

**Senator Curtis S. Bramble** proposes the following substitute bill:

**LOCAL LAND USE AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Val L. Peterson**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions related to when a person may challenge an annexation in district court;
- ▶ modifies notice requirements after a municipality receives a request for disconnection;
- ▶ provides specific notice requirements related to a municipality's proposed modification to the text of the municipality's zoning code;
- ▶ modifies notice requirements related to an amendment to public improvements in a subdivision or development;
- ▶ removes a prohibition on imposing a land use regulation under certain circumstances;
- ▶ modifies the authority of a municipality to require the development of moderate income housing as a condition of approval of a land use regulation;
- ▶ modifies evidence requirements related to a noncomplying structure or a



- 26 nonconforming use;
- 27       ▶ authorizes a municipality or a county to determine if combining lots constitutes a
- 28 subdivision amendment;
- 29       ▶ modifies the requirements for preparation of a subdivided plat by a surveyor;
- 30       ▶ modifies provisions related to determining when a land use decision is illegal;
- 31       ▶ creates a process to establish an agreed boundary between landowners when a
- 32 boundary is disputed or uncertain; and
- 33       ▶ makes technical changes.

**34 Money Appropriated in this Bill:**

35       None

**36 Other Special Clauses:**

37       None

**38 Utah Code Sections Affected:**

39 AMENDS:

- 40       **10-2-407**, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
- 41       **10-2-501**, as last amended by Laws of Utah 2021, Chapters 84 and 345
- 42       **10-9a-103**, as last amended by Laws of Utah 2021, Chapters 140 and 385
- 43       **10-9a-205**, as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
- 44       **10-9a-212**, as enacted by Laws of Utah 2012, Chapter 216
- 45       **10-9a-509**, as last amended by Laws of Utah 2021, Chapters 140 and 385
- 46       **10-9a-511**, as last amended by Laws of Utah 2018, Chapter 239
- 47       **10-9a-601**, as last amended by Laws of Utah 2021, Chapter 385
- 48       **10-9a-603**, as last amended by Laws of Utah 2021, Chapters 47, 162, and 345
- 49       **10-9a-608**, as last amended by Laws of Utah 2021, Chapter 385
- 50       **10-9a-801**, as last amended by Laws of Utah 2021, Chapter 385
- 51       **17-27a-103**, as last amended by Laws of Utah 2021, Chapters 140, 363, and 385
- 52       **17-27a-212**, as enacted by Laws of Utah 2012, Chapter 216
- 53       **17-27a-508**, as last amended by Laws of Utah 2021, Chapters 140 and 385
- 54       **17-27a-510**, as last amended by Laws of Utah 2018, Chapter 239
- 55       **17-27a-601**, as last amended by Laws of Utah 2021, Chapter 385
- 56       **17-27a-603**, as last amended by Laws of Utah 2021, Chapters 47, 162, and 345

57 [17-27a-608](#), as last amended by Laws of Utah 2021, Chapter 385

58 [17-27a-801](#), as last amended by Laws of Utah 2021, Chapter 385

59 [57-1-45](#), as last amended by Laws of Utah 2021, Chapter 385

60 ENACTS:

61 [10-9A-535](#), Utah Code Annotated 1953



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

64 Section 1. Section [10-2-407](#) is amended to read:

65 **10-2-407. Protest to annexation petition -- Planning advisory area planning**  
66 **commission recommendation -- Petition requirements -- Disposition of petition if no**  
67 **protest filed.**

68 (1) A protest to an annexation petition under Section [10-2-403](#) may only be filed by:

69 (a) the legislative body or governing board of an affected entity;

70 (b) an owner of rural real property;

71 (c) for a proposed annexation of an area within a county of the first class, an owner of  
72 private real property that:

73 (i) is located in the unincorporated area within 1/2 mile of the area proposed for  
74 annexation;

75 (ii) covers at least 25% of the private land area located in the unincorporated area  
76 within 1/2 mile of the area proposed for annexation; and

77 (iii) is equal in value to at least 15% of all real property located in the unincorporated  
78 area within 1/2 mile of the area proposed for annexation; or

79 (d) an owner of private real property located in a mining protection area.

80 (2) Each protest under Subsection (1) shall:

81 (a) be filed:

82 (i) no later than 30 days after the municipal legislative body's receipt of the notice of  
83 certification under Subsection [10-2-405\(2\)\(c\)\(i\)](#); and

84 (ii) (A) in a county that has already created a commission under Section [10-2-409](#), with  
85 the commission; or

86 (B) in a county that has not yet created a commission under Section [10-2-409](#), with the  
87 clerk of the county in which the area proposed for annexation is located;

88 (b) state each reason for the protest of the annexation petition and, if the area proposed  
89 to be annexed is located in a specified county, justification for the protest under the standards  
90 established in this chapter;

91 (c) if the area proposed to be annexed is located in a specified county, contain other  
92 information that the commission by rule requires or that the party filing the protest considers  
93 pertinent; and

94 (d) contain the name and address of a contact person who is to receive notices sent by  
95 the commission with respect to the protest proceedings.

96 (3) The party filing a protest under this section shall on the same date deliver or mail a  
97 copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

98 (4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:

99 (a) immediately notify the county legislative body of the protest; and

100 (b) deliver the protest to the boundary commission within five days after:

101 (i) receipt of the protest, if the boundary commission has previously been created; or

102 (ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the  
103 boundary commission has not previously been created.

104 (5) (a) If a protest is filed under this section:

105 (i) the municipal legislative body may, at its next regular meeting after expiration of  
106 the deadline under Subsection (2)(a)(i), deny the annexation petition; or

107 (ii) if the municipal legislative body does not deny the annexation petition under  
108 Subsection (5)(a)(i), the municipal legislative body may take no further action on the  
109 annexation petition until after receipt of the commission's notice of its decision on the protest  
110 under Section 10-2-416.

111 (b) If a municipal legislative body denies an annexation petition under Subsection  
112 (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of  
113 the denial in writing to:

114 (i) the contact sponsor of the annexation petition;

115 (ii) the commission; and

116 (iii) each entity that filed a protest.

117 (6) If no timely protest is filed under this section, the municipal legislative body may,  
118 subject to Subsection (7), approve the petition.

119 (7) Before approving an annexation petition under Subsection (6), the municipal  
120 legislative body shall hold a public hearing and provide notice of the public hearing:

121 (a) (i) at least seven days before the day of the public hearing, by posting one notice,  
122 and at least one additional notice per 2,000 population within the municipality and the area  
123 proposed for annexation, in places within that combined area that are most likely to give notice  
124 to the residents within, and the owners of real property located within, the combined area,  
125 subject to a maximum of 10 notices; or

126 (ii) at least 10 days before the day of the public hearing, by mailing the notice to each  
127 residence within, and to each owner of real property located within, the combined area  
128 described in Subsection (7)(a)(i);

129 (b) by posting notice on the Utah Public Notice Website, created in Section  
130 63A-16-601, for seven days before the day of the public hearing; and

131 (c) if the municipality has a website, by posting notice on the municipality's website for  
132 seven days before the day of the public hearing.

133 (8) (a) Subject to Subsection (8)(b), only a person or entity that is described in  
134 Subsection (1) has standing to challenge an annexation in district court.

135 (b) A person or entity described in Subsection (1) may only bring an action in district  
136 court to challenge an annexation if the person or entity has timely filed a protest as described in  
137 Subsection (2) and exhausted the administrative remedies described in this section.

138 Section 2. Section 10-2-501 is amended to read:

139 **10-2-501. Municipal disconnection -- Definitions -- Request for disconnection --**  
140 **Requirements upon filing request.**

141 (1) As used in this part "petitioner" means:

142 (a) one or more persons who:

143 (i) own title to real property within the area proposed for disconnection; and

144 (ii) sign a request for disconnection proposing to disconnect the area proposed for  
145 disconnection from the municipality; or

146 (b) the mayor of the municipality within which the area proposed for disconnection is  
147 located who signs a request for disconnection proposing to disconnect the area proposed for  
148 disconnection from the municipality.

149 (2) (a) A petitioner proposing to disconnect an area within and lying on the borders of a

150 municipality shall file with that municipality's legislative body a request for disconnection.

151 (b) Each request for disconnection shall:

152 (i) contain the names, addresses, and signatures of the owners of more than 50% of any  
153 private real property in the area proposed for disconnection;

154 (ii) give the reasons for the proposed disconnection;

155 (iii) include a map or plat of the territory proposed for disconnection; and

156 (iv) designate between one and five persons with authority to act on the petitioner's  
157 behalf in the proceedings.

158 (3) Upon filing the request for disconnection, the petitioner shall publish notice of the  
159 request:

160 (a) (i) once a week for three consecutive weeks before the public hearing described in  
161 Section 10-2-502.5 in a newspaper of general circulation within the municipality; or

162 (ii) if there is no newspaper of general circulation in the municipality, at least three  
163 weeks before the day of the public hearing described in Section 10-2-502.5, by posting one  
164 notice, and at least one additional notice per 2,000 population of the municipality, in places  
165 within the municipality that are most likely to give notice to the residents within, and the  
166 owners of real property located within, the municipality, including the residents who live in the  
167 area proposed for disconnection; [~~or~~]

168 [~~(iii) at least three weeks before the day of the public hearing described in Section~~  
169 ~~10-2-502.5, by mailing notice to each residence within, and each owner of real property located~~  
170 ~~within, the municipality;~~]

171 (b) on the Utah Public Notice Website created in Section 63A-16-601, for three weeks  
172 before the day of the public hearing described in Section 10-2-502.5;

173 (c) in accordance with the legal notice requirements described in Section 45-1-101, for  
174 three weeks before the day of the public hearing described in Section 10-2-502.5;

175 (d) by mailing notice to each:

176 (i) owner of real property located within the area proposed to be disconnected; and

177 (ii) residence within the area proposed to be disconnected;

178 (e) by delivering a copy of the request to the legislative body of the county in which the  
179 area proposed for disconnection is located; and

180 (f) if the municipality has a website, on the municipality's website for three weeks

181 before the day of the public hearing.

182 Section 3. Section **10-9a-103** is amended to read:

183 **10-9a-103. Definitions.**

184 As used in this chapter:

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

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

188 (a) owns real property adjoining the property that is the subject of a land use

189 application or land use decision; or

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

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

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

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

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

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

205 (a) a single project;

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

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

209 (5) "Appeal authority" means the person, board, commission, agency, or other body  
210 designated by ordinance to decide an appeal of a decision of a land use application or a  
211 variance.

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

215 (7) (a) "Charter school" means:

216 (i) an operating charter school;

217 (ii) a charter school applicant that a charter school authorizer approves in accordance  
218 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

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

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

222 (8) "Conditional use" means a land use that, because of the unique characteristics or  
223 potential impact of the land use on the municipality, surrounding neighbors, or adjacent land  
224 uses, may not be compatible in some areas or may be compatible only if certain conditions are  
225 required that mitigate or eliminate the detrimental impacts.

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

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

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

230 (10) "Culinary water authority" means the department, agency, or public entity with  
231 responsibility to review and approve the feasibility of the culinary water system and sources for  
232 the subject property.

233 (11) "Development activity" means:

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

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

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

240 (12) (a) "Development agreement" means a written agreement or amendment to a  
241 written agreement between a municipality and one or more parties that regulates or controls the  
242 use or development of a specific area of land.



243 (b) "Development agreement" does not include an improvement completion assurance.

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

247 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
248 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
249 802.

250 (14) "Educational facility":

251 (a) means:

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

255 (ii) a structure or facility:

256 (A) located on the same property as a building described in Subsection (14)(a)(i); and

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

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

260 (b) does not include:

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

263 (A) not located on the same property as a building described in Subsection (14)(a)(i);  
264 and

265 (B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

266 (ii) a therapeutic school.

267 (15) "Fire authority" means the department, agency, or public entity with responsibility  
268 to review and approve the feasibility of fire protection and suppression services for the subject  
269 property.

270 (16) "Flood plain" means land that:

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

273 (b) has not been studied or designated by the Federal Emergency Management Agency

274 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because  
275 the land has characteristics that are similar to those of a 100-year flood plain designated by the  
276 Federal Emergency Management Agency.

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

279 (18) "Geologic hazard" means:

280 (a) a surface fault rupture;

281 (b) shallow groundwater;

282 (c) liquefaction;

283 (d) a landslide;

284 (e) a debris flow;

285 (f) unstable soil;

286 (g) a rock fall; or

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

288 (i) to life;

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

290 (iii) of substantial damage to real property.

291 (19) "Historic preservation authority" means a person, board, commission, or other  
292 body designated by a legislative body to:

293 (a) recommend land use regulations to preserve local historic districts or areas; and

294 (b) administer local historic preservation land use regulations within a local historic  
295 district or area.

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

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

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

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

303 (c) describe a building that:

304 (i) is located on land zoned the same as the land on which the building described in the

305 previously approved plans is located;

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

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

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

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

313 (23) "Improvement completion assurance" means a surety bond, letter of credit,  
314 financial institution bond, cash, assignment of rights, lien, or other equivalent security required  
315 by a municipality to guaranty the proper completion of landscaping or an infrastructure  
316 improvement required as a condition precedent to:

317 (a) recording a subdivision plat; or

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

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

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

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

325 (25) "Improvement warranty period" means a period:

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

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

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

331 (ii) has substantial evidence, on record:

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

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

335 (26) "Infrastructure improvement" means permanent infrastructure that is essential for

336 the public health and safety or that:

337 (a) is required for human occupation; and

338 (b) an applicant must install:

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

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

342 (A) recording a subdivision plat;

343 (B) obtaining a building permit; or

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

346 (27) "Internal lot restriction" means a platted note, platted demarcation, or platted  
347 designation that:

348 (a) runs with the land; and

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

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

353 (28) "Land use applicant" means a property owner, or the property owner's designee,  
354 who submits a land use application regarding the property owner's land.

