

**Senator Lincoln Fillmore** proposes the following substitute bill:

**LAND USE, DEVELOPMENT, AND MANAGEMENT ACT**

**MODIFICATIONS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen L. Whyte**

Senate Sponsor: Lincoln Fillmore

**LONG TITLE**

**General Description:**

This bill amends provisions related to municipal land use, development, and management of real property.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of rural real property;
- ▶ modifies provisions relating to a municipality's annexation of unincorporated private property;
- ▶ modifies the process by which a boundary commission considers competing petitions for annexation of unincorporated private property;
- ▶ clarifies the circumstances under which a municipality may adopt temporary land use restrictions; and
- ▶ modifies the way private parties and municipalities may use development agreements.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **10-2-401**, as last amended by Laws of Utah 2021, Chapter 112

30 **10-2-402**, as last amended by Laws of Utah 2021, Chapter 112

31 **10-2-403**, as last amended by Laws of Utah 2021, Chapter 112

32 **10-2-405**, as last amended by Laws of Utah 2021, Chapter 112

33 **10-2-407**, as last amended by Laws of Utah 2022, Chapter 355

34 **10-2-408**, as last amended by Laws of Utah 2021, Chapter 112

35 **10-2-416**, as last amended by Laws of Utah 2015, Chapter 352

36 **10-9a-103**, as last amended by Laws of Utah 2022, Chapters 355, 406

37 **10-9a-504**, as renumbered and amended by Laws of Utah 2005, Chapter 254

38 **10-9a-508**, as last amended by Laws of Utah 2016, Chapter 350

39 **10-9a-509**, as last amended by Laws of Utah 2022, Chapters 325, 355 and 406

40 **10-9a-532**, as enacted by Laws of Utah 2021, Chapter 385

41 **10-9a-534**, as enacted by Laws of Utah 2021, First Special Session, Chapter 3

42 **10-9a-604.5**, as last amended by Laws of Utah 2019, Chapter 384

43 **17-27a-103**, as last amended by Laws of Utah 2022, Chapter 406

44 **17-27a-504**, as renumbered and amended by Laws of Utah 2005, Chapter 254

45 **17-27a-507**, as last amended by Laws of Utah 2013, Chapter 309

46 **17-27a-508**, as last amended by Laws of Utah 2022, Chapters 325, 355 and 406

47 **17-27a-528**, as enacted by Laws of Utah 2021, Chapter 385

48 **17-27a-530**, as enacted by Laws of Utah 2021, First Special Session, Chapter 3

49 **17-27a-604.5**, as last amended by Laws of Utah 2020, Chapter 354

50 

---

---

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

52 Section 1. Section **10-2-401** is amended to read:

53 **10-2-401. Definitions -- Property owner provisions.**

54 (1) As used in this part:

55 (a) "Affected entity" means:

56 (i) a county of the first or second class in whose unincorporated area the area proposed

57 for annexation is located;

58 (ii) a county of the third, fourth, fifth, or sixth class in whose unincorporated area the  
59 area proposed for annexation is located, if the area includes residents or commercial or  
60 industrial development;

61 (iii) a local district under Title 17B, Limited Purpose Local Government Entities -  
62 Local Districts, or special service district under Title 17D, Chapter 1, Special Service District  
63 Act, whose boundary includes any part of an area proposed for annexation;

64 (iv) a school district whose boundary includes any part of an area proposed for  
65 annexation, if the boundary is proposed to be adjusted as a result of the annexation; and

66 (v) a municipality whose boundaries are within 1/2 mile of an area proposed for  
67 annexation.

68 (b) "Annexation petition" means a petition under Section 10-2-403 proposing the  
69 annexation to a municipality of a contiguous, unincorporated area that is contiguous to the  
70 municipality.

71 (c) "Commission" means a boundary commission established under Section 10-2-409  
72 for the county in which the property that is proposed for annexation is located.

73 (d) "Expansion area" means the unincorporated area that is identified in an annexation  
74 policy plan under Section 10-2-401.5 as the area that the municipality anticipates annexing in  
75 the future.

76 (e) "Feasibility consultant" means a person or firm with expertise in the processes and  
77 economics of local government.

78 (f) "Mining protection area" means the same as that term is defined in Section  
79 17-41-101.

80 (g) "Municipal selection committee" means a committee in each county composed of  
81 the mayor of each municipality within that county.

82 (h) "Planning advisory area" means the same as that term is defined in Section  
83 17-27a-306.

84 (i) "Private," with respect to real property, means not owned by the United States or  
85 any agency of the federal government, the state, a county, a municipality, a school district, a  
86 local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a  
87 special service district under Title 17D, Chapter 1, Special Service District Act, or any other

88 political subdivision or governmental entity of the state.

89 (j) (i) "Rural real property" means [~~the same as that term is defined in Section~~  
90 ~~17B-2a-1107.~~] a group of contiguous tax parcels, or a single tax parcel, that:

91 (A) are under common ownership;

92 (B) consist of no less than 1,000 total acres;

93 (C) are zoned for manufacturing or agricultural purposes; and

94 (D) do not have a residential unit density greater than one unit per acre.

