:

(i) a recordable deed containing the legal description of the minor subdivision lot; and

(ii) a notice:

(A) indicating that the owner of the land to be divided is making a minor subdivision;

(B) referring specifically to this section as the authority for making the minor subdivision; and

(C) containing the legal description of:

(I) the land to be divided; and

(II) the minor subdivision lot.

(c) A minor subdivision lot:

(i) may not be less than one acre in size;

(ii) may not be within 1,000 feet of another minor subdivision lot; and

(iii) is not subject to the subdivision ordinance of the county in which the minor subdivision lot is located.

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(d) Land to be divided by a minor subdivision may not include divided land.

(e) A county:

(i) may not deny a building permit to an owner of a minor subdivision lot based on:

(A) the lot's status as a minor subdivision lot; or

(B) the absence of standards described in Subsection (4)(e)(ii); and

(ii) may, in connection with the issuance of a building permit, subject a minor

subdivision lot to reasonable health, safety, and access standards that the county has established and made public.

(5) (a) Notwithstanding Sections 17-27a-603 and 17-27a-604, and subject to Subsection (1), the legislative body of a county may enact an ordinance allowing the subdivision of a parcel, without complying with the plat requirements of Section 17-27a-603, if:

(i) the parcel contains an existing legal single family dwelling unit;

(ii) the subdivision results in two parcels, one of which is agricultural land;

(iii) the parcel of agricultural land:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used, and will not be used, for a nonagricultural purpose;

(iv) both the parcel with an existing legal single family dwelling unit and the parcel of agricultural land meet the minimum area, width, frontage, and setback requirements of the applicable zoning designation in the applicable land use ordinance; and

(v) the owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel of agricultural land by legal description; and

(B) stating that the parcel of agricultural land is created as land in agricultural use, as defined in Section 59-2-502, and will remain as land in agricultural use until a future zoning change permits another use.

(b) If a parcel of agricultural land divided from another parcel under Subsection (5)(a) is later used for a nonagricultural purpose, the exemption provided in Subsection (5)(a) no longer applies, and the county shall require the owner of the parcel to:

(i) retroactively comply with the subdivision plat requirements of Section 17-27a-603;

and

(ii) comply with all applicable land use ordinance requirements.

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Section ~~{24}~~25. Section 17-27a-608 is amended to read:

### 17-27a-608. Subdivision amendments.

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

(b) Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, ~~if approved by the land use authority,~~ record a plat in accordance with Section 17-27a-603 that:

(i) depicts only the portion of the subdivision that ~~{has been}~~ ~~is proposed to be~~ amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

~~{b}~~ (c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being [~~vacated or~~] amended at least 10 calendar days before the land use authority may approve the [~~vacation or amendment of the plat~~] petition for a subdivision amendment.

~~{c}~~ (d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

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

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

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

(a) the petition seeks to:

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

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not

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result in a violation of a land use ordinance or a development condition;

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

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

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.

(3) ~~[Each request to vacate or amend a plat]~~ A petition under Subsection (1)(a) that contains a request to [vacate or] amend a public street or county utility easement is also subject to Section 17-27a-609.5.

(4) ~~[Each]~~ A petition [to vacate or] under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in:

(i) the entire plat; or

(ii) that portion of the plan described in the petition; and

(b) the signature of each owner who consents to the petition.

(5) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with

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the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

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

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

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

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

(b) The surveyor preparing the amended 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) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.

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

Section ~~{25}~~26. Section **17-27a-609.5** is amended to read:

### **17-27a-609.5. Petition to vacate a public street.**

(1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 17-27a-603 through 17-27a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.

(2) A petition to vacate some or all of a public street or county utility easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street or county utility easement between the two nearest public street intersections; or

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(ii) accessed exclusively by or within 300 feet of the public street or county utility easement;

(b) proof of written notice to operators of utilities located within the bounds of the public street or county utility easement sought to be vacated; and

(c) the signature of each owner under Subsection (2)(a) who consents to the vacation.