355 (29) "Land use application":

356 (a) means an application that is:

357 (i) required by a municipality; and

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

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

360 (30) "Land use authority" means:

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

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

365 (31) "Land use decision" means an administrative decision of a land use authority or  
366 appeal authority regarding:

- 367 (a) a land use permit; or  
368 (b) a land use application[~~;~~~~or~~].  
369 [~~(c) the enforcement of a land use regulation, land use permit, or development~~  
370 ~~agreement.~~]  
371 (32) "Land use permit" means a permit issued by a land use authority.  
372 (33) "Land use regulation":  
373 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,  
374 specification, fee, or rule that governs the use or development of land;  
375 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;  
376 and  
377 (c) does not include:  
378 (i) a land use decision of the legislative body acting as the land use authority, even if  
379 the decision is expressed in a resolution or ordinance; or  
380 (ii) a temporary revision to an engineering specification that does not materially:  
381 (A) increase a land use applicant's cost of development compared to the existing  
382 specification; or  
383 (B) impact a land use applicant's use of land.  
384 (34) "Legislative body" means the municipal council.  
385 (35) "Local district" means an entity under Title 17B, Limited Purpose Local  
386 Government Entities - Local Districts, and any other governmental or quasi-governmental  
387 entity that is not a county, municipality, school district, or the state.  
388 (36) "Local historic district or area" means a geographically definable area that:  
389 (a) contains any combination of buildings, structures, sites, objects, landscape features,  
390 archeological sites, or works of art that contribute to the historic preservation goals of a  
391 legislative body; and  
392 (b) is subject to land use regulations to preserve the historic significance of the local  
393 historic district or area.  
394 (37) "Lot" means a tract of land, regardless of any label, that is created by and shown  
395 on a subdivision plat that has been recorded in the office of the county recorder.  
396 (38) (a) "Lot line adjustment" means a relocation of a lot line boundary between  
397 adjoining lots or between a lot and adjoining parcels in accordance with Section [10-9a-608](#):

- 398 (i) whether or not the lots are located in the same subdivision; and
- 399 (ii) with the consent of the owners of record.
- 400 (b) "Lot line adjustment" does not mean a new boundary line that:
- 401 (i) creates an additional lot; or
- 402 (ii) constitutes a subdivision.
- 403 (c) "Lot line adjustment" does not include a boundary line adjustment made by the
- 404 Department of Transportation.
- 405 (39) "Major transit investment corridor" means public transit service that uses or
- 406 occupies:
- 407 (a) public transit rail right-of-way;
- 408 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;
- 409 or
- 410 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
- 411 municipality or county and:
- 412 (i) a public transit district as defined in Section [17B-2a-802](#); or
- 413 (ii) an eligible political subdivision as defined in Section [59-12-2219](#).
- 414 (40) "Moderate income housing" means housing occupied or reserved for occupancy
- 415 by households with a gross household income equal to or less than 80% of the median gross
- 416 income for households of the same size in the county in which the city is located.
- 417 (41) "Municipal utility easement" means an easement that:
- 418 (a) is created or depicted on a plat recorded in a county recorder's office and is
- 419 described as a municipal utility easement granted for public use;
- 420 (b) is not a protected utility easement or a public utility easement as defined in Section
- 421 [54-3-27](#);
- 422 (c) the municipality or the municipality's affiliated governmental entity uses and
- 423 occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm
- 424 water, or communications or data lines;
- 425 (d) is used or occupied with the consent of the municipality in accordance with an
- 426 authorized franchise or other agreement;
- 427 (e) (i) is used or occupied by a specified public utility in accordance with an authorized
- 428 franchise or other agreement; and

- 429 (ii) is located in a utility easement granted for public use; or  
430 (f) is described in Section 10-9a-529 and is used by a specified public utility.
- 431 (42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time  
432 spent and expenses incurred in:
- 433 (a) verifying that building plans are identical plans; and
  - 434 (b) reviewing and approving those minor aspects of identical plans that differ from the  
435 previously reviewed and approved building plans.
- 436 (43) "Noncomplying structure" means a structure that:
- 437 (a) legally existed before the structure's current land use designation; and
  - 438 (b) because of one or more subsequent land use ordinance changes, does not conform  
439 to the setback, height restrictions, or other regulations, excluding those regulations, which  
440 govern the use of land.
- 441 (44) "Nonconforming use" means a use of land that:
- 442 (a) legally existed before its current land use designation;
  - 443 (b) has been maintained continuously since the time the land use ordinance governing  
444 the land changed; and
  - 445 (c) because of one or more subsequent land use ordinance changes, does not conform  
446 to the regulations that now govern the use of the land.
- 447 (45) "Official map" means a map drawn by municipal authorities and recorded in a  
448 county recorder's office that:
- 449 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for  
450 highways and other transportation facilities;
  - 451 (b) provides a basis for restricting development in designated rights-of-way or between  
452 designated setbacks to allow the government authorities time to purchase or otherwise reserve  
453 the land; and
  - 454 (c) has been adopted as an element of the municipality's general plan.
- 455 (46) "Parcel" means any real property that is not a lot.
- 456 (47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of  
457 adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line  
458 agreement in accordance with Section 10-9a-524, if no additional parcel is created and:  
459 (i) none of the property identified in the agreement is a lot; or

460 (ii) the adjustment is to the boundaries of a single person's parcels.

461 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary  
462 line that:

463 (i) creates an additional parcel; or

464 (ii) constitutes a subdivision.

465 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by  
466 the Department of Transportation.

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

469 (49) "Plan for moderate income housing" means a written document adopted by a  
470 municipality's legislative body that includes:

471 (a) an estimate of the existing supply of moderate income housing located within the  
472 municipality;

473 (b) an estimate of the need for moderate income housing in the municipality for the  
474 next five years;

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

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

478 (e) a description of the municipality's program to encourage an adequate supply of  
479 moderate income housing.

480 (50) "Plat" means an instrument subdividing property into lots as depicted on a map or  
481 other graphical representation of lands that a licensed professional land surveyor makes and  
482 prepares in accordance with Section [10-9a-603](#) or [57-8-13](#).

483 (51) "Potential geologic hazard area" means an area that:

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

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

490 (52) "Public agency" means:



- 491 (a) the federal government;
- 492 (b) the state;
- 493 (c) a county, municipality, school district, local district, special service district, or other
- 494 political subdivision of the state; or

495 (d) a charter school.

496 (53) "Public hearing" means a hearing at which members of the public are provided a

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

498 (54) "Public meeting" means a meeting that is required to be open to the public under

499 Title 52, Chapter 4, Open and Public Meetings Act.

500 (55) "Public street" means a public right-of-way, including a public highway, public

501 avenue, public boulevard, public parkway, public road, public lane, public alley, public

502 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation

503 easement, or other public way.

504 (56) "Receiving zone" means an area of a municipality that the municipality

505 designates, by ordinance, as an area in which an owner of land may receive a transferable

506 development right.

507 (57) "Record of survey map" means a map of a survey of land prepared in accordance

508 with Section [10-9a-603](#), [17-23-17](#), [17-27a-603](#), or [57-8-13](#).

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

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

511 (b) (i) which is licensed or certified by the Department of Human Services under Title

512 62A, Chapter 2, Licensure of Programs and Facilities; or

513 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter

514 21, Health Care Facility Licensing and Inspection Act.

515 (59) "Rules of order and procedure" means a set of rules that govern and prescribe in a

516 public meeting:

517 (a) parliamentary order and procedure;

518 (b) ethical behavior; and

519 (c) civil discourse.

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

521 responsibility to review and approve the feasibility of sanitary sewer services or onsite

522 wastewater systems.

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

526 (62) "Specified public agency" means:

527 (a) the state;

528 (b) a school district; or

529 (c) a charter school.

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

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

533 (65) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be  
534 divided into two or more lots or other division of land for the purpose, whether immediate or  
535 future, for offer, sale, lease, or development either on the installment plan or upon any and all  
536 other plans, terms, and conditions.

537 (b) "Subdivision" includes:

538 (i) the division or development of land, whether by deed, metes and bounds  
539 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether  
540 the division includes all or a portion of a parcel or lot; and

541 (ii) except as provided in Subsection (65)(c), divisions of land for residential and  
542 nonresidential uses, including land used or to be used for commercial, agricultural, and  
543 industrial purposes.

544 (c) "Subdivision" does not include:

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

549 (ii) a boundary line agreement recorded with the county recorder's office between  
550 owners of adjoining parcels adjusting the mutual boundary in accordance with Section  
551 10-9a-524 if no new parcel is created;

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

- 553 (A) revising the legal descriptions of multiple parcels into one legal description  
554 encompassing all such parcels; or
- 555 (B) joining a lot to a parcel;
- 556 (iv) a boundary line agreement between owners of adjoining subdivided properties  
557 adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:
- 558 (A) no new dwelling lot or housing unit will result from the adjustment; and  
559 (B) the adjustment will not violate any applicable land use ordinance;
- 560 (v) a bona fide division of land by deed or other instrument if the deed or other  
561 instrument states in writing that the division:
- 562 (A) is in anticipation of future land use approvals on the parcel or parcels;  
563 (B) does not confer any land use approvals; and  
564 (C) has not been approved by the land use authority;
- 565 (vi) a parcel boundary adjustment;  
566 (vii) a lot line adjustment;  
567 (viii) a road, street, or highway dedication plat;  
568 (ix) a deed or easement for a road, street, or highway purpose; or  
569 (x) any other division of land authorized by law.
- 570 (66) "Subdivision amendment" means an amendment to a recorded subdivision in  
571 accordance with Section 10-9a-608 that:
- 572 (a) vacates all or a portion of the subdivision;  
573 (b) alters the outside boundary of the subdivision;  
574 (c) changes the number of lots within the subdivision;  
575 (d) alters a public right-of-way, a public easement, or public infrastructure within the  
576 subdivision; or  
577 (e) alters a common area or other common amenity within the subdivision.
- 578 (67) "Substantial evidence" means evidence that:  
579 (a) is beyond a scintilla; and  
580 (b) a reasonable mind would accept as adequate to support a conclusion.
- 581 (68) "Suspect soil" means soil that has:  
582 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
583 3% swell potential;

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

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

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

589 (i) the owner of the facility; or

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

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

592 (i) at home;

593 (ii) in a public school; or

594 (iii) in a nonresidential private school; and

595 (c) that offers:

596 (i) room and board; and

597 (ii) an academic education integrated with:

598 (A) specialized structure and supervision; or

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

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

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

604 (71) "Unincorporated" means the area outside of the incorporated area of a city or  
605 town.

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

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

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

609 (i) a contract; or

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

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

613 Section 4. Section 10-9a-205 is amended to read:

614 **10-9a-205. Notice of public hearings and public meetings on adoption or**

615 **modification of land use regulation.**

616 (1) Each municipality shall give:

617 (a) notice of the date, time, and place of the first public hearing to consider the  
618 adoption or any modification of a land use regulation; and

619 (b) notice of each public meeting on the subject.

620 (2) Each notice of a public hearing under Subsection (1)(a) shall be:

621 (a) mailed to each affected entity at least 10 calendar days before the public hearing;

622 (b) posted:

623 (i) in at least three public locations within the municipality; or

624 (ii) on the municipality's official website; and

625 (c) (i) posted on the Utah Public Notice Website created in Section 63A-16-601, at  
626 least 10 calendar days before the public hearing; or

627 (ii) mailed at least 10 days before the public hearing to:

628 (A) each property owner whose land is directly affected by the land use ordinance  
629 change; and

630 (B) each adjacent property owner within the parameters specified by municipal  
631 ordinance.

632 (3) In addition to the notice requirements described in Subsections (1) and (2), for any  
633 proposed modification to the text of a zoning code, the notice mailed and posted in accordance  
634 with Subsection (2) shall:

635 (a) include a summary of the effect of the proposed modifications to the text of the  
636 zoning code designed to be understood by a lay person; and

637 (b) be provided to any person upon written request.

638 [~~3~~] (4) Each notice of a public meeting under Subsection (1)(b) shall be posted at  
639 least 24 hours before the meeting:

640 (a) in at least three public locations within the municipality; or

641 (b) on the municipality's official website.

642 [~~4~~] (5) (a) A municipality shall send a courtesy notice to each owner of private real  
643 property whose property is located entirely or partially within a proposed zoning map  
644 enactment or amendment at least 10 days before the scheduled day of the public hearing.