95 (ii) "Rural real property" includes any portion of private real property, if the private  
96 real property:

97 (A) qualifies as rural real property under Subsection (1)(j)(i); and

98 (B) consists of more than 1,500 total acres.

99 (k) "Specified county" means a county of the second, third, fourth, fifth, or sixth class.

100 (l) "Unincorporated peninsula" means an unincorporated area:

101 (i) that is part of a larger unincorporated area;

102 (ii) that extends from the rest of the unincorporated area of which it is a part;

103 (iii) that is surrounded by land that is within a municipality, except where the area

104 connects to and extends from the rest of the unincorporated area of which it is a part; and

105 (iv) whose width, at any point where a straight line may be drawn from a place where it  
106 borders a municipality to another place where it borders a municipality, is no more than 25% of  
107 the boundary of the area where it borders a municipality.

108 (m) "Urban development" means:

109 (i) a housing development with more than 15 residential units and an average density  
110 greater than one residential unit per acre; or

111 (ii) a commercial or industrial development for which cost projections exceed  
112 \$750,000 for all phases.

113 (2) For purposes of this part:

114 (a) the owner of real property shall be:

115 (i) except as provided in Subsection (2)(a)(ii), the record title owner according to the  
116 records of the county recorder on the date of the filing of the petition or protest; or

117 (ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed  
118 for annexation includes military land that is within a project area described in a project area

119 plan adopted by the military installation development authority under Title 63H, Chapter 1,  
120 Military Installation Development Authority Act; and

121 (b) the value of private real property shall be determined according to the last  
122 assessment roll for county taxes before the filing of the petition or protest.

123 (3) For purposes of each provision of this part that requires the owners of private real  
124 property covering a percentage or majority of the total private land area within an area to sign a  
125 petition or protest:

126 (a) a parcel of real property may not be included in the calculation of the required  
127 percentage or majority unless the petition or protest is signed by:

128 (i) except as provided in Subsection (3)(a)(ii), owners representing a majority  
129 ownership interest in that parcel; or

130 (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number  
131 of owners of that parcel;

132 (b) the signature of a person signing a petition or protest in a representative capacity on  
133 behalf of an owner is invalid unless:

134 (i) the person's representative capacity and the name of the owner the person represents  
135 are indicated on the petition or protest with the person's signature; and

136 (ii) the person provides documentation accompanying the petition or protest that  
137 substantiates the person's representative capacity; and

138 (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a  
139 petition or protest on behalf of a deceased owner.

140 Section 2. Section **10-2-402** is amended to read:

141 **10-2-402. Annexation -- Limitations.**

142 (1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be  
143 annexed to the municipality as provided in this part.

144 (b) Except as provided in Subsection (1)(c), an unincorporated area may not be  
145 annexed to a municipality unless:

146 (i) the unincorporated area is a contiguous area;

147 (ii) the unincorporated area is contiguous to the municipality;

148 (iii) annexation will not leave or create an unincorporated island or unincorporated  
149 peninsula:

150 (A) except as provided in Subsection 10-2-418(3);  
151 (B) except where an unincorporated island or peninsula existed before the annexation,  
152 if the annexation will reduce the size of the unincorporated island or peninsula; or  
153 ~~[(B)]~~ (C) unless the county and municipality have otherwise agreed; and  
154 (iv) for an area located in a specified county, the area is within the proposed annexing  
155 municipality's expansion area.

156 (c) A municipality may annex an unincorporated area within a specified county that  
157 does not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated  
158 island or unincorporated peninsula, if:

- 159 (i) the area is within the annexing municipality's expansion area;
- 160 (ii) the specified county in which the area is located and the annexing municipality  
161 agree to the annexation;
- 162 (iii) the area is not within the area of another municipality's annexation policy plan,  
163 unless the other municipality agrees to the annexation; and
- 164 (iv) the annexation is for the purpose of providing municipal services to the area.

165 (2) Except as provided in Section 10-2-418, a municipality may not annex an  
166 unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

167 (3) (a) An annexation under this part may not include part of a parcel of real property  
168 and exclude part of that same parcel unless the owner of that parcel has signed the annexation  
169 petition under Section 10-2-403.

170 (b) A piece of real property that has more than one parcel number is considered to be a  
171 single parcel for purposes of Subsection (3)(a) if owned by the same owner.

172 (4) A municipality may not annex an unincorporated area in a specified county for the  
173 sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to  
174 annex the same or a related area unless the municipality has the ability and intent to benefit the  
175 annexed area by providing municipal services to the annexed area.