(3) If a petition is submitted containing a request to vacate some or all of a public street or county utility easement, the legislative body shall hold a public hearing in accordance with Section 17-27a-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

(4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or county utility easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

(5) If the legislative body adopts an ordinance vacating some or all of a public street or county utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

(a) a plat reflecting the vacation; or

(b) (i) an ordinance described in Subsection (4); and

(ii) a legal description of the public street to be vacated.

(6) The action of the legislative body vacating some or all of a public street or county utility easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the county's fee in the vacated street, right-of-way, or easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any parcel or lot owner; or

(ii) the rights of any public utility.

(7) (a) A county may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.

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(b) If a county submits a petition and initiates a process under Subsection (7)(a):

(i) the legislative body shall hold a public hearing;

(ii) the petition and process may not apply to or affect a public utility easement, except

to the extent:

(A) the easement is not a protected utility easement as defined in Section 54-3-27;

(B) the easement is included within the public street; and

(C) the notice to vacate the public street also contains a notice to vacate the easement;

and

(iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

Section ~~26~~27. Section **17-27a-611** is amended to read:

### **17-27a-611. Prohibited acts.**

(1) (a) [~~An~~] If a subdivision requires a plat, an owner of any land located in a subdivision who transfers or sells any land in that subdivision before a plat of the subdivision has been approved and recorded violates this part for each lot or parcel transferred or sold.

(b) The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation of Subsection (1)(a) or from the penalties or remedies provided in this chapter.

(c) Notwithstanding any other provision of this Subsection (1), the recording of an instrument of transfer or other document used in the process of selling or transferring real property that violates this part:

(i) does not affect the validity of the instrument or other document; and

(ii) does not affect whether the property that is the subject of the instrument or other document complies with applicable county ordinances on land use and development.

(2) (a) A county may bring an action against an owner to require the property to conform to the provisions of this part or an ordinance enacted under the authority of this part.

(b) An action under this Subsection (2) may include an injunction[~~, abatement, merger of title,~~] or any other appropriate action or proceeding to prevent[~~;~~] or enjoin[~~, or abate~~] the violation.

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



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Section ~~{27}~~28. Section 17-27a-701 is amended to read:

### **17-27a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.**

(1) Each county adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:

- (a) requests for variances from the terms of the land use ordinances;
- (b) appeals from decisions applying the land use ordinances; and
- (c) appeals from a fee charged in accordance with Section 17-27a-509.

(2) As a condition precedent to judicial review, each adversely affected ~~[person]~~ party shall timely and specifically challenge a land use authority's decision, in accordance with local ordinance.

(3) An appeal authority:

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a county may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority it designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that it can raise in district court;

(d) not require ~~[an]~~ a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of ~~[the adversely affected]~~ an appealing party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the county establishes or, prior to the effective date of this chapter, has

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established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

- (a) notify each of its members of any meeting or hearing of the board, body, or panel;
- (b) provide each of its members with the same information and access to municipal resources as any other member;
- (c) convene only if a quorum of its members is present; and
- (d) act only upon the vote of a majority of its convened members.

Section ~~{28}~~29. Section **17-27a-703** is amended to read:

### **17-27a-703. Appealing a land use authority's decision -- Panel of experts for appeals of geologic hazard decisions.**

(1) The land use applicant, a board or officer of the county, or [~~any person adversely affected by the land use authority's decision administering or interpreting a land use ordinance~~] an adversely affected party may, within the time period provided by ordinance, appeal that decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance.

(2) (a) [~~An~~] A land use applicant who has appealed a decision of the land use authority administering or interpreting the county's geologic hazard ordinance may request the county to assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal.

(b) If [~~an~~] a land use applicant makes a request under Subsection (2)(a), the county shall assemble the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the land use applicant and county:

- (i) one expert designated by the county;
- (ii) one expert designated by the land use applicant; and
- (iii) one expert chosen jointly by the county's designated expert and the applicant's land use designated expert.

(c) A member of the panel assembled by the county under Subsection (2)(b) may not be associated with the application that is the subject of the appeal.