645 (b) The notice shall:

646 (i) identify with specificity each owner of record of real property that will be affected  
647 by the proposed zoning map or map amendments;

648 (ii) state the current zone in which the real property is located;

649 (iii) state the proposed new zone for the real property;

650 (iv) provide information regarding or a reference to the proposed regulations,  
651 prohibitions, and permitted uses that the property will be subject to if the zoning map or map  
652 amendment is adopted;

653 (v) state that the owner of real property may no later than 10 days after the day of the  
654 first public hearing file a written objection to the inclusion of the owner's property in the  
655 proposed zoning map or map amendment;

656 (vi) state the address where the property owner should file the protest;

657 (vii) notify the property owner that each written objection filed with the municipality  
658 will be provided to the municipal legislative body; and

659 (viii) state the location, date, and time of the public hearing described in Section  
660 10-9a-502.

661 (c) If a municipality mails notice to a property owner in accordance with Subsection  
662 (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this  
663 Subsection [(4)] (5) may be included in or part of the notice described in Subsection (2)(c)(ii)  
664 rather than sent separately.

665 Section 5. Section 10-9a-212 is amended to read:

666 **10-9a-212. Notice for an amendment to public improvements in a subdivision or**  
667 **development.**

668 [~~Prior to~~] Before implementing an amendment to adopted specifications for public  
669 improvements that apply to a subdivision or a development, a municipality shall [~~give 30 days~~  
670 ~~mailed notice and an opportunity to comment to anyone who has requested the notice in~~  
671 ~~writing~~];

672 (1) hold a public hearing;

673 (2) mail a notice 30 days or more before the date of the public hearing to:

674 (a) each person who has submitted a land use application for which the land use  
675 authority has not issued a land use decision; and

676 (b) each person who makes a written request to receive a copy of the notice; and

677 (3) allow each person who receives a notice in accordance with Subsection (2) to  
678 provide public comment in writing before the public hearing or in person during the public  
679 hearing.

680 Section 6. Section **10-9a-509** is amended to read:

681 **10-9a-509. Applicant's entitlement to land use application approval --**  
682 **Municipality's requirements and limitations -- Vesting upon submission of development**  
683 **plan and schedule.**

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

687 (A) in effect on the date that the application is complete; and

688 (B) applicable to the application or to the information shown on the application.

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

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

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

699 (b) The municipality shall process an application without regard to proceedings the  
700 municipality initiated to amend the municipality's ordinances as described in Subsection

701 (1)(a)(ii)(B) if:

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

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

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

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

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

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

715 (i) this chapter;

716 (ii) a municipal ordinance; or

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

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

721 (i) in a land use permit;

722 (ii) on the subdivision plat;

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

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

726 (v) in this chapter; or

727 (vi) in a municipal ordinance.

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

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

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

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

738 (i) the applicant and the municipality have agreed in a written document to the



739 withholding of a certificate of occupancy; or

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

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

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

748 ~~[(4) (a) Except as provided in Subsection (4)(b), for a period of 10 years after the day  
749 on which a subdivision plat is recorded, a municipality may not impose on a building permit  
750 applicant for a single-family dwelling located within the subdivision any land use regulation  
751 that is enacted within 10 years after the day on which the subdivision plat is recorded.]~~

752 ~~[(b) Subsection (4)(a) does not apply to any changes in the requirements of the  
753 applicable building code, health code, or fire code, or other similar regulations.]~~

754 ~~[(5)]~~ (4) Upon a specified public agency's submission of a development plan and  
755 schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that  
756 subsection, the specified public agency vests in the municipality's applicable land use maps,  
757 zoning map, hookup fees, impact fees, other applicable development fees, and land use  
758 regulations in effect on the date of submission.

759 ~~[(6)]~~ (5) (a) If sponsors of a referendum timely challenge a project in accordance with  
760 Subsection 20A-7-601(5), the project's affected owner may rescind the project's land use  
761 approval by delivering a written notice:

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

763 (ii) no later than seven days after the day on which a petition for a referendum is  
764 determined sufficient under Subsection 20A-7-607(4).

765 (b) Upon delivery of a written notice described in Subsection ~~[(6)]~~ (5)(a) the following  
766 are rescinded and are of no further force or effect:

767 (i) the relevant land use approval; and

768 (ii) any land use regulation enacted specifically in relation to the land use approval.

769 Section 7. Section 10-9a-511 is amended to read:

770 **10-9a-511. Nonconforming uses and noncomplying structures.**

771 (1) (a) Except as provided in this section, a nonconforming use or noncomplying  
772 structure may be continued by the present or a future property owner.

773 (b) A nonconforming use may be extended through the same building, provided no  
774 structural alteration of the building is proposed or made for the purpose of the extension.

775 (c) For purposes of this Subsection (1), the addition of a solar energy device to a  
776 building is not a structural alteration.

777 (2) The legislative body may provide for:

778 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or  
779 substitution of nonconforming uses upon the terms and conditions set forth in the land use  
780 ordinance;

781 (b) the termination of all nonconforming uses, except billboards, by providing a  
782 formula establishing a reasonable time period during which the owner can recover or amortize  
783 the amount of his investment in the nonconforming use, if any; and

784 (c) the termination of a nonconforming use due to its abandonment.

785 (3) (a) A municipality may not prohibit the reconstruction or restoration of a  
786 noncomplying structure or terminate the nonconforming use of a structure that is involuntarily  
787 destroyed in whole or in part due to fire or other calamity unless the structure or use has been  
788 abandoned.

789 (b) A municipality may prohibit the reconstruction or restoration of a noncomplying  
790 structure or terminate the nonconforming use of a structure if:

791 (i) the structure is allowed to deteriorate to a condition that the structure is rendered  
792 uninhabitable and is not repaired or restored within six months after the day on which written  
793 notice is served to the property owner that the structure is uninhabitable and that the  
794 noncomplying structure or nonconforming use will be lost if the structure is not repaired or  
795 restored within six months; or

796 (ii) the property owner has voluntarily demolished a majority of the noncomplying  
797 structure or the building that houses the nonconforming use.

798 (c) (i) Notwithstanding a prohibition in the municipality's zoning ordinance, a  
799 municipality may permit a billboard owner to relocate the billboard within the municipality's  
800 boundaries to a location that is mutually acceptable to the municipality and the billboard

801 owner.

802 (ii) If the municipality and billboard owner cannot agree to a mutually acceptable  
803 location within 180 days after the day on which the owner submits a written request to relocate  
804 the billboard, the billboard owner may relocate the billboard in accordance with Subsection  
805 10-9a-513(2).

806 (4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of  
807 legal existence for nonconforming uses, the property owner shall have the burden of  
808 establishing the legal existence of a noncomplying structure or nonconforming use through  
809 substantial evidence, which may not be limited to municipal or county records.

810 (b) Any party claiming that a nonconforming use has been abandoned shall have the  
811 burden of establishing the abandonment.

812 (c) Abandonment may be presumed to have occurred if:

813 (i) a majority of the primary structure associated with the nonconforming use has been  
814 voluntarily demolished without prior written agreement with the municipality regarding an  
815 extension of the nonconforming use;

816 (ii) the use has been discontinued for a minimum of one year; or

817 (iii) the primary structure associated with the nonconforming use remains vacant for a  
818 period of one year.

819 (d) The property owner may rebut the presumption of abandonment under Subsection  
820 (4)(c), and has the burden of establishing that any claimed abandonment under Subsection  
821 (4)(b) has not occurred.

822 (5) A municipality may terminate the nonconforming status of a school district or  
823 charter school use or structure when the property associated with the school district or charter  
824 school use or structure ceases to be used for school district or charter school purposes for a  
825 period established by ordinance.

826 Section 8. Section **10-9a-535** is enacted to read:

827 **10-9a-535. Moderate income housing.**

828 (1) A municipality may only require the development of a certain number of moderate  
829 income housing units as a condition of approval of a land use application if:

830 (a) the municipality and the applicant enter into a written agreement regarding the  
831 number of moderate income housing units; or

832 (b) the municipality provides incentives for an applicant who agrees to include  
833 moderate income housing units in a development.

834 (2) If an applicant does not agree to participate in the development of moderate income  
835 housing units under Subsection (1)(a) or (b), a municipality may not take into consideration the  
836 applicant's decision in the municipality's determination of whether to approve or deny a land  
837 use application.

838 (3) Notwithstanding Subsections (1) and (2), a municipality that imposes a resort  
839 community sales and use tax as described in Section [59-12-401](#), may require the development  
840 of a certain number of moderate income housing units as a condition of approval of a land use  
841 application if the requirement is in accordance with an ordinance enacted by the municipality  
842 before January 1, 2022.

843 Section 9. Section **10-9a-601** is amended to read:

844 **10-9a-601. Enactment of subdivision ordinance.**

845 (1) The legislative body of a municipality may enact ordinances requiring that a  
846 subdivision plat comply with the provisions of the municipality's ordinances and this part  
847 before:

- 848 (a) the subdivision plat may be filed and recorded in the county recorder's office; and
- 849 (b) lots may be sold.

850 (2) If the legislative body fails to enact a subdivision ordinance, the municipality may  
851 regulate subdivisions only to the extent provided in this part.

852 (3) ~~[The]~~ Except as described in Subsection (4), joining of a lot or lots to a parcel does  
853 not constitute a subdivision as to the parcel or subject the parcel to the municipality's  
854 subdivision ordinance.

855 (4) A legislative body may adopt a land use regulation that specifies that combining  
856 lots is a subdivision amendment.

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

858 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**  
859 **acknowledgment, surveyor certification, and underground utility facility owner**  
860 **verification of plat -- Recording plat.**

861 (1) As used in this section:

- 862 (a) (i) "Facility owner" means the same as that term is defined in Section [73-1-15.5](#).

863 (ii) "Facility owner" includes a canal owner or associated canal operator contact  
864 described in:

- 865 (A) Section 10-9a-211;
- 866 (B) Subsection 73-5-7(3); or
- 867 (C) Subsection (6)(c).

868 (b) "Local health department" means the same as that term is defined in Section  
869 26A-1-102.

870 (c) "State engineer's inventory of canals" means the state engineer's inventory of water  
871 conveyance systems established in Section 73-5-7.

872 (d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

873 (e) "Water conveyance facility" means the same as that term is defined in Section  
874 73-1-15.5.

875 (2) Unless exempt under Section 10-9a-605 or excluded from the definition of  
876 subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of  
877 the land shall provide to the municipality in which the land is located an accurate plat that  
878 describes or specifies:

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

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

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

888 (d) every existing right-of-way and recorded easement located within the plat for:

- 889 (i) an underground facility;
- 890 (ii) a water conveyance facility; or
- 891 (iii) any other utility facility; and

892 (e) any water conveyance facility located, entirely or partially, within the plat that:

893 (i) is not recorded; and

894 (ii) of which the owner of the land has actual or constructive knowledge, including  
895 from information made available to the owner of the land:

896 (A) in the state engineer's inventory of canals; or

897 (B) from a surveyor under Subsection (6)(c).

898 (3) (a) Subject to Subsections (4), (6), and (7), if the plat conforms to the municipality's  
899 ordinances and this part and has been approved by the culinary water authority, the sanitary  
900 sewer authority, and the local health department, if the local health department and the  
901 municipality consider the local health department's approval necessary, the municipality shall  
902 approve the plat.

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

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

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

908 (ii) does not:

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

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

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

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

916 (d) A municipality shall:

917 (i) within 20 days after the day on which an owner of land submits to the municipality  
918 a complete subdivision plat land use application, mail written notice of the proposed  
919 subdivision to the facility owner of any water conveyance facility located, entirely or partially,  
920 within 100 feet of the subdivision plat, as determined using information made available to the  
921 municipality:

922 (A) from the facility owner under Section 10-9a-211, using mapping-grade global  
923 positioning satellite units or digitized data from the most recent aerial photo available to the  
924 facility owner;

925 (B) in the state engineer's inventory of canals; or  
926 (C) from a surveyor under Subsection (6)(c); and  
927 (ii) not approve the subdivision plat for at least 20 days after the day on which the  
928 municipality mails to each facility owner the notice described in Subsection (3)(d)(i), in order  
929 to receive any comments from each facility owner regarding:

- 930 (A) access to the water conveyance facility;
- 931 (B) maintenance of the water conveyance facility;
- 932 (C) protection of the water conveyance facility;
- 933 (D) safety of the water conveyance facility; or
- 934 (E) any other issue related to water conveyance facility operations.

935 (e) When applicable, the owner of the land seeking subdivision plat approval shall  
936 comply with Section [73-1-15.5](#).

937 (f) A facility owner's failure to provide comments to a municipality in accordance with  
938 Subsection (3)(d)(ii) does not affect or impair the municipality's authority to approve the  
939 subdivision plat.

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

943 (5) (a) Within 30 days after approving a final plat under this section, a municipality  
944 shall submit to the Utah Geospatial Resource Center, created in Section [63A-16-505](#), for  
945 inclusion in the unified statewide 911 emergency service database described in Subsection  
946 [63H-7a-304\(4\)\(b\)](#):

- 947 (i) an electronic copy of the approved final plat; or
- 948 (ii) preliminary geospatial data that depict any new streets and situs addresses proposed  
949 for construction within the bounds of the approved plat.

950 (b) If requested by the Utah Geospatial Resource Center, a municipality that approves a  
951 final plat under this section shall:

952 (i) coordinate with the Utah Geospatial Resource Center to validate the information  
953 described in Subsection (5)(a); and

954 (ii) assist the Utah Geospatial Resource Center in creating electronic files that contain  
955 the information described in Subsection (5)(a) for inclusion in the unified statewide 911

956 emergency service database.

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

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

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

961 (iii) the signature of each owner described in Subsection (6)(a)(ii) is acknowledged as  
962 provided by law.