176 (5) (a) As used in this subsection, "expansion area urban development" means:

- 177 (i) for a specified county, urban development within a city or town's expansion area; or
- 178 (ii) for a county of the first class, urban development within a city or town's expansion  
179 area that:

180 (A) consists of 50 or more acres;

181 (B) requires the county to change the zoning designation of the land on which the  
182 urban development is located; and

183 (C) does not include commercial or industrial development that is located within a  
184 mining protection area as defined in Section 17-41-101, regardless of whether the commercial  
185 or industrial development is for a mining use as defined in Section 17-41-101.

186 (b) A county legislative body may not approve expansion area urban development  
187 unless:

188 (i) the county notifies the city or town of the proposed development; and

189 (ii) (A) the city or town consents in writing to the development;

190 (B) within 90 days after the county's notification of the proposed development, the city  
191 or town submits to the county a written objection to the county's approval of the proposed  
192 development and the county responds in writing to the city or town's objection; or

193 (C) the city or town fails to respond to the county's notification of the proposed  
194 development within 90 days after the day on which the county provides the notice.

195 (6) (a) As used in this Subsection (6), "airport" means an area that the Federal Aviation  
196 Administration has, by a record of decision, approved for the construction or operation of a  
197 Class I, II, or III commercial service airport, as designated by the Federal Aviation  
198 Administration in 14 C.F.R. Part 139.

199 (b) A municipality may not annex an unincorporated area within 5,000 feet of the  
200 center line of any runway of an airport operated or to be constructed and operated by another  
201 municipality unless the legislative body of the other municipality adopts a resolution  
202 consenting to the annexation.

203 (c) A municipality that operates or intends to construct and operate an airport and does  
204 not adopt a resolution consenting to the annexation of an area described in Subsection (6)(b)  
205 may not deny an annexation petition proposing the annexation of that same area to that  
206 municipality.

207 (7) (a) As used in this Subsection (7), "project area" means a project area as defined in  
208 Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by  
209 the Military Installation Development Authority under Title 63H, Chapter 1, Military  
210 Installation Development Authority Act.

211 (b) A municipality may not annex an unincorporated area located within a project area

212 without the authority's approval.

213 (c) (i) Except as provided in Subsection (7)(c)(ii), the Military Installation  
214 Development Authority may petition for annexation of the following areas to a municipality as  
215 if the Military Installation Development Authority was the sole private property owner within  
216 the area:

217 (A) an area within a project area;

218 (B) an area that is contiguous to a project area and within the boundaries of a military  
219 installation;

220 (C) an area owned by the Military Installation Development Authority; and

221 (D) an area that is contiguous to an area owned by the Military Installation  
222 Development Authority that the Military Installation Development Authority plans to add to an  
223 existing project area.

224 (ii) If any portion of an area annexed under a petition for annexation filed by the  
225 Military Installation Development Authority is located in a specified county:

226 (A) the annexation process shall follow the requirements for a specified county; and

227 (B) the provisions of Section 10-2-402.5 do not apply.

228 (8) A municipality may not annex an unincorporated area if:

229 (a) the area is proposed for incorporation in:

230 (i) a feasibility study conducted under Section 10-2a-205; or

231 (ii) a supplemental feasibility study conducted under Section 10-2a-206;

232 (b) the lieutenant governor completes the first public hearing on the proposed  
233 incorporation under Subsection 10-2a-207(4); and

234 (c) the time period for a specified landowner, as defined in Section 10-2a-203, to  
235 request that the lieutenant governor exclude the specified landowner's property from the  
236 proposed incorporation under Subsection 10-2a-207(5)(a) has expired.

237 Section 3. Section 10-2-403 is amended to read:

238 **10-2-403. Annexation petition -- Requirements -- Notice required before filing.**

239 (1) Except as provided in Section 10-2-418, the process to annex an unincorporated  
240 area to a municipality is initiated by a petition as provided in this section.

241 (2) (a) (i) Before filing a petition under Subsection (1), the person or persons intending  
242 to file a petition shall:



243 (A) file with the city recorder or town clerk of the proposed annexing municipality a  
244 notice of intent to file a petition; and

245 (B) send a copy of the notice of intent to each affected entity.

246 (ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the  
247 area that is proposed to be annexed.

248 (b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be  
249 annexed is located shall:

250 (A) mail the notice described in Subsection (2)(b)(iii) to:

251 (I) each owner of real property located within the area proposed to be annexed; and

252 (II) each owner of real property located within 300 feet of the area proposed to be  
253 annexed; and

254 (B) send to the proposed annexing municipality a copy of the notice and a certificate  
255 indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

256 (ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20  
257 days after receiving from the person or persons who filed the notice of intent:

258 (A) a written request to mail the required notice; and

259 (B) payment of an amount equal to the county's expected actual cost of mailing the  
260 notice.

261 (iii) Each notice required under Subsection (2)(b)(i)(A) shall:

262 (A) be in writing;

263 (B) state, in bold and conspicuous terms, substantially the following:

264 "Attention: Your property may be affected by a proposed annexation.