(d) The land use applicant shall pay:

- (i) 1/2 of the cost of the panel; and

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(ii) the county's published appeal fee.

Section ~~{29}~~30. Section 17-27a-704 is amended to read:

### **17-27a-704. Time to appeal.**

(1) The county shall enact an ordinance establishing a reasonable time of not less than 10 days to appeal to an appeal authority a written decision issued by a land use authority.

(2) In the absence of an ordinance establishing a reasonable time to appeal, ~~[an]~~ a land use applicant or adversely affected party shall have 10 calendar days to appeal to an appeal authority a written decision issued by a land use authority.

Section ~~{30}~~31. Section 17-27a-801 is amended to read:

### **17-27a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.**

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) ~~[Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter]~~ A land use applicant or adversely affected party may file a petition for review of the decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

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(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall:

(i) presume that a final decision of a land use authority or an appeal authority is valid; and

(ii) uphold the decision unless the decision is:

(A) arbitrary and capricious; or

(B) illegal.

(c) (i) A decision is arbitrary and capricious if the decision is not supported by substantial evidence in the record.

(ii) A decision is illegal if the decision is:

(A) based on an incorrect interpretation of a land use regulation; or

(B) contrary to law.

(d) (i) A court may affirm or reverse the decision of a land use authority.

(ii) If the court reverses a denial of a land use application, the court shall remand the matter to the land use authority with instructions to issue an approval consistent with the court's decision.

(4) The provisions of Subsection (2)(a) apply from the date on which the county takes final action on a land use application [~~for any adversely affected third party~~], if the county conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending decision.

(5) If the county has complied with Section 17-27a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

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(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that it was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, ~~[the aggrieved party]~~ a land use applicant may petition the appeal authority to stay its decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed pending district court review if the appeal authority finds it to be in the best interest of the county.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's decision.

(10) If the court determines that a party initiated or pursued a challenge to the decision on a land use application in bad faith, the court may award attorney fees.

Section ~~31~~32. 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]~~ or an adversely affected party 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 county need only establish the violation to obtain the injunction.
- (2) (a) A county may enforce the county's ordinance by withholding a building permit.
- (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 or certificate of occupancy 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 or certificate of occupancy under the building code and fire code; and
- (ii) for which the county has accepted an improvement completion assurance for landscaping or infrastructure improvements for the development.

Section ~~32~~33. Section **63I-2-217** is amended to read:

### **63I-2-217. Repeal dates -- Title 17.**

- (1) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.
- (2) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study Council, is repealed January 1, 2021.
- (3) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2021.
- (4) (a) Subsection 17-27a-103(18)(b), regarding a mountainous planning district, is repealed June 1, 2021.
- (b) Subsection 17-27a-103(42), regarding a mountainous planning district, is repealed June 1, 2021.
- (5) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2021.
- (6) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is repealed June 1, 2021.
- (b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed

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June 1, 2021.

(c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection (1)(a) or (c)" is repealed June 1, 2021.

(7) Section 17-27a-302, the language that states ", or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2021.

(8) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and ", as applicable" is repealed June 1, 2021.

(9) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-401(7), regarding a mountainous planning district, is repealed June 1, 2021.

(10) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-403(2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2021.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, 2021.

(11) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(12) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(13) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous planning district, the mountainous planning district" is repealed June 1, 2021.

(14) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(15) Subsection 17-27a-605(1)(a), the language that states "or mountainous planning district land" is repealed June 1, 2021.

(16) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2021.

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(17) On June 1, 2021, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3):

(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's understanding of the Legislature's intent; and

(ii) make necessary changes to subsection numbering and cross references; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

(18) Subsection 17-34-1(5)(d), regarding county funding of certain municipal services in a designated recreation area, is repealed June 1, 2021.