963 (b) ~~[The surveyor making]~~ A surveyor who prepares the plat shall certify that the  
964 surveyor:

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

967 (ii) (A) has completed a survey of the property described on the plat in accordance with  
968 Section 17-23-17 and has verified all measurements; ~~[and]~~ or

969 (B) has referenced a record of survey map of the existing property boundaries shown  
970 on the plat and verified the locations of the boundaries; and

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

972 (c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a  
973 representative designated by the owner or operator, of an existing water conveyance facility  
974 located within the proposed subdivision, or an existing or proposed underground facility or  
975 utility facility located within the proposed subdivision, to verify the accuracy of the surveyor's  
976 depiction of the:

977 (A) boundary, course, dimensions, and intended use of the public rights-of-way, a  
978 public or private easement, or grants of record;

979 (B) location of the existing water conveyance facility, or the existing or proposed  
980 underground facility or utility facility; and

981 (C) physical restrictions governing the location of the existing or proposed  
982 underground facility or utility facility.

983 (ii) The cooperation of an owner or operator of a water conveyance facility,  
984 underground facility, or utility facility under Subsection (6)(c)(i):

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



987 (B) does not affect a right that the owner or operator has under Title 54, Chapter 8a,  
988 Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law  
989 applicable to prescriptive rights, or any other provision of law.

990 (7) (a) Except as provided in Subsection (6)(c), after the plat has been acknowledged,  
991 certified, and approved, the owner of the land seeking to record the plat shall, within the time  
992 period and manner designated by ordinance, record the plat in the county recorder's office in  
993 the county in which the lands platted and laid out are situated.

994 (b) A failure to record a plat within the time period designated by ordinance renders the  
995 plat voidable by the municipality.

996 (8) A municipality acting as a land use authority shall approve a condominium plat that  
997 complies with the requirements of Section 57-8-13 unless the condominium plat violates a land  
998 use regulation of the municipality.

999 Section 11. Section **10-9a-608** is amended to read:

1000 **10-9a-608. Subdivision amendments.**

1001 (1) (a) A fee owner of land, as shown on the last county assessment roll, in a  
1002 subdivision that has been laid out and platted as provided in this part may file a written petition  
1003 with the land use authority to request a subdivision amendment.

1004 (b) Upon filing a written petition to request a subdivision amendment under Subsection  
1005 (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in  
1006 accordance with Section **10-9a-603** that:

- 1007 (i) depicts only the portion of the subdivision that is proposed to be amended;
- 1008 (ii) includes a plat name distinguishing the amended plat from the original plat;
- 1009 (iii) describes the differences between the amended plat and the original plat; and
- 1010 (iv) includes references to the original plat.

1011 (c) If a petition is filed under Subsection (1)(a), the land use authority shall provide  
1012 notice of the petition by mail, email, or other effective means to each affected entity that  
1013 provides a service to an owner of record of the portion of the plat that is being vacated or  
1014 amended at least 10 calendar days before the land use authority may approve the petition for a  
1015 subdivision amendment.

1016 (d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a  
1017 public hearing within 45 days after the day on which the petition is filed if:

1018 (i) any owner within the plat notifies the municipality of the owner's objection in  
1019 writing within 10 days of mailed notification; or

1020 (ii) a public hearing is required because all of the owners in the subdivision have not  
1021 signed the revised plat.

1022 (e) A land use authority may not approve a petition for a subdivision amendment under  
1023 this section unless the amendment identifies and preserves any easements owned by a culinary  
1024 water authority and sanitary sewer authority for existing facilities located within the  
1025 subdivision.

1026 (2) The public hearing requirement of Subsection (1)(d) does not apply and a land use  
1027 authority may consider at a public meeting an owner's petition for a subdivision amendment if:

1028 (a) the petition seeks to:

1029 (i) join two or more of the petitioner fee owner's contiguous lots;

1030 (ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not  
1031 result in a violation of a land use ordinance or a development condition;

1032 (iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the  
1033 fee owners of each of the adjoining properties join in the petition, regardless of whether the  
1034 properties are located in the same subdivision;

1035 (iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction  
1036 imposed by the local political subdivision; or

1037 (v) alter the plat in a manner that does not change existing boundaries or other  
1038 attributes of lots within the subdivision that are not:

1039 (A) owned by the petitioner; or

1040 (B) designated as a common area; and

1041 (b) notice has been given to adjoining property owners in accordance with any  
1042 applicable local ordinance.

1043 (3) A petition under Subsection (1)(a) that contains a request to amend a public street or  
1044 municipal utility easement is also subject to Section [10-9a-609.5](#).

1045 (4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or  
1046 a portion of a plat shall include:

1047 (a) the name and address of each owner of record of the land contained in the entire  
1048 plat or on that portion of the plat described in the petition; and

1049 (b) the signature of each owner described in Subsection (4)(a) who consents to the  
1050 petition.

1051 (5) (a) The owners of record of adjoining properties where one or more of the  
1052 properties is a lot may exchange title to portions of those parcels if the exchange of title is  
1053 approved by the land use authority in accordance with Subsection (5)(b).

1054 (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if  
1055 the exchange of title will not result in a violation of any land use ordinance.

1056 (c) If an exchange of title is approved under Subsection (5)(b):

1057 (i) a notice of approval shall be recorded in the office of the county recorder which:

1058 (A) is executed by each owner included in the exchange and by the land use authority;

1059 (B) contains an acknowledgment for each party executing the notice in accordance with  
1060 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

1061 (C) recites the legal descriptions of both the original properties and the properties  
1062 resulting from the exchange of title; and

1063 (ii) a document of conveyance shall be recorded in the office of the county recorder  
1064 with an amended plat.

1065 (d) A notice of approval recorded under this Subsection (5) does not act as a  
1066 conveyance of title to real property and is not required in order to record a document conveying  
1067 title to real property.

1068 (6) (a) The name of a recorded subdivision may be changed by recording an amended  
1069 plat making that change, as provided in this section and subject to Subsection (6)(c).

1070 (b) The surveyor preparing the amended plat shall certify that the surveyor:

1071 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and  
1072 Professional Land Surveyors Licensing Act;

1073 (ii) (A) has completed a survey of the property described on the plat in accordance with  
1074 Section 17-23-17 and has verified all measurements; [and] or

1075 (B) has referenced a record of survey map of the existing property boundaries shown  
1076 on the plat and verified the locations of the boundaries; and

1077 (iii) has placed monuments as represented on the plat.

1078 (c) An owner of land may not submit for recording an amended plat that gives the  
1079 subdivision described in the amended plat the same name as a subdivision in a plat already

1080 recorded in the county recorder's office.

1081 (d) Except as provided in Subsection (6)(a), the recording of a declaration or other  
1082 document that purports to change the name of a recorded plat is void.

1083 Section 12. Section **10-9a-801** is amended to read:

1084 **10-9a-801. No district court review until administrative remedies exhausted --**  
1085 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**  
1086 **-- Staying of decision.**

1087 (1) No person may challenge in district court a land use decision until that person has  
1088 exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and  
1089 Variances, if applicable.

1090 (2) (a) Subject to Subsection (1), a land use applicant or adversely affected party may  
1091 file a petition for review of a land use decision with the district court within 30 days after the  
1092 decision is final.

1093 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a  
1094 property owner files a request for arbitration of a constitutional taking issue with the property  
1095 rights ombudsman under Section [13-43-204](#) until 30 days after:

1096 (A) the arbitrator issues a final award; or

1097 (B) the property rights ombudsman issues a written statement under Subsection  
1098 [13-43-204](#)(3)(b) declining to arbitrate or to appoint an arbitrator.

1099 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional  
1100 taking issue that is the subject of the request for arbitration filed with the property rights  
1101 ombudsman by a property owner.

1102 (iii) A request for arbitration filed with the property rights ombudsman after the time  
1103 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

1104 (3) (a) A court shall:

1105 (i) presume that a land use regulation properly enacted under the authority of this  
1106 chapter is valid; and

1107 (ii) determine only whether:

1108 (A) the land use regulation is expressly preempted by, or was enacted contrary to, state  
1109 or federal law; and

1110 (B) it is reasonably debatable that the land use regulation is consistent with this

1111 chapter.

1112 (b) A court shall~~[(i)]~~ presume that a final land use decision of a land use authority or  
1113 an appeal authority is valid~~[, and (ii) uphold the land use decision]~~ unless the land use decision  
1114 is:

1115 ~~[(A)]~~ (i) arbitrary and capricious; or

1116 ~~[(B)]~~ (ii) illegal.

1117 (c) (i) A land use decision is arbitrary and capricious if the land use decision is not  
1118 supported by substantial evidence in the record.

1119 (ii) A land use decision is illegal if the land use decision [is]:

1120 (A) is based on an incorrect interpretation of a land use regulation; ~~[or]~~

1121 (B) conflicts with the authority granted by this title; or

1122 ~~[(B)]~~ (C) is contrary to law.

1123 (d) (i) A court may affirm or reverse a land use decision.

1124 (ii) If the court reverses a land use decision, the court shall remand the matter to the  
1125 land use authority with instructions to issue a land use decision consistent with the court's  
1126 ruling.

1127 (4) The provisions of Subsection (2)(a) apply from the date on which the municipality  
1128 takes final action on a land use application, if the municipality conformed with the notice  
1129 provisions of Part 2, Notice, or for any person who had actual notice of the pending land use  
1130 decision.

1131 (5) If the municipality has complied with Section [10-9a-205](#), a challenge to the  
1132 enactment of a land use regulation or general plan may not be filed with the district court more  
1133 than 30 days after the enactment.

1134 (6) A challenge to a land use decision is barred unless the challenge is filed within 30  
1135 days after the land use decision is final.

1136 (7) (a) The land use authority or appeal authority, as the case may be, shall transmit to  
1137 the reviewing court the record of the proceedings of the land use authority or appeal authority,  
1138 including the minutes, findings, orders, and, if available, a true and correct transcript of the  
1139 proceedings.

1140 (b) If the proceeding was recorded, a transcript of that recording is a true and correct  
1141 transcript for purposes of this Subsection (7).

1142 (8) (a) (i) If there is a record, the district court's review is limited to the record provided  
1143 by the land use authority or appeal authority, as the case may be.

1144 (ii) The court may not accept or consider any evidence outside the record of the land  
1145 use authority or appeal authority, as the case may be, unless that evidence was offered to the  
1146 land use authority or appeal authority, respectively, and the court determines that the evidence  
1147 was improperly excluded.

1148 (b) If there is no record, the court may call witnesses and take evidence.

1149 (9) (a) The filing of a petition does not stay the land use decision of the land use  
1150 authority or appeal authority, as the case may be.

1151 (b) (i) Before filing a petition under this section or a request for mediation or  
1152 arbitration of a constitutional taking issue under Section 13-43-204, a land use applicant may  
1153 petition the appeal authority to stay the appeal authority's land use decision.

1154 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal  
1155 authority's land use decision stayed pending district court review if the appeal authority finds  
1156 the order to be in the best interest of the municipality.

1157 (iii) After a petition is filed under this section or a request for mediation or arbitration  
1158 of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an  
1159 injunction staying the appeal authority's land use decision.

1160 (10) If the court determines that a party initiated or pursued a challenge to a land use  
1161 decision on a land use application in bad faith, the court may award attorney fees.

1162 Section 13. Section 17-27a-103 is amended to read:

1163 **17-27a-103. Definitions.**

1164 As used in this chapter:

1165 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or  
1166 detached from a primary single-family dwelling and contained on one lot.

1167 (2) "Adversely affected party" means a person other than a land use applicant who:

1168 (a) owns real property adjoining the property that is the subject of a land use  
1169 application or land use decision; or

1170 (b) will suffer a damage different in kind than, or an injury distinct from, that of the  
1171 general community as a result of the land use decision.

1172 (3) "Affected entity" means a county, municipality, local district, special service

1173 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal  
1174 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified  
1175 property owner, property owner's association, public utility, or the Utah Department of  
1176 Transportation, if:

1177 (a) the entity's services or facilities are likely to require expansion or significant  
1178 modification because of an intended use of land;

1179 (b) the entity has filed with the county a copy of the entity's general or long-range plan;  
1180 or

1181 (c) the entity has filed with the county a request for notice during the same calendar  
1182 year and before the county provides notice to an affected entity in compliance with a  
1183 requirement imposed under this chapter.

1184 (4) "Affected owner" means the owner of real property that is:

1185 (a) a single project;

1186 (b) the subject of a land use approval that sponsors of a referendum timely challenged  
1187 in accordance with Subsection [20A-7-601\(5\)](#); and

1188 (c) determined to be legally referable under Section [20A-7-602.8](#).

1189 (5) "Appeal authority" means the person, board, commission, agency, or other body  
1190 designated by ordinance to decide an appeal of a decision of a land use application or a  
1191 variance.

1192 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or  
1193 residential property if the sign is designed or intended to direct attention to a business, product,  
1194 or service that is not sold, offered, or existing on the property where the sign is located.

1195 (7) (a) "Charter school" means:

1196 (i) an operating charter school;

1197 (ii) a charter school applicant that a charter school authorizer approves in accordance  
1198 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

1199 (iii) an entity that is working on behalf of a charter school or approved charter  
1200 applicant to develop or construct a charter school building.

1201 (b) "Charter school" does not include a therapeutic school.