265 Records show that you own property within an area that is intended to be included in a  
266 proposed annexation to (state the name of the proposed annexing municipality) or that is within  
267 300 feet of that area. If your property is within the area proposed for annexation, you may be  
268 asked to sign a petition supporting the annexation. You may choose whether to sign the  
269 petition. By signing the petition, you indicate your support of the proposed annexation. If you  
270 sign the petition but later change your mind about supporting the annexation, you may  
271 withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk  
272 of (state the name of the proposed annexing municipality) within 30 days after (state the name  
273 of the proposed annexing municipality) receives notice that the petition has been certified.

274 There will be no public election on the proposed annexation because Utah law does not  
275 provide for an annexation to be approved by voters at a public election. Signing or not signing  
276 the annexation petition is the method under Utah law for the owners of property within the area  
277 proposed for annexation to demonstrate their support of or opposition to the proposed  
278 annexation.

279 You may obtain more information on the proposed annexation by contacting (state the  
280 name, mailing address, telephone number, and email address of the official or employee of the  
281 proposed annexing municipality designated to respond to questions about the proposed  
282 annexation), (state the name, mailing address, telephone number, and email address of the  
283 county official or employee designated to respond to questions about the proposed annexation),  
284 or (state the name, mailing address, telephone number, and email address of the person who  
285 filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the  
286 notice of intent, one of those persons). Once filed, the annexation petition will be available for  
287 inspection and copying at the office of (state the name of the proposed annexing municipality)  
288 located at (state the address of the municipal offices of the proposed annexing municipality).";  
289 and

290 (C) be accompanied by an accurate map identifying the area proposed for annexation.

291 (iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any  
292 other information or materials related or unrelated to the proposed annexation.

293 (c) (i) After receiving the certificate from the county as provided in Subsection  
294 (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons  
295 who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for  
296 the annexation proposed in the notice of intent.

297 (ii) An annexation petition provided by the proposed annexing municipality may be  
298 duplicated for circulation for signatures.

299 (3) Each petition under Subsection (1) shall:

300 (a) be filed with the applicable city recorder or town clerk of the proposed annexing  
301 municipality;

302 (b) contain the signatures of, if all the real property within the area proposed for  
303 annexation is owned by a public entity other than the federal government, the owners of all the  
304 publicly owned real property, or the owners of private real property that:

- 305 (i) is located within the area proposed for annexation;
- 306 (ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area  
307 within the area proposed for annexation;
- 308 (B) covers 100% of all of the rural real property within the area proposed for  
309 annexation; and
- 310 (C) covers 100% of all of the private land area within the area proposed for  
311 annexation~~[, if the area is within an agriculture protection area created under Title 17, Chapter~~  
312 ~~41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas,]~~ or a migratory  
313 bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and
- 314 (iii) is equal in value to at least 1/3 of the value of all private real property within the  
315 area proposed for annexation;
- 316 (c) be accompanied by:
- 317 (i) an accurate and recordable map, prepared by a licensed surveyor in accordance with  
318 Section 17-23-20, of the area proposed for annexation; and
- 319 (ii) a copy of the notice sent to affected entities as required under Subsection  
320 (2)(a)(i)(B) and a list of the affected entities to which notice was sent;
- 321 (d) contain on each signature page a notice in bold and conspicuous terms that states  
322 substantially the following:
- 323 "Notice:
- 324 • There will be no public election on the annexation proposed by this petition because  
325 Utah law does not provide for an annexation to be approved by voters at a public election.
  - 326 • If you sign this petition and later decide that you do not support the petition, you may  
327 withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk  
328 of (state the name of the proposed annexing municipality). If you choose to withdraw your  
329 signature, you shall do so no later than 30 days after (state the name of the proposed annexing  
330 municipality) receives notice that the petition has been certified.";
- 331 (e) if the petition proposes a cross-county annexation, as defined in Section 10-2-402.5,  
332 be accompanied by a copy of the resolution described in Subsection 10-2-402.5(4)(a)(iii)(A);  
333 and
- 334 (f) designate up to five of the signers of the petition as sponsors, one of whom shall be  
335 designated as the contact sponsor, and indicate the mailing address of each sponsor.

336 (4) A petition under Subsection (1) may not propose the annexation of all or part of an  
337 area proposed for annexation to a municipality in a previously filed petition that has not been  
338 denied, rejected, or granted.

339 (5) If practicable and feasible, the boundaries of an area proposed for annexation shall  
340 be drawn:

341 (a) along the boundaries of existing local districts and special service districts for  
342 sewer, water, and other services, along the boundaries of school districts whose boundaries  
343 follow city boundaries or school districts adjacent to school districts whose boundaries follow  
344 city boundaries, and along the boundaries of other taxing entities;

345 (b) to eliminate islands and peninsulas of territory that is not receiving municipal-type  
346 services;

347 (c) to facilitate the consolidation of overlapping functions of local government;

348 (d) to promote the efficient delivery of services; and

349 (e) to encourage the equitable distribution of community resources and obligations.

350 (6) On the date of filing, the petition sponsors shall deliver or mail a copy of the  
351 petition to the clerk of the county in which the area proposed for annexation is located.