(19) On June 1, 2020:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(2)," is repealed;

(c) Subsection 17-52a-301(3)(a)(vi) is repealed;

(d) in Subsection 17-52a-501(1), the language that states "or, for a county under a pending process described in Section 17-52a-104, under Section 17-52-204 as that section was in effect on March 14, 2018," is repealed; and

(e) in Subsection 17-52a-501(3)(a), the language that states "or, for a county under a pending process described in Section 17-52a-104, the attorney's report that is described in Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14, 2018," is repealed.

(20) On January 1, 2028, Subsection 17-52a-102(3) is repealed.

Section ~~33~~34. Section **63J-4-607** is amended to read:

### **63J-4-607. Resource management plan administration.**

(1) The office shall consult with the Federalism Commission before expending funds appropriated by the Legislature for the implementation of this section.

(2) To the extent that the Legislature appropriates sufficient funding, the office may procure the services of a non-public entity in accordance with Title 63G, Chapter 6a, Utah



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Procurement Code, to assist the office with the office's responsibilities described in Subsection (3).

(3) The office shall:

(a) assist each county with the creation of the county's resource management plan by:

(i) consulting with the county on policy and legal issues related to the county's resource management plan; and

(ii) helping the county ensure that the county's resource management plan meets the requirements of Subsection 17-27a-401(3);

(b) promote quality standards among all counties' resource management plans; and

(c) upon submission by a county, review and verify the county's:

(i) estimated cost for creating a resource management plan; and

(ii) actual cost for creating a resource management plan.

(4) (a) A county shall cooperate with the office, or an entity procured by the office under Subsection (2), with regards to the office's responsibilities under Subsection (3).

(b) To the extent that the Legislature appropriates sufficient funding, the office may, in accordance with Subsection (4)(c), provide funding to a county before the county completes a resource management plan.

(c) The office may provide pre-completion funding described in Subsection (4)(b):

(i) after:

(A) the county submits an estimated cost for completing the resource management plan to the office; and

(B) the office reviews and verifies the estimated cost in accordance with Subsection (3)(c)(i); and

(ii) in an amount up to:

(A) 50% of the estimated cost of completing the resource management plan, verified by the office; or

(B) \$25,000, if the amount described in Subsection (4)(c)(i)(A) is greater than \$25,000.

(d) To the extent that the Legislature appropriates sufficient funding, the office shall provide funding to a county in the amount described in Subsection (4)(e) after:

(i) a county's resource management plan:

(A) meets the requirements described in Subsection 17-27a-401(3); and

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(B) is adopted under Subsection 17-27a-404~~(6)~~(5)(d);

(ii) the county submits the actual cost of completing the resource management plan to the office; and

(iii) the office reviews and verifies the actual cost in accordance with Subsection (3)(c)(ii).

(e) The office shall provide funding to a county under Subsection (4)(d) in an amount equal to the difference between:

(i) the lesser of:

(A) the actual cost of completing the resource management plan, verified by the office;

or

(B) \$50,000; and

(ii) the amount of any pre-completion funding that the county received under Subsections (4)(b) and (c).

(5) To the extent that the Legislature appropriates sufficient funding, after the deadline established in Subsection 17-27a-404~~(6)~~(5)(d) for a county to adopt a resource management plan, the office shall:

(a) obtain a copy of each county's resource management plan;

(b) create a statewide resource management plan that:

(i) meets the same requirements described in Subsection 17-27a-401(3); and

(ii) to the extent reasonably possible, coordinates and is consistent with any resource management plan or land use plan established under Chapter 8, State of Utah Resource Management Plan for Federal Lands; and

(c) submit a copy of the statewide resource management plan to the Federalism Commission for review.

(6) Following review of the statewide resource management plan, the Federalism Commission shall prepare a concurrent resolution approving the statewide resource management plan for consideration during the 2018 General Session.

(7) To the extent that the Legislature appropriates sufficient funding, the office shall provide legal support to a county that becomes involved in litigation with the federal government over the requirements of Subsection 17-27a-405(3).

(8) After the statewide resource management plan is approved, as described in

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Subsection (6), and to the extent that the Legislature appropriates sufficient funding, the office shall monitor the implementation of the statewide resource management plan at the federal, state, and local levels.