1202 (8) "Chief executive officer" means the person or body that exercises the executive  
1203 powers of the county.

1204 (9) "Conditional use" means a land use that, because of the unique characteristics or  
1205 potential impact of the land use on the county, surrounding neighbors, or adjacent land uses,  
1206 may not be compatible in some areas or may be compatible only if certain conditions are  
1207 required that mitigate or eliminate the detrimental impacts.

1208 (10) "Constitutional taking" means a governmental action that results in a taking of  
1209 private property so that compensation to the owner of the property is required by the:

1210 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

1211 (b) Utah Constitution, Article I, Section 22.

1212 (11) "County utility easement" means an easement that:

1213 (a) a plat recorded in a county recorder's office described as a county utility easement  
1214 or otherwise as a utility easement;

1215 (b) is not a protected utility easement or a public utility easement as defined in Section  
1216 54-3-27;

1217 (c) the county or the county's affiliated governmental entity owns or creates; and

1218 (d) (i) either:

1219 (A) no person uses or occupies; or

1220 (B) the county or the county's affiliated governmental entity uses and occupies to  
1221 provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or  
1222 communications or data lines; or

1223 (ii) a person uses or occupies with or without an authorized franchise or other  
1224 agreement with the county.

1225 (12) "Culinary water authority" means the department, agency, or public entity with  
1226 responsibility to review and approve the feasibility of the culinary water system and sources for  
1227 the subject property.

1228 (13) "Development activity" means:

1229 (a) any construction or expansion of a building, structure, or use that creates additional  
1230 demand and need for public facilities;

1231 (b) any change in use of a building or structure that creates additional demand and need  
1232 for public facilities; or

1233 (c) any change in the use of land that creates additional demand and need for public  
1234 facilities.



1235 (14) (a) "Development agreement" means a written agreement or amendment to a  
1236 written agreement between a county and one or more parties that regulates or controls the use  
1237 or development of a specific area of land.

1238 (b) "Development agreement" does not include an improvement completion assurance.

1239 (15) (a) "Disability" means a physical or mental impairment that substantially limits  
1240 one or more of a person's major life activities, including a person having a record of such an  
1241 impairment or being regarded as having such an impairment.

1242 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
1243 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
1244 Sec. 802.

1245 (16) "Educational facility":

1246 (a) means:

1247 (i) a school district's building at which pupils assemble to receive instruction in a  
1248 program for any combination of grades from preschool through grade 12, including  
1249 kindergarten and a program for children with disabilities;

1250 (ii) a structure or facility:

1251 (A) located on the same property as a building described in Subsection (16)(a)(i); and

1252 (B) used in support of the use of that building; and

1253 (iii) a building to provide office and related space to a school district's administrative  
1254 personnel; and

1255 (b) does not include:

1256 (i) land or a structure, including land or a structure for inventory storage, equipment  
1257 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

1258 (A) not located on the same property as a building described in Subsection (16)(a)(i);  
1259 and

1260 (B) used in support of the purposes of a building described in Subsection (16)(a)(i); or

1261 (ii) a therapeutic school.

1262 (17) "Fire authority" means the department, agency, or public entity with responsibility  
1263 to review and approve the feasibility of fire protection and suppression services for the subject  
1264 property.

1265 (18) "Flood plain" means land that:

1266 (a) is within the 100-year flood plain designated by the Federal Emergency  
1267 Management Agency; or  
1268 (b) has not been studied or designated by the Federal Emergency Management Agency  
1269 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because  
1270 the land has characteristics that are similar to those of a 100-year flood plain designated by the  
1271 Federal Emergency Management Agency.

1272 (19) "Gas corporation" has the same meaning as defined in Section [54-2-1](#).

1273 (20) "General plan" means a document that a county adopts that sets forth general  
1274 guidelines for proposed future development of:

1275 (a) the unincorporated land within the county; or

1276 (b) for a mountainous planning district, the land within the mountainous planning  
1277 district.

1278 (21) "Geologic hazard" means:

1279 (a) a surface fault rupture;

1280 (b) shallow groundwater;

1281 (c) liquefaction;

1282 (d) a landslide;

1283 (e) a debris flow;

1284 (f) unstable soil;

1285 (g) a rock fall; or

1286 (h) any other geologic condition that presents a risk:

1287 (i) to life;

1288 (ii) of substantial loss of real property; or

1289 (iii) of substantial damage to real property.

1290 (22) "Hookup fee" means a fee for the installation and inspection of any pipe, line,  
1291 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility  
1292 system.

1293 (23) "Identical plans" means building plans submitted to a county that:

1294 (a) are clearly marked as "identical plans";

1295 (b) are substantially identical building plans that were previously submitted to and  
1296 reviewed and approved by the county; and

- 1297 (c) describe a building that:
- 1298 (i) is located on land zoned the same as the land on which the building described in the
- 1299 previously approved plans is located;
- 1300 (ii) is subject to the same geological and meteorological conditions and the same law
- 1301 as the building described in the previously approved plans;
- 1302 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 1303 and approved by the county; and
- 1304 (iv) does not require any additional engineering or analysis.
- 1305 (24) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
- 1306 Impact Fees Act.
- 1307 (25) "Improvement completion assurance" means a surety bond, letter of credit,
- 1308 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
- 1309 by a county to guaranty the proper completion of landscaping or an infrastructure improvement
- 1310 required as a condition precedent to:
- 1311 (a) recording a subdivision plat; or
- 1312 (b) development of a commercial, industrial, mixed use, or multifamily project.
- 1313 (26) "Improvement warranty" means an applicant's unconditional warranty that the
- 1314 applicant's installed and accepted landscaping or infrastructure improvement:
- 1315 (a) complies with the county's written standards for design, materials, and
- 1316 workmanship; and
- 1317 (b) will not fail in any material respect, as a result of poor workmanship or materials,
- 1318 within the improvement warranty period.
- 1319 (27) "Improvement warranty period" means a period:
- 1320 (a) no later than one year after a county's acceptance of required landscaping; or
- 1321 (b) no later than one year after a county's acceptance of required infrastructure, unless
- 1322 the county:
- 1323 (i) determines for good cause that a one-year period would be inadequate to protect the
- 1324 public health, safety, and welfare; and
- 1325 (ii) has substantial evidence, on record:
- 1326 (A) of prior poor performance by the applicant; or
- 1327 (B) that the area upon which the infrastructure will be constructed contains suspect soil

1328 and the county has not otherwise required the applicant to mitigate the suspect soil.

1329 (28) "Infrastructure improvement" means permanent infrastructure that is essential for  
1330 the public health and safety or that:

1331 (a) is required for human consumption; and

1332 (b) an applicant must install:

1333 (i) in accordance with published installation and inspection specifications for public  
1334 improvements; and

1335 (ii) as a condition of:

1336 (A) recording a subdivision plat;

1337 (B) obtaining a building permit; or

1338 (C) developing a commercial, industrial, mixed use, condominium, or multifamily  
1339 project.

1340 (29) "Internal lot restriction" means a platted note, platted demarcation, or platted  
1341 designation that:

1342 (a) runs with the land; and

1343 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on  
1344 the plat; or

1345 (ii) designates a development condition that is enclosed within the perimeter of a lot  
1346 described on the plat.

1347 (30) "Interstate pipeline company" means a person or entity engaged in natural gas  
1348 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under  
1349 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1350 (31) "Intrastate pipeline company" means a person or entity engaged in natural gas  
1351 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory  
1352 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1353 (32) "Land use applicant" means a property owner, or the property owner's designee,  
1354 who submits a land use application regarding the property owner's land.

1355 (33) "Land use application":

1356 (a) means an application that is:

1357 (i) required by a county; and

1358 (ii) submitted by a land use applicant to obtain a land use decision; and

- 1359 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 1360 (34) "Land use authority" means:
- 1361 (a) a person, board, commission, agency, or body, including the local legislative body,
- 1362 designated by the local legislative body to act upon a land use application; or
- 1363 (b) if the local legislative body has not designated a person, board, commission,
- 1364 agency, or body, the local legislative body.
- 1365 (35) "Land use decision" means an administrative decision of a land use authority or
- 1366 appeal authority regarding:
- 1367 (a) a land use permit; or
- 1368 (b) a land use application~~[-or]~~.
- 1369 ~~[(c) the enforcement of a land use regulation, land use permit, or development~~
- 1370 ~~agreement.]~~
- 1371 (36) "Land use permit" means a permit issued by a land use authority.
- 1372 (37) "Land use regulation":
- 1373 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
- 1374 specification, fee, or rule that governs the use or development of land;
- 1375 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
- 1376 and
- 1377 (c) does not include:
- 1378 (i) a land use decision of the legislative body acting as the land use authority, even if
- 1379 the decision is expressed in a resolution or ordinance; or
- 1380 (ii) a temporary revision to an engineering specification that does not materially:
- 1381 (A) increase a land use applicant's cost of development compared to the existing
- 1382 specification; or
- 1383 (B) impact a land use applicant's use of land.
- 1384 (38) "Legislative body" means the county legislative body, or for a county that has
- 1385 adopted an alternative form of government, the body exercising legislative powers.
- 1386 (39) "Local district" means any entity under Title 17B, Limited Purpose Local
- 1387 Government Entities - Local Districts, and any other governmental or quasi-governmental
- 1388 entity that is not a county, municipality, school district, or the state.
- 1389 (40) "Lot" means a tract of land, regardless of any label, that is created by and shown

1390 on a subdivision plat that has been recorded in the office of the county recorder.

1391 (41) (a) "Lot line adjustment" means a relocation of a lot line boundary between  
1392 adjoining lots or between a lot and adjoining parcels in accordance with Section [17-27a-608](#):

1393 (i) whether or not the lots are located in the same subdivision; and

1394 (ii) with the consent of the owners of record.

1395 (b) "Lot line adjustment" does not mean a new boundary line that:

1396 (i) creates an additional lot; or

1397 (ii) constitutes a subdivision.

1398 (c) "Lot line adjustment" does not include a boundary line adjustment made by the  
1399 Department of Transportation.

1400 (42) "Major transit investment corridor" means public transit service that uses or  
1401 occupies:

1402 (a) public transit rail right-of-way;

1403 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

1404 or

1405 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a  
1406 municipality or county and:

1407 (i) a public transit district as defined in Section [17B-2a-802](#); or

1408 (ii) an eligible political subdivision as defined in Section [59-12-2219](#).

1409 (43) "Moderate income housing" means housing occupied or reserved for occupancy  
1410 by households with a gross household income equal to or less than 80% of the median gross  
1411 income for households of the same size in the county in which the housing is located.

1412 (44) "Mountainous planning district" means an area designated by a county legislative  
1413 body in accordance with Section [17-27a-901](#).

1414 (45) "Nominal fee" means a fee that reasonably reimburses a county only for time spent  
1415 and expenses incurred in:

1416 (a) verifying that building plans are identical plans; and

1417 (b) reviewing and approving those minor aspects of identical plans that differ from the  
1418 previously reviewed and approved building plans.

1419 (46) "Noncomplying structure" means a structure that:

1420 (a) legally existed before the structure's current land use designation; and

1421 (b) because of one or more subsequent land use ordinance changes, does not conform  
1422 to the setback, height restrictions, or other regulations, excluding those regulations that govern  
1423 the use of land.

1424 (47) "Nonconforming use" means a use of land that:

1425 (a) legally existed before the current land use designation;

1426 (b) has been maintained continuously since the time the land use ordinance regulation  
1427 governing the land changed; and

1428 (c) because of one or more subsequent land use ordinance changes, does not conform  
1429 to the regulations that now govern the use of the land.

1430 (48) "Official map" means a map drawn by county authorities and recorded in the  
1431 county recorder's office that:

1432 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for  
1433 highways and other transportation facilities;

1434 (b) provides a basis for restricting development in designated rights-of-way or between  
1435 designated setbacks to allow the government authorities time to purchase or otherwise reserve  
1436 the land; and

1437 (c) has been adopted as an element of the county's general plan.

1438 (49) "Parcel" means any real property that is not a lot.

1439 (50) (a) "Parcel boundary adjustment" means a recorded agreement between owners of  
1440 adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line  
1441 agreement in accordance with Section [17-27a-523](#), if no additional parcel is created and:

1442 (i) none of the property identified in the agreement is a lot; or

1443 (ii) the adjustment is to the boundaries of a single person's parcels.

1444 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary  
1445 line that:

1446 (i) creates an additional parcel; or

1447 (ii) constitutes a subdivision.

1448 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by  
1449 the Department of Transportation.

1450 (51) "Person" means an individual, corporation, partnership, organization, association,  
1451 trust, governmental agency, or any other legal entity.

1452 (52) "Plan for moderate income housing" means a written document adopted by a  
1453 county legislative body that includes:

1454 (a) an estimate of the existing supply of moderate income housing located within the  
1455 county;

1456 (b) an estimate of the need for moderate income housing in the county for the next five  
1457 years;

1458 (c) a survey of total residential land use;

1459 (d) an evaluation of how existing land uses and zones affect opportunities for moderate  
1460 income housing; and

1461 (e) a description of the county's program to encourage an adequate supply of moderate  
1462 income housing.

1463 (53) "Planning advisory area" means a contiguous, geographically defined portion of  
1464 the unincorporated area of a county established under this part with planning and zoning  
1465 functions as exercised through the planning advisory area planning commission, as provided in  
1466 this chapter, but with no legal or political identity separate from the county and no taxing  
1467 authority.