352 (7) A property owner who signs an annexation petition may withdraw the owner's  
353 signature by filing a written withdrawal, signed by the property owner, with the city recorder or  
354 town clerk no later than 30 days after the municipal legislative body's receipt of the notice of  
355 certification under Subsection 10-2-405(2)(c)(i).

356 Section 4. Section 10-2-405 is amended to read:

357 **10-2-405. Acceptance or denial of an annexation petition -- Petition certification**  
358 **process -- Modified petition.**

359 (1) (a) (i) A municipal legislative body may:

360 (A) subject to Subsection (1)(a)(ii), deny a petition filed under Section 10-2-403; or

361 (B) accept the petition for further consideration under this part.

362 (ii) A petition shall be considered to have been accepted for further consideration under  
363 this part if a municipal legislative body fails to act to deny or accept the petition under

364 Subsection (1)(a)(i):

365 (A) in the case of a city of the first or second class, within 14 days after the filing of the  
366 petition; or

367 (B) in the case of a city of the third, fourth, or fifth class, a town, or a metro township,  
368 at the next regularly scheduled meeting of the municipal legislative body that is at least 14 days  
369 after the date the petition was filed.

370 (b) If a municipal legislative body denies a petition under Subsection (1)(a)(i), it shall,  
371 within five days after the denial, mail written notice of the denial to:

372 (i) the contact sponsor; and

373 (ii) the clerk of the county in which the area proposed for annexation is located.

374 (2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i) or is  
375 considered to have accepted the petition under Subsection (1)(a)(ii), the city recorder or town  
376 clerk, as the case may be, shall, within 30 days after that acceptance:

377 (a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the  
378 area proposed for annexation is located the records the city recorder or town clerk needs to  
379 determine whether the petition meets the requirements of Subsections 10-2-403(3) and (4);

380 (b) with the assistance of the municipal attorney, determine whether the petition meets  
381 the requirements of Subsections 10-2-403(3) and (4); and

382 (c) (i) if the city recorder or town clerk determines that the petition meets those  
383 requirements, certify the petition and mail or deliver written notification of the certification to  
384 the municipal legislative body, the contact sponsor, and the county legislative body; or

385 (ii) if the city recorder or town clerk determines that the petition fails to meet any of  
386 those requirements, reject the petition and mail or deliver written notification of the rejection  
387 and the reasons for the rejection to the municipal legislative body, the contact sponsor, and the  
388 county legislative body.

389 (3) (a) (i) If the city recorder or town clerk rejects a petition under Subsection (2)(c)(ii),  
390 the petition may be modified to correct the deficiencies for which it was rejected and then  
391 refiled with the city recorder or town clerk, as the case may be.

392 (ii) A signature on an annexation petition filed under Section 10-2-403 may be used  
393 toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as  
394 modified under Subsection (3)(a)(i).

395 (b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city  
396 recorder or town clerk under Subsection (2)(c)(ii), the refiled petition shall be treated as a  
397 newly filed petition under Subsection 10-2-403(1).

398           (4) Any vote by a municipal legislative body to deny a petition under this part may be  
399 recalled and set for reconsideration by a majority of the voting members of the municipal  
400 legislative body.

401           ~~(4)~~ (5) Each county assessor, clerk, surveyor, and recorder shall provide copies of  
402 records that a city recorder or town clerk requests under Subsection (2)(a).

403           Section 5. Section **10-2-407** is amended to read:

404           **10-2-407. Protest to annexation petition -- Planning advisory area planning**  
405 **commission recommendation -- Petition requirements -- Disposition of petition if no**  
406 **protest filed.**

407           (1) A protest to an annexation petition under Section **10-2-403** may only be filed by:

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

409           (b) an owner of rural real property located within the area proposed for annexation;

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

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

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

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

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

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

420           (a) be filed:

421           (i) no later than 30 days after the municipal legislative body's receipt of the notice of  
422 certification under Subsection **10-2-405(2)(c)(i)**; and

423           (ii) (A) in a county that has already created a commission under Section **10-2-409**, with  
424 the commission; or

425           (B) in a county that has not yet created a commission under Section **10-2-409**, with the  
426 clerk of the county in which the area proposed for annexation is located;

427           (b) state each reason for the protest of the annexation petition and, if the area proposed  
428 to be annexed is located in a specified county, justification for the protest under the standards

429 established in this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

454 (ii) the commission; and

455 (iii) each entity that filed a protest.

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

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

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

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

468 (b) by posting notice on the Utah Public Notice Website, created in Section  
469 63A-16-601, for seven days before the day of the public hearing; and

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

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

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

477 Section 6. Section 10-2-408 is amended to read:

478 **10-2-408. Denying or approving the annexation petition -- Notice of approval.**

479 (1) After receipt of the commission's decision on a protest under Subsection

480 10-2-416(2), a municipal legislative body may:

481 (a) deny the annexation petition; or

482 (b) subject to Subsection (2), if the commission approves the annexation, approve the  
483 annexation petition consistent with the commission's decision.