1468 (54) "Plat" means an instrument subdividing property into lots as depicted on a map or  
1469 other graphical representation of lands that a licensed professional land surveyor makes and  
1470 prepares in accordance with Section [17-27a-603](#) or [57-8-13](#).

1471 (55) "Potential geologic hazard area" means an area that:

1472 (a) is designated by a Utah Geological Survey map, county geologist map, or other  
1473 relevant map or report as needing further study to determine the area's potential for geologic  
1474 hazard; or

1475 (b) has not been studied by the Utah Geological Survey or a county geologist but  
1476 presents the potential of geologic hazard because the area has characteristics similar to those of  
1477 a designated geologic hazard area.

1478 (56) "Public agency" means:

1479 (a) the federal government;

1480 (b) the state;

1481 (c) a county, municipality, school district, local district, special service district, or other  
1482 political subdivision of the state; or



1483 (d) a charter school.

1484 (57) "Public hearing" means a hearing at which members of the public are provided a  
1485 reasonable opportunity to comment on the subject of the hearing.

1486 (58) "Public meeting" means a meeting that is required to be open to the public under  
1487 Title 52, Chapter 4, Open and Public Meetings Act.

1488 (59) "Public street" means a public right-of-way, including a public highway, public  
1489 avenue, public boulevard, public parkway, public road, public lane, public alley, public  
1490 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation  
1491 easement, or other public way.

1492 (60) "Receiving zone" means an unincorporated area of a county that the county  
1493 designates, by ordinance, as an area in which an owner of land may receive a transferable  
1494 development right.

1495 (61) "Record of survey map" means a map of a survey of land prepared in accordance  
1496 with Section [10-9a-603](#), [17-23-17](#), [17-27a-603](#), or [57-8-13](#).

1497 (62) "Residential facility for persons with a disability" means a residence:

1498 (a) in which more than one person with a disability resides; and

1499 (b) (i) which is licensed or certified by the Department of Human Services under Title  
1500 62A, Chapter 2, Licensure of Programs and Facilities; or

1501 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter  
1502 21, Health Care Facility Licensing and Inspection Act.

1503 (63) "Rules of order and procedure" means a set of rules that govern and prescribe in a  
1504 public meeting:

1505 (a) parliamentary order and procedure;

1506 (b) ethical behavior; and

1507 (c) civil discourse.

1508 (64) "Sanitary sewer authority" means the department, agency, or public entity with  
1509 responsibility to review and approve the feasibility of sanitary sewer services or onsite  
1510 wastewater systems.

1511 (65) "Sending zone" means an unincorporated area of a county that the county  
1512 designates, by ordinance, as an area from which an owner of land may transfer a transferable  
1513 development right.

1514 (66) "Site plan" means a document or map that may be required by a county during a  
1515 preliminary review preceding the issuance of a building permit to demonstrate that an owner's  
1516 or developer's proposed development activity meets a land use requirement.

1517 (67) "Specified public agency" means:

1518 (a) the state;

1519 (b) a school district; or

1520 (c) a charter school.

1521 (68) "Specified public utility" means an electrical corporation, gas corporation, or  
1522 telephone corporation, as those terms are defined in Section [54-2-1](#).

1523 (69) "State" includes any department, division, or agency of the state.

1524 (70) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be  
1525 divided into two or more lots or other division of land for the purpose, whether immediate or  
1526 future, for offer, sale, lease, or development either on the installment plan or upon any and all  
1527 other plans, terms, and conditions.

1528 (b) "Subdivision" includes:

1529 (i) the division or development of land, whether by deed, metes and bounds  
1530 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether  
1531 the division includes all or a portion of a parcel or lot; and

1532 (ii) except as provided in Subsection (70)(c), divisions of land for residential and  
1533 nonresidential uses, including land used or to be used for commercial, agricultural, and  
1534 industrial purposes.

1535 (c) "Subdivision" does not include:

1536 (i) a bona fide division or partition of agricultural land for agricultural purposes;

1537 (ii) a boundary line agreement recorded with the county recorder's office between  
1538 owners of adjoining parcels adjusting the mutual boundary in accordance with Section  
1539 [17-27a-523](#) if no new lot is created;

1540 (iii) a recorded document, executed by the owner of record:

1541 (A) revising the legal descriptions of multiple parcels into one legal description  
1542 encompassing all such parcels; or

1543 (B) joining a lot to a parcel;

1544 (iv) a bona fide division or partition of land in a county other than a first class county

1545 for the purpose of siting, on one or more of the resulting separate parcels:

1546 (A) an electrical transmission line or a substation;

1547 (B) a natural gas pipeline or a regulation station; or

1548 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other

1549 utility service regeneration, transformation, retransmission, or amplification facility;

1550 (v) a boundary line agreement between owners of adjoining subdivided properties

1551 adjusting the mutual lot line boundary in accordance with Sections [17-27a-523](#) and [17-27a-608](#)

1552 if:

1553 (A) no new dwelling lot or housing unit will result from the adjustment; and

1554 (B) the adjustment will not violate any applicable land use ordinance;

1555 (vi) a bona fide division of land by deed or other instrument if the deed or other

1556 instrument states in writing that the division:

1557 (A) is in anticipation of future land use approvals on the parcel or parcels;

1558 (B) does not confer any land use approvals; and

1559 (C) has not been approved by the land use authority;

1560 (vii) a parcel boundary adjustment;

1561 (viii) a lot line adjustment;

1562 (ix) a road, street, or highway dedication plat;

1563 (x) a deed or easement for a road, street, or highway purpose; or

1564 (xi) any other division of land authorized by law.

1565 (71) "Subdivision amendment" means an amendment to a recorded subdivision in

1566 accordance with Section [17-27a-608](#) that:

1567 (a) vacates all or a portion of the subdivision;

1568 (b) alters the outside boundary of the subdivision;

1569 (c) changes the number of lots within the subdivision;

1570 (d) alters a public right-of-way, a public easement, or public infrastructure within the

1571 subdivision; or

1572 (e) alters a common area or other common amenity within the subdivision.

1573 (72) "Substantial evidence" means evidence that:

1574 (a) is beyond a scintilla; and

1575 (b) a reasonable mind would accept as adequate to support a conclusion.

1576 (73) "Suspect soil" means soil that has:  
1577 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
1578 3% swell potential;  
1579 (b) bedrock units with high shrink or swell susceptibility; or  
1580 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum  
1581 commonly associated with dissolution and collapse features.

1582 (74) "Therapeutic school" means a residential group living facility:

1583 (a) for four or more individuals who are not related to:  
1584 (i) the owner of the facility; or  
1585 (ii) the primary service provider of the facility;  
1586 (b) that serves students who have a history of failing to function:  
1587 (i) at home;  
1588 (ii) in a public school; or  
1589 (iii) in a nonresidential private school; and  
1590 (c) that offers:  
1591 (i) room and board; and  
1592 (ii) an academic education integrated with:  
1593 (A) specialized structure and supervision; or  
1594 (B) services or treatment related to a disability, an emotional development, a  
1595 behavioral development, a familial development, or a social development.

1596 (75) "Transferable development right" means a right to develop and use land that  
1597 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer  
1598 land use rights from a designated sending zone to a designated receiving zone.

1599 (76) "Unincorporated" means the area outside of the incorporated area of a  
1600 municipality.

1601 (77) "Water interest" means any right to the beneficial use of water, including:

1602 (a) each of the rights listed in Section 73-1-11; and  
1603 (b) an ownership interest in the right to the beneficial use of water represented by:  
1604 (i) a contract; or  
1605 (ii) a share in a water company, as defined in Section 73-3-3.5.

1606 (78) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts

1607 land use zones, overlays, or districts.

1608 Section 14. Section **17-27a-212** is amended to read:

1609 **17-27a-212. Notice for an amendment to public improvements in a subdivision or**  
1610 **development.**

1611 [~~Prior to~~] Before implementing an amendment to adopted specifications for public  
1612 improvements that apply to a subdivision or a development, a county shall ~~[give 30 days~~  
1613 ~~mailed notice and an opportunity to comment to anyone who has requested the notice in~~  
1614 ~~writing.]~~:

1615 (1) hold a public hearing;

1616 (2) mail a notice 30 days or more before the date of the public hearing to:

1617 (a) each person who has submitted a land use application for which the land use  
1618 authority has not issued a land use decision; and

1619 (b) each person who makes a written request to receive a copy of the notice; and

1620 (3) allow each person who receives a notice in accordance with Subsection (2) to  
1621 provide public comment in writing before the public hearing or in person during the public  
1622 hearing.

1623 Section 15. Section **17-27a-508** is amended to read:

1624 **17-27a-508. Applicant's entitlement to land use application approval --**  
1625 **Application relating to land in a high priority transportation corridor -- County's**  
1626 **requirements and limitations -- Vesting upon submission of development plan and**  
1627 **schedule.**

1628 (1) (a) (i) An applicant who has submitted a complete land use application, including  
1629 the payment of all application fees, is entitled to substantive review of the application under the  
1630 land use regulations:

1631 (A) in effect on the date that the application is complete; and

1632 (B) applicable to the application or to the information shown on the submitted  
1633 application.

1634 (ii) An applicant is entitled to approval of a land use application if the application  
1635 conforms to the requirements of the applicable land use regulations, land use decisions, and  
1636 development standards in effect when the applicant submits a complete application and pays all  
1637 application fees, unless:

1638 (A) the land use authority, on the record, formally finds that a compelling,  
1639 countervailing public interest would be jeopardized by approving the application and specifies  
1640 the compelling, countervailing public interest in writing; or

1641 (B) in the manner provided by local ordinance and before the applicant submits the  
1642 application, the county formally initiates proceedings to amend the county's land use  
1643 regulations in a manner that would prohibit approval of the application as submitted.

1644 (b) The county shall process an application without regard to proceedings the county  
1645 initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

1646 (i) 180 days have passed since the county initiated the proceedings; and

1647 (ii) the proceedings have not resulted in an enactment that prohibits approval of the  
1648 application as submitted.

1649 (c) A land use application is considered submitted and complete when the applicant  
1650 provides the application in a form that complies with the requirements of applicable ordinances  
1651 and pays all applicable fees.

1652 (d) The continuing validity of an approval of a land use application is conditioned upon  
1653 the applicant proceeding after approval to implement the approval with reasonable diligence.

1654 (e) A county may not impose on an applicant who has submitted a complete  
1655 application a requirement that is not expressed:

1656 (i) in this chapter;

1657 (ii) in a county ordinance; or

1658 (iii) in a county specification for public improvements applicable to a subdivision or  
1659 development that is in effect on the date that the applicant submits an application.

1660 (f) A county may not impose on a holder of an issued land use permit or a final,  
1661 unexpired subdivision plat a requirement that is not expressed:

1662 (i) in a land use permit;

1663 (ii) on the subdivision plat;

1664 (iii) in a document on which the land use permit or subdivision plat is based;

1665 (iv) in the written record evidencing approval of the land use permit or subdivision  
1666 plat;

1667 (v) in this chapter; or

1668 (vi) in a county ordinance.

1669 (g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a  
1670 certificate of occupancy or acceptance of subdivision improvements because of an applicant's  
1671 failure to comply with a requirement that is not expressed:

1672 (i) in the building permit or subdivision plat, documents on which the building permit  
1673 or subdivision plat is based, or the written record evidencing approval of the building permit or  
1674 subdivision plat; or

1675 (ii) in this chapter or the county's ordinances.

1676 (h) A county may not unreasonably withhold issuance of a certificate of occupancy  
1677 where an applicant has met all requirements essential for the public health, public safety, and  
1678 general welfare of the occupants, in accordance with this chapter, unless:

1679 (i) the applicant and the county have agreed in a written document to the withholding  
1680 of a certificate of occupancy; or

1681 (ii) the applicant has not provided a financial assurance for required and uncompleted  
1682 landscaping or infrastructure improvements in accordance with an applicable ordinance that the  
1683 legislative body adopts under this chapter.

1684 (2) A county is bound by the terms and standards of applicable land use regulations and  
1685 shall comply with mandatory provisions of those regulations.

1686 (3) A county may not, as a condition of land use application approval, require a person  
1687 filing a land use application to obtain documentation regarding a school district's willingness,  
1688 capacity, or ability to serve the development proposed in the land use application.

1689 ~~[(4) (a) Except as provided in Subsection (4)(b), for a period of 10 years after the day~~  
1690 ~~on which a subdivision plat is recorded, a county may not impose on a building permit~~  
1691 ~~applicant for a single-family dwelling located within the subdivision any land use regulation~~  
1692 ~~that is enacted within 10 years after the day on which the subdivision plat is recorded.]~~

1693 ~~[(b) Subsection (4)(a) does not apply to any changes in the requirements of the~~  
1694 ~~applicable building code, health code, or fire code, or other similar regulations.]~~

1695 ~~[(5)]~~ (4) Upon a specified public agency's submission of a development plan and  
1696 schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that  
1697 subsection, the specified public agency vests in the county's applicable land use maps, zoning  
1698 map, hookup fees, impact fees, other applicable development fees, and land use regulations in  
1699 effect on the date of submission.