484 (2) A municipal legislative body shall exclude from the annexed area:

485 (a) rural real property, unless the owner of the rural real property has signed the  
486 petition for annexation or gives written consent to include the rural real property; and

487 (b) private real property located in a mining protection area, unless the owner of the  
488 private real property gives written consent to include the private real property.

489 Section 7. Section 10-2-416 is amended to read:

490 **10-2-416. Commission decision -- Time limit -- Limitation on approval of**



491 **annexation.**

492 (1) (a) Subject to [~~Subsection (3)~~] Subsections (1)(b) and (3), after the public hearing  
493 under Subsection 10-2-415(1) the boundary commission may:

494 [~~(a)~~] (i) approve the proposed annexation, either with or without conditions;

495 [~~(b)~~] (ii) make minor modifications to the proposed annexation and approve it, either  
496 with or without conditions; or

497 [~~(c)~~] (iii) disapprove the proposed annexation.

498 (b) If a legislative body or governing board of an affected entity files a timely protest to  
499 the annexation petition in accordance with Section 10-2-407, the boundary commission, in  
500 making a decision under Subsection (1)(a), shall consider and weigh the preferences, to the  
501 extent made known during the boundary commission's proceedings, of:

502 (i) the person or persons who submitted the annexation petition; and

503 (ii) any property owner who has timely filed a protest in accordance with Section  
504 10-2-407.

505 (2) The commission shall issue a written decision on the proposed annexation within  
506 30 days after the conclusion of the hearing under Section 10-2-415 and shall send a copy of the  
507 decision to:

508 (a) the legislative body of the county in which the area proposed for annexation is  
509 located;

510 (b) the legislative body of the proposed annexing municipality;

511 (c) the contact person on the annexation petition;

512 (d) the contact person of each entity that filed a protest; and

513 (e) if a protest was filed under Subsection 10-2-407(1)(c) with respect to a proposed  
514 annexation of an area located in a county of the first class, the contact person designated in the  
515 protest.

516 (3) Except for an annexation for which a feasibility study may not be required under  
517 Subsection 10-2-413(1)(b), the commission may not approve a proposed annexation of an area  
518 located within a county of the first class unless the results of the feasibility study under Section  
519 10-2-413 show that the average annual amount under Subsection 10-2-413(3)(a)(ix) does not  
520 exceed the average annual amount under Subsection 10-2-413(3)(a)(viii) by more than 5%.

521 Section 8. Section 10-9a-103 is amended to read:

522 **10-9a-103. Definitions.**

523 As used in this chapter:

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

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

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

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

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

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

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

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

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

544 (a) a single project;

545 (b) the subject of a land use approval that sponsors of a referendum timely challenged  
546 in accordance with Subsection [20A-7-601\(6\)](#); and

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

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

551 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or  
552 residential property if the sign is designed or intended to direct attention to a business, product,

553 or service that is not sold, offered, or existing on the property where the sign is located.

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

555 (i) an operating charter school;

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

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

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

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

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

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

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

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

572 (11) "Development activity" means:

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

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

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

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

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

583 (13) (a) "Disability" means a physical or mental impairment that substantially limits

584 one or more of a person's major life activities, including a person having a record of such an  
585 impairment or being regarded as having such an impairment.

586 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
587 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
588 802.

589 (14) "Educational facility":

590 (a) means:

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

594 (ii) a structure or facility:

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

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

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

599 (b) does not include:

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

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

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

605 (ii) a therapeutic school.

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

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

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

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

615 Federal Emergency Management Agency.

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

618 (18) "Geologic hazard" means:

619 (a) a surface fault rupture;

620 (b) shallow groundwater;

621 (c) liquefaction;

622 (d) a landslide;

623 (e) a debris flow;

624 (f) unstable soil;

625 (g) a rock fall; or

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

627 (i) to life;

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

629 (iii) of substantial damage to real property.

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

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

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

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

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

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

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

642 (c) describe a building that:

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

645 (ii) is subject to the same geological and meteorological conditions and the same law

646 as the building described in the previously approved plans;

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

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

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

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

656 (a) recording a subdivision plat; or

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

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

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

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

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

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

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

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

670 (ii) has substantial evidence, on record:

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

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

674 (26) "Infrastructure improvement" means permanent infrastructure that is essential for  
675 the public health and safety or that:

676 (a) is required for human occupation; and

- 677 (b) an applicant must install:
- 678 (i) in accordance with published installation and inspection specifications for public  
679 improvements; and
- 680 (ii) whether the improvement is public or private, as a condition of:
- 681 (A) recording a subdivision plat;
- 682 (B) obtaining a building permit; or
- 683 (C) development of a commercial, industrial, mixed use, condominium, or multifamily  
684 project.
- 685 (27) "Internal lot restriction" means a platted note, platted demarcation, or platted  
686 designation that:
- 687 (a) runs with the land; and
- 688 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on  
689 the plat; or
- 690 (ii) designates a development condition that is enclosed within the perimeter of a lot  
691 described on the plat.
- 692 (28) "Land use applicant" means a property owner, or the property owner's designee,  
693 who submits a land use application regarding the property owner's land.
- 694 (29) "Land use application":
- 695 (a) means an application that is:
- 696 (i) required by a municipality; and
- 697 (ii) submitted by a land use applicant to obtain a land use decision; and
- 698 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 699 (30) "Land use authority" means:
- 700 (a) a person, board, commission, agency, or body, including the local legislative body,  
701 designated by the local legislative body to act upon a land use application; or
- 702 (b) if the local legislative body has not designated a person, board, commission,  
703 agency, or body, the local legislative body.
- 704 (31) "Land use decision" means an administrative decision of a land use authority or  
705 appeal authority regarding:
- 706 (a) a land use permit; or
- 707 (b) a land use application.

- 708 (32) "Land use permit" means a permit issued by a land use authority.
- 709 (33) "Land use regulation":
- 710 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
- 711 specification, fee, or rule that governs the use or development of land;
- 712 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
- 713 and
- 714 (c) does not include:
- 715 (i) a land use decision of the legislative body acting as the land use authority, even if
- 716 the decision is expressed in a resolution or ordinance; or
- 717 (ii) a temporary revision to an engineering specification that does not materially:
- 718 (A) increase a land use applicant's cost of development compared to the existing
- 719 specification; or
- 720 (B) impact a land use applicant's use of land.
- 721 (34) "Legislative body" means the municipal council.
- 722 (35) "Local district" means an entity under Title 17B, Limited Purpose Local
- 723 Government Entities - Local Districts, and any other governmental or quasi-governmental
- 724 entity that is not a county, municipality, school district, or the state.
- 725 (36) "Local historic district or area" means a geographically definable area that:
- 726 (a) contains any combination of buildings, structures, sites, objects, landscape features,
- 727 archeological sites, or works of art that contribute to the historic preservation goals of a
- 728 legislative body; and
- 729 (b) is subject to land use regulations to preserve the historic significance of the local
- 730 historic district or area.
- 731 (37) "Lot" means a tract of land, regardless of any label, that is created by and shown
- 732 on a subdivision plat that has been recorded in the office of the county recorder.
- 733 (38) (a) "Lot line adjustment" means a relocation of a lot line boundary between
- 734 adjoining lots or between a lot and adjoining parcels in accordance with Section [10-9a-608](#):
- 735 (i) whether or not the lots are located in the same subdivision; and
- 736 (ii) with the consent of the owners of record.
- 737 (b) "Lot line adjustment" does not mean a new boundary line that:
- 738 (i) creates an additional lot; or



739 (ii) constitutes a subdivision or a subdivision amendment.

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

742 (39) "Major transit investment corridor" means public transit service that uses or  
743 occupies:

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

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

746 or

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

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

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

751 (40) "Moderate income housing" means housing occupied or reserved for occupancy  
752 by households with a gross household income equal to or less than 80% of the median gross  
753 income for households of the same size in the county in which the city is located.

754 (41) "Municipal utility easement" means an easement that:

755 (a) is created or depicted on a plat recorded in a county recorder's office and is  
756 described as a municipal utility easement granted for public use;

757 (b) is not a protected utility easement or a public utility easement as defined in Section  
758 54-3-27;

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

762 (d) is used or occupied with the consent of the municipality in accordance with an  
763 authorized franchise or other agreement;

764 (e) (i) is used or occupied by a specified public utility in accordance with an authorized  
765 franchise or other agreement; and

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

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

768 (42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time  
769 spent and expenses incurred in:

770 (a) verifying that building plans are identical plans; and  
771 (b) reviewing and approving those minor aspects of identical plans that differ from the  
772 previously reviewed and approved building plans.

773 (43) "Noncomplying structure" means a structure that:

774 (a) legally existed before the structure's current land use designation; and  
775 (b) because of one or more subsequent land use ordinance changes, does not conform  
776 to the setback, height restrictions, or other regulations, excluding those regulations, which  
777 govern the use of land.

778 (44) "Nonconforming use" means a use of land that:

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

784 (45) "Official map" means a map drawn by municipal authorities and recorded in a  
785 county recorder's office that:

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

792 (46) "Parcel" means any real property that is not a lot.

793 (47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of  
794 adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line  
795 agreement in accordance with Section [10-9a-524](#), if no additional parcel is created and:

796 (i) none of the property identified in the agreement is a lot; or  
797 (ii) the adjustment is to the boundaries of a single person's parcels.

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

800 (i) creates an additional parcel; or

801 (ii) constitutes a subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

827 (52) "Public agency" means:

828 (a) the federal government;

829 (b) the state;

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

832 (d) a charter school.