1700           ~~[(6)]~~ (5) (a) If sponsors of a referendum timely challenge a project in accordance with  
1701 Subsection [20A-7-601\(5\)](#), the project's affected owner may rescind the project's land use  
1702 approval by delivering a written notice:

- 1703           (i) to the local clerk as defined in Section [20A-7-101](#); and
- 1704           (ii) no later than seven days after the day on which a petition for a referendum is  
1705 determined sufficient under Subsection [20A-7-607\(4\)](#).

1706           (b) Upon delivery of a written notice described in Subsection ~~[(6)]~~(5)(a) the following  
1707 are rescinded and are of no further force or effect:

- 1708           (i) the relevant land use approval; and
- 1709           (ii) any land use regulation enacted specifically in relation to the land use approval.

1710 Section 16. Section **17-27a-510** is amended to read:

1711           **17-27a-510. Nonconforming uses and noncomplying structures.**

1712           (1) (a) Except as provided in this section, a nonconforming use or a noncomplying  
1713 structure may be continued by the present or a future property owner.

1714           (b) A nonconforming use may be extended through the same building, provided no  
1715 structural alteration of the building is proposed or made for the purpose of the extension.

1716           (c) For purposes of this Subsection (1), the addition of a solar energy device to a  
1717 building is not a structural alteration.

1718           (2) The legislative body may provide for:

1719           (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or  
1720 substitution of nonconforming uses upon the terms and conditions set forth in the land use  
1721 ordinance;

1722           (b) the termination of all nonconforming uses, except billboards, by providing a  
1723 formula establishing a reasonable time period during which the owner can recover or amortize  
1724 the amount of his investment in the nonconforming use, if any; and

1725           (c) the termination of a nonconforming use due to its abandonment.

1726           (3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying  
1727 structure or terminate the nonconforming use of a structure that is involuntarily destroyed in  
1728 whole or in part due to fire or other calamity unless the structure or use has been abandoned.

1729           (b) A county may prohibit the reconstruction or restoration of a noncomplying structure  
1730 or terminate the nonconforming use of a structure if:



1731 (i) the structure is allowed to deteriorate to a condition that the structure is rendered  
1732 uninhabitable and is not repaired or restored within six months after the day on which written  
1733 notice is served to the property owner that the structure is uninhabitable and that the  
1734 noncomplying structure or nonconforming use will be lost if the structure is not repaired or  
1735 restored within six months; or

1736 (ii) the property owner has voluntarily demolished a majority of the noncomplying  
1737 structure or the building that houses the nonconforming use.

1738 (c) (i) Notwithstanding a prohibition in the county's zoning ordinance, a county may  
1739 permit a billboard owner to relocate the billboard within the county's unincorporated area to a  
1740 location that is mutually acceptable to the county and the billboard owner.

1741 (ii) If the county and billboard owner cannot agree to a mutually acceptable location  
1742 within 180 days after the day on which the owner submits a written request to relocate the  
1743 billboard, the billboard owner may relocate the billboard in accordance with Subsection  
1744 [17-27a-512\(2\)](#).

1745 (4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal  
1746 existence for nonconforming uses, the property owner shall have the burden of establishing the  
1747 legal existence of a noncomplying structure or nonconforming use through substantial  
1748 evidence, which may not be limited to municipal or county records.

1749 (b) Any party claiming that a nonconforming use has been abandoned shall have the  
1750 burden of establishing the abandonment.

1751 (c) Abandonment may be presumed to have occurred if:

1752 (i) a majority of the primary structure associated with the nonconforming use has been  
1753 voluntarily demolished without prior written agreement with the county regarding an extension  
1754 of the nonconforming use;

1755 (ii) the use has been discontinued for a minimum of one year; or

1756 (iii) the primary structure associated with the nonconforming use remains vacant for a  
1757 period of one year.

1758 (d) The property owner may rebut the presumption of abandonment under Subsection  
1759 (4)(c), and has the burden of establishing that any claimed abandonment under Subsection  
1760 (4)(c) has not occurred.

1761 (5) A county may terminate the nonconforming status of a school district or charter

1762 school use or structure when the property associated with the school district or charter school  
1763 use or structure ceases to be used for school district or charter school purposes for a period  
1764 established by ordinance.

1765 Section 17. Section **17-27a-601** is amended to read:

1766 **17-27a-601. Enactment of subdivision ordinance.**

1767 (1) The legislative body of a county may enact ordinances requiring that a subdivision  
1768 plat comply with the provisions of the county's ordinances and this part before:

1769 (a) the subdivision plat may be filed and recorded in the county recorder's office; and

1770 (b) lots may be sold.

1771 (2) If the legislative body fails to enact a subdivision ordinance, the county may  
1772 regulate subdivisions only as provided in this part.

1773 (3) ~~[The]~~ Except as described in Subsection (4), joining of a lot or lots to a parcel does  
1774 not constitute a subdivision as to the parcel or subject the parcel to the county's subdivision  
1775 ordinance.

1776 (4) A legislative body may adopt a land use regulation that specifies that combining  
1777 lots is a subdivision amendment.

1778 Section 18. Section **17-27a-603** is amended to read:

1779 **17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner**  
1780 **acknowledgment, surveyor certification, and verification of plat -- Recording plat.**

1781 (1) As used in this section:

1782 (a) (i) "Facility owner" means the same as that term is defined in Section [73-1-15.5](#).

1783 (ii) "Facility owner" includes a canal owner or associated canal operator contact  
1784 described in:

1785 (A) Section [17-27a-211](#);

1786 (B) Subsection [73-5-7\(3\)](#); or

1787 (C) Subsection (6)(c).

1788 (b) "Local health department" means the same as that term is defined in Section  
1789 [26A-1-102](#).

1790 (c) "State engineer's inventory of canals" means the state engineer's inventory of water  
1791 conveyance systems established in Section [73-5-7](#).

1792 (d) "Underground facility" means the same as that term is defined in Section [54-8a-2](#).

1793 (e) "Water conveyance facility" means the same as that term is defined in Section  
1794 73-1-15.5.

1795 (2) Unless exempt under Section 17-27a-605 or excluded from the definition of  
1796 subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of  
1797 the land shall provide to the county in which the land is located an accurate plat that describes  
1798 or specifies:

1799 (a) a subdivision name that is distinct from any subdivision name on a plat recorded in  
1800 the county recorder's office;

1801 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by  
1802 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is  
1803 intended to be used as a street or for any other public use, and whether any such area is  
1804 reserved or proposed for dedication for a public purpose;

1805 (c) the lot or unit reference, block or building reference, street or site address, street  
1806 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length  
1807 and width of the blocks and lots intended for sale;

1808 (d) every existing right-of-way and recorded easement located within the plat for:

1809 (i) an underground facility;

1810 (ii) a water conveyance facility; or

1811 (iii) any other utility facility; and

1812 (e) any water conveyance facility located, entirely or partially, within the plat that:

1813 (i) is not recorded; and

1814 (ii) of which the owner of the land has actual or constructive knowledge, including  
1815 from information made available to the owner of the land:

1816 (A) in the state engineer's inventory of canals; or

1817 (B) from a surveyor under Subsection (6)(c).

1818 (3) (a) Subject to Subsections (4), (6), and (7), if the plat conforms to the county's  
1819 ordinances and this part and has been approved by the culinary water authority, the sanitary  
1820 sewer authority, and the local health department, if the local health department and the county  
1821 consider the local health department's approval necessary, the county shall approve the plat.

1822 (b) Counties are encouraged to receive a recommendation from the fire authority and  
1823 the public safety answering point before approving a plat.

1824 (c) A county may not require that a plat be approved or signed by a person or entity  
1825 who:  
1826 (i) is not an employee or agent of the county; or  
1827 (ii) does not:  
1828 (A) have a legal or equitable interest in the property within the proposed subdivision;  
1829 (B) provide a utility or other service directly to a lot within the subdivision;  
1830 (C) own an easement or right-of-way adjacent to the proposed subdivision who signs  
1831 for the purpose of confirming the accuracy of the location of the easement or right-of-way in  
1832 relation to the plat; or  
1833 (D) provide culinary public water service whose source protection zone designated as  
1834 provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.  
1835 (d) A county shall:  
1836 (i) within 20 days after the day on which an owner of land submits to the county a  
1837 complete subdivision plat land use application, mail written notice of the proposed subdivision  
1838 to the facility owner of any water conveyance facility located, entirely or partially, within 100  
1839 feet of the subdivision plat, as determined using information made available to the county:  
1840 (A) from the facility owner under Section 10-9a-211, using mapping-grade global  
1841 positioning satellite units or digitized data from the most recent aerial photo available to the  
1842 facility owner;  
1843 (B) in the state engineer's inventory of canals; or  
1844 (C) from a surveyor under Subsection (6)(c); and  
1845 (ii) not approve the subdivision plat for at least 20 days after the day on which the  
1846 county mails to each facility owner the notice under Subsection (3)(d)(i) in order to receive any  
1847 comments from each facility owner regarding:  
1848 (A) access to the water conveyance facility;  
1849 (B) maintenance of the water conveyance facility;  
1850 (C) protection of the water conveyance facility integrity;  
1851 (D) safety of the water conveyance facility; or  
1852 (E) any other issue related to water conveyance facility operations.  
1853 (e) When applicable, the owner of the land seeking subdivision plat approval shall  
1854 comply with Section 73-1-15.5.

1855 (f) A facility owner's failure to provide comments to a county in accordance with  
1856 Subsection (3)(d)(ii) does not affect or impair the county's authority to approve the subdivision  
1857 plat.

1858 (4) The county may withhold an otherwise valid plat approval until the owner of the  
1859 land provides the legislative body with a tax clearance indicating that all taxes, interest, and  
1860 penalties owing on the land have been paid.

1861 (5) (a) Within 30 days after approving a final plat under this section, a county shall  
1862 submit to the Utah Geospatial Resource Center, created in Section 63A-16-505, for inclusion in  
1863 the unified statewide 911 emergency service database described in Subsection  
1864 63H-7a-304(4)(b):

1865 (i) an electronic copy of the approved final plat; or

1866 (ii) preliminary geospatial data that depict any new streets and situs addresses proposed  
1867 for construction within the bounds of the approved plat.

1868 (b) If requested by the Utah Geospatial Resource Center, a county that approves a final  
1869 plat under this section shall:

1870 (i) coordinate with the Utah Geospatial Resource Center to validate the information  
1871 described in Subsection (5)(a); and

1872 (ii) assist the Utah Geospatial Resource Center in creating electronic files that contain  
1873 the information described in Subsection (5)(a) for inclusion in the unified statewide 911  
1874 emergency service database.

1875 (6) (a) A county recorder may not record a plat unless, subject to Subsection  
1876 17-27a-604(1):

1877 (i) prior to recordation, the county has approved and signed the plat;

1878 (ii) each owner of record of land described on the plat has signed the owner's  
1879 dedication as shown on the plat; and

1880 (iii) the signature of each owner described in Subsection (6)(a)(ii) is acknowledged as  
1881 provided by law.

1882 (b) ~~[The surveyor making]~~ A surveyor who prepares the plat shall certify that the  
1883 surveyor:

1884 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and  
1885 Professional Land Surveyors Licensing Act;

1886 (ii) (A) has completed a survey of the property described on the plat in accordance with  
1887 Section 17-23-17 and has verified all measurements; [~~and~~] or

1888 (B) has referenced a record of survey map of the existing property boundaries shown  
1889 on the plat and verified the locations of the boundaries; and

1890 (iii) has placed monuments as represented on the plat.

1891 (c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a  
1892 representative designated by the owner or operator, of an existing water conveyance facility  
1893 located within the proposed subdivision, or an existing or proposed underground facility or  
1894 utility facility located within the proposed subdivision, to verify the accuracy of the surveyor's  
1895 depiction of the:

1896 (A) boundary, course, dimensions, and intended use of the public rights-of-way, a  
1897 public or private easement, or grants of record;

1898 (B) location of the existing water conveyance facility, or the existing or proposed  
1899 underground facility or utility facility; and

1900 (C) physical restrictions governing the location of the existing or proposed  
1901 underground facility or utility facility.

1902 (ii) The cooperation of an owner or operator of a water conveyance facility,  
1903 underground facility, or utility facility under Subsection (6)(c)(i):

1904 (A) indicates only that the plat approximates the location of the existing facilities but  
1905 does not warrant or verify their precise location; and

1906 (B) does not affect a right that the owner or operator has under Title 54, Chapter 8a,  
1907 Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law  
1908 applicable to prescriptive rights, or any other provision of law.

1909 (7) (a) Except as provided in Subsection (6)(c), after the plat has been acknowledged,  
1910 certified, and approved, the owner of the land seeking to record the plat shall, within the time  
1911 period and manner designated by ordinance, record the plat in the county recorder's office in  
1912 the county in which the lands platted and laid out are situated.

1913 (b) A failure to record a plat within the time period designated by ordinance renders the  
1914 plat voidable by the county.

1915 (8) A county acting as a land use authority shall approve a condominium plat that  
1916 complies with the requirements of Section 57-8-13 unless the condominium plat violates a land

1917 use regulation of the county.

1918 Section 19. Section **17-27a-608** is amended to read:

1919 **17-27a-608. Subdivision amendments.**

1920 (1) (a) A fee owner of a lot, as shown on the last county assessment roll, in a plat that  
1921 has been laid out and platted as provided in this part may file a written petition with the land  
1922 use authority to request a subdivision amendment.

1923 (b) Upon filing a written petition to request a subdivision amendment under Subsection  
1924 (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in  
1925 accordance with Section **17-27a-603** that:

1926 (i) depicts only the portion of the subdivision that is proposed to be amended;

1927 (ii) includes a plat name distinguishing the amended plat from the original plat;

1928 (iii) describes the differences between the amended plat and the original plat; and

1929 (iv) includes references to the original plat.

1930 (c) If a petition is filed under Subsection (1)(a), the land use authority shall provide  
1931 notice of the petition by mail, email, or other effective means to each affected entity that  
1932 provides a service to an owner of record of the portion of the plat that is being amended at least  
1933 10 calendar days before the land use authority may approve the petition for a subdivision  
1934 amendment.

1935 (d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a  
1936 public hearing within 45 days after the day on which the petition is filed if:

1937 (i) any owner within the plat notifies the county of the owner's objection in writing  
1938 within 10 days of mailed notification; or

1939 (ii) a public hearing is required because all of the owners in the subdivision have not  
1940 signed the revised plat.

1941 (e) A land use authority may not approve a petition for a subdivision amendment under  
1942 this section unless the amendment identifies and preserves any easements owned by a culinary  
1943 water authority and sanitary sewer authority for existing facilities located within the  
1944 subdivision.

1945 (2) The public hearing requirement of Subsection (1)(d) does not apply and a land use  
1946 authority may consider at a public meeting an owner's petition for a subdivision amendment if:

1947 (a) the petition seeks to:

- 1948 (i) join two or more of the petitioning fee owner's contiguous lots;
- 1949 (ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not  
1950 result in a violation of a land use ordinance or a development condition;
- 1951 (iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the  
1952 fee owners of each of the adjoining properties join the petition, regardless of whether the  
1953 properties are located in the same subdivision;
- 1954 (iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction  
1955 imposed by the local political subdivision; or
- 1956 (v) alter the plat in a manner that does not change existing boundaries or other  
1957 attributes of lots within the subdivision that are not:
- 1958 (A) owned by the petitioner; or
- 1959 (B) designated as a common area; and
- 1960 (b) notice has been given to adjoining property owners in accordance with any  
1961 applicable local ordinance.
- 1962 (3) A petition under Subsection (1)(a) that contains a request to amend a public street or  
1963 county utility easement is also subject to Section [17-27a-609.5](#).
- 1964 (4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or  
1965 a portion of a plat shall include:
- 1966 (a) the name and address of each owner of record of the land contained in:
- 1967 (i) the entire plat; or
- 1968 (ii) that portion of the plan described in the petition; and
- 1969 (b) the signature of each owner who consents to the petition.
- 1970 (5) (a) The owners of record of adjoining properties where one or more of the  
1971 properties is a lot may exchange title to portions of those properties if the exchange of title is  
1972 approved by the land use authority in accordance with Subsection (5)(b).
- 1973 (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if  
1974 the exchange of title will not result in a violation of any land use ordinance.
- 1975 (c) If an exchange of title is approved under Subsection (5)(b):
- 1976 (i) a notice of approval shall be recorded in the office of the county recorder which:
- 1977 (A) is executed by each owner included in the exchange and by the land use authority;
- 1978 (B) contains an acknowledgment for each party executing the notice in accordance with



1979 the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and  
1980 (C) recites the legal descriptions of both the properties and the properties resulting  
1981 from the exchange of title; and  
1982 (ii) a document of conveyance of title reflecting the approved change shall be recorded  
1983 in the office of the county recorder with an amended plat.  
1984 (d) A notice of approval recorded under this Subsection (5) does not act as a  
1985 conveyance of title to real property and is not required to record a document conveying title to  
1986 real property.  
1987 (6) (a) The name of a recorded subdivision may be changed by recording an amended  
1988 plat making that change, as provided in this section and subject to Subsection (6)(c).  
1989 (b) The surveyor preparing the amended plat shall certify that the surveyor:  
1990 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and  
1991 Professional Land Surveyors Licensing Act;  
1992 (ii) (A) has completed a survey of the property described on the plat in accordance with  
1993 Section 17-23-17 and has verified all measurements; ~~and~~ or  
1994 (B) has referenced a record of survey map of the existing property boundaries shown  
1995 on the plat and verified the locations of the boundaries; and  
1996 (iii) has placed monuments as represented on the plat.  
1997 (c) An owner of land may not submit for recording an amended plat that gives the  
1998 subdivision described in the amended plat the same name as a subdivision recorded in the  
1999 county recorder's office.  
2000 (d) Except as provided in Subsection (6)(a), the recording of a declaration or other  
2001 document that purports to change the name of a recorded plat is void.  
2002 Section 20. Section 17-27a-801 is amended to read:  
2003 **17-27a-801. No district court review until administrative remedies exhausted --**  
2004 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**  
2005 **-- Staying of decision.**  
2006 (1) No person may challenge in district court a land use decision until that person has  
2007 exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and  
2008 Variances, if applicable.  
2009 (2) (a) Subject to Subsection (1), a land use applicant or adversely affected party may

2010 file a petition for review of a land use decision with the district court within 30 days after the  
2011 decision is final.

2012 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a  
2013 property owner files a request for arbitration of a constitutional taking issue with the property  
2014 rights ombudsman under Section 13-43-204 until 30 days after:

2015 (A) the arbitrator issues a final award; or

2016 (B) the property rights ombudsman issues a written statement under Subsection  
2017 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

2018 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional  
2019 taking issue that is the subject of the request for arbitration filed with the property rights  
2020 ombudsman by a property owner.

2021 (iii) A request for arbitration filed with the property rights ombudsman after the time  
2022 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

2023 (3) (a) A court shall:

2024 (i) presume that a land use regulation properly enacted under the authority of this  
2025 chapter is valid; and

2026 (ii) determine only whether:

2027 (A) the land use regulation is expressly preempted by, or was enacted contrary to, state  
2028 or federal law; and

2029 (B) it is reasonably debatable that the land use regulation is consistent with this  
2030 chapter.

2031 (b) A court shall~~[(i)]~~ presume that a final land use decision of a land use authority or  
2032 an appeal authority is valid~~[, and (ii) uphold the land use decision]~~ unless the land use decision  
2033 is:

2034 ~~[(A)]~~ (i) arbitrary and capricious; or

2035 ~~[(B)]~~ (ii) illegal.

2036 (c) (i) A land use decision is arbitrary and capricious if the land use decision is not  
2037 supported by substantial evidence in the record.

2038 (ii) A land use decision is illegal if the land use decision ~~[is]~~:

2039 (A) is based on an incorrect interpretation of a land use regulation; ~~[or]~~

2040 (B) conflicts with the authority granted by this title; or

2041 [~~B~~] (C) is contrary to law.

2042 (d) (i) A court may affirm or reverse a land use decision.

2043 (ii) If the court reverses a land use decision, the court shall remand the matter to the  
2044 land use authority with instructions to issue a land use decision consistent with the court's  
2045 decision.

2046 (4) The provisions of Subsection (2)(a) apply from the date on which the county takes  
2047 final action on a land use application, if the county conformed with the notice provisions of  
2048 Part 2, Notice, or for any person who had actual notice of the pending land use decision.

2049 (5) If the county has complied with Section 17-27a-205, a challenge to the enactment  
2050 of a land use regulation or general plan may not be filed with the district court more than 30  
2051 days after the enactment.

2052 (6) A challenge to a land use decision is barred unless the challenge is filed within 30  
2053 days after the land use decision is final.

2054 (7) (a) The land use authority or appeal authority, as the case may be, shall transmit to  
2055 the reviewing court the record of the proceedings of the land use authority or appeal authority,  
2056 including the minutes, findings, orders and, if available, a true and correct transcript of the  
2057 proceedings.

2058 (b) If the proceeding was recorded, a transcript of that recording is a true and correct  
2059 transcript for purposes of this Subsection (7).

2060 (8) (a) (i) If there is a record, the district court's review is limited to the record provided  
2061 by the land use authority or appeal authority, as the case may be.

2062 (ii) The court may not accept or consider any evidence outside the record of the land  
2063 use authority or appeal authority, as the case may be, unless that evidence was offered to the  
2064 land use authority or appeal authority, respectively, and the court determines that the evidence  
2065 was improperly excluded.

2066 (b) If there is no record, the court may call witnesses and take evidence.

2067 (9) (a) The filing of a petition does not stay the land use decision of the land use  
2068 authority or appeal authority, as the case may be.

2069 (b) (i) Before filing a petition under this section or a request for mediation or  
2070 arbitration of a constitutional taking issue under Section 13-43-204, a land use applicant may  
2071 petition the appeal authority to stay the appeal authority's decision.

2072 (ii) Upon receipt of a petition to stay, the appeal authority may order the appeal  
2073 authority's decision stayed pending district court review if the appeal authority finds the order  
2074 to be in the best interest of the county.

2075 (iii) After a petition is filed under this section or a request for mediation or arbitration  
2076 of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an  
2077 injunction staying the appeal authority's land use decision.

2078 (10) If the court determines that a party initiated or pursued a challenge to a land use  
2079 decision on a land use application in bad faith, the court may award attorney fees.

2080 Section 21. Section 57-1-45 is amended to read:

2081 **57-1-45. Boundary line agreements.**

2082 (1) ~~[A boundary line]~~ An agreement to adjust [the boundaries of] a known boundary  
2083 between adjoining properties shall comply with Section 10-9a-524 or 17-27a-523, as  
2084 applicable.

2085 (2) A recorded boundary line agreement to establish the location of a boundary  
2086 between adjoining properties where the location of the boundary is ambiguous, uncertain, or  
2087 disputed shall comply with Subsections (3) and (4).

2088 (3) A boundary line agreement between adjoining property owners establishing the  
2089 owners' existing common boundary for the purpose of settling an ambiguity, uncertainty, or  
2090 dispute shall include:

2091 (a) the name and signature of each party to the agreement and, if applicable, the name  
2092 and signature of a party's predecessor in interest who agreed to the location of the boundary  
2093 line;

2094 (b) the date of the boundary line agreement;

2095 (c) the address of each party to the boundary line agreement for assessment purposes;

2096 (d) a statement describing why the owners of adjoining properties were unable to  
2097 determine the true location of the boundary line between the adjoining properties;

2098 (e) a statement that the owners of the adjoining properties agree on the boundary line  
2099 described in the boundary line agreement;

2100 (f) a legal description of each parcel or lot that is subject to the boundary line  
2101 agreement;

2102 (g) a legal description of the agreed boundary line;

2103 (h) (i) a reference to a record of survey map as defined in Section 17-23-17 in  
2104 conjunction with the boundary line agreement that shows:

2105 (A) existing dwellings, outbuildings, improvements, and other physical features;  
2106 (B) existing easements, rights-of-way, conditions, or restrictions recorded or apparent;  
2107 (C) the location of the agreed boundary line; and  
2108 (D) an explanation in the survey narrative of the reason for the boundary line  
2109 agreement; or

2110 (ii) if the parcels or lots are unimproved, an attached exhibit depicting a graphical  
2111 representation of the location of the agreed boundary line relative to physical objects marking  
2112 the agreed boundary;

2113 (i) if any of the property that is the subject of the agreement is located in a recorded  
2114 subdivision and the agreed boundary line is different from the boundary line recorded in the  
2115 plat, an acknowledgment that each party to the agreement has been advised of the requirement  
2116 of a subdivision plat amendment; and

2117 (j) a sufficient acknowledgment for each party's signature.

2118 (4) A boundary line agreement described in Subsection (3) may not be:

2119 (a) used to adjust a known boundary described in Subsection (1) between adjoining  
2120 properties;

2121 (b) used to adjust a lot line in a recorded subdivision plat or create a new parcel or lot;  
2122 or

2123 (c) used by or recorded by a successor in interest to a property owner who agreed to the  
2124 boundary line unless the property owners who agreed to the boundary line treated the line as  
2125 the actual boundary as demonstrated by:

2126 (i) actual possession by each owner up to the boundary line;  
2127 (ii) a fence built and agreed to by each owner on the boundary line; or  
2128 (iii) each owner cultivating or controlling the land up to the boundary line.

2129 (5) A boundary line agreement described in Subsection (3):

2130 (a) does not affect any previously recorded easement unless the easement is expressly  
2131 modified by the boundary line agreement;

2132 (b) establishes the common boundary between the adjoining properties in the originally  
2133 intended location of the boundary line;

2134 (c) affixes the ownership of the adjoining parties to the agreed boundary line;  
2135 (d) is not subject to the review or approval of a municipal or county land use authority;

2136 and

2137 (e) shall be indexed by a county recorder in the title record against each property  
2138 affected by the agreed boundary line.

2139 (6) The recording of a boundary line agreement described in Subsection (3) does not  
2140 constitute a land use approval by a municipality or a county.

2141 (7) A municipality or a county may withhold approval of a land use application for  
2142 property that is subject to a boundary line agreement described in Subsection (3) if the  
2143 municipality or the county determines that the land, as established by the boundary line  
2144 agreement, was not in compliance with the municipality's or the county's land use regulations  
2145 in effect on the day on which the boundary line agreement was recorded.

2146 (8) If a judgment made by a court that establishes the location of a disputed boundary is  
2147 recorded in the county title record, the judgment shall act as a boundary line agreement  
2148 recorded under this section.