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

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

837 (55) "Public street" means a public right-of-way, including a public highway, public  
838 avenue, public boulevard, public parkway, public road, public lane, public alley, public  
839 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation  
840 easement, or other public way.

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

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

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

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

848 (b) (i) which is licensed or certified by the Department of Human Services under Title  
849 62A, Chapter 2, Licensure of Programs and Facilities; or

850 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter  
851 21, Health Care Facility Licensing and Inspection Act.

852 (59) "Residential roadway" means a public local residential road that:

853 (a) will serve primarily to provide access to adjacent primarily residential areas and  
854 property;

855 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;

856 (c) is not identified as a supplementary to a collector or other higher system classified  
857 street in an approved municipal street or transportation master plan;

858 (d) has a posted speed limit of 25 miles per hour or less;

859 (e) does not have higher traffic volumes resulting from connecting previously separated  
860 areas of the municipal road network;

861 (f) cannot have a primary access, but can have a secondary access, and does not abut  
862 lots intended for high volume traffic or community centers, including schools, recreation

863 centers, sports complexes, or libraries; and

864 (g) is primarily serves traffic within a neighborhood or limited residential area and

864a ~~is~~ **is**

865 not necessarily continuous through several residential areas.

866 ~~(59)~~ (60) "Rules of order and procedure" means a set of rules that govern and  
867 prescribe in a public meeting:

868 (a) parliamentary order and procedure;

869 (b) ethical behavior; and

870 (c) civil discourse.

871 ~~(60)~~ (61) "Sanitary sewer authority" means the department, agency, or public entity  
872 with responsibility to review and approve the feasibility of sanitary sewer services or onsite  
873 wastewater systems.

874 ~~(61)~~ (62) "Sending zone" means an area of a municipality that the municipality  
875 designates, by ordinance, as an area from which an owner of land may transfer a transferable  
876 development right.

877 ~~(62)~~ (63) "Specified public agency" means:

878 (a) the state;

879 (b) a school district; or

880 (c) a charter school.

881 ~~(63)~~ (64) "Specified public utility" means an electrical corporation, gas corporation,  
882 or telephone corporation, as those terms are defined in Section 54-2-1.

883 ~~(64)~~ (65) "State" includes any department, division, or agency of the state.

884 ~~(65)~~ (66) (a) "Subdivision" means any land that is divided, resubdivided, or proposed  
885 to be divided into two or more lots or other division of land for the purpose, whether  
886 immediate or future, for offer, sale, lease, or development either on the installment plan or  
887 upon any and all other plans, terms, and conditions.

888 (b) "Subdivision" includes:

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

892 (ii) except as provided in Subsection (65)(c), divisions of land for residential and  
893 nonresidential uses, including land used or to be used for commercial, agricultural, and

894 industrial purposes.

895 (c) "Subdivision" does not include:

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

900 (ii) a boundary line agreement recorded with the county recorder's office between  
901 owners of adjoining parcels adjusting the mutual boundary in accordance with Section  
902 10-9a-524 if no new parcel is created;

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

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

906 (B) joining a lot to a parcel;

907 (iv) a boundary line agreement between owners of adjoining subdivided properties  
908 adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:

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

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

911 (v) a bona fide division of land by deed or other instrument if the deed or other  
912 instrument states in writing that the division:

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

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

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

916 (vi) a parcel boundary adjustment;

917 (vii) a lot line adjustment;

918 (viii) a road, street, or highway dedication plat;

919 (ix) a deed or easement for a road, street, or highway purpose; or

920 (x) any other division of land authorized by law.

921 ~~[(66)]~~ (67) (a) "Subdivision amendment" means an amendment to a recorded  
922 subdivision in accordance with Section 10-9a-608 that:

923 ~~[(a)]~~ (i) vacates all or a portion of the subdivision;

924 ~~[(b)]~~ (ii) alters the outside boundary of the subdivision;

925           ~~[(e)]~~ (iii) changes the number of lots within the subdivision;

926           ~~[(d)]~~ (iv) alters a public right-of-way, a public easement, or public infrastructure within

927 the subdivision; or

928           ~~[(e)]~~ (v) alters a common area or other common amenity within the subdivision.

929           (b) "Subdivision amendment" does not include a lot line adjustment, between a single

930 lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

931           ~~[(67)]~~ (68) "Substantial evidence" means evidence that:

932           (a) is beyond a scintilla; and

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

934           ~~[(68)]~~ (69) "Suspect soil" means soil that has:

935           (a) a high susceptibility for volumetric change, typically clay rich, having more than a

936 3% swell potential;

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

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

939 commonly associated with dissolution and collapse features.

940           ~~[(69)]~~ (70) "Therapeutic school" means a residential group living facility:

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

942           (i) the owner of the facility; or

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

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

945           (i) at home;

946           (ii) in a public school; or

947           (iii) in a nonresidential private school; and

948           (c) that offers:

949           (i) room and board; and

950           (ii) an academic education integrated with:

951           (A) specialized structure and supervision; or

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

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

954           ~~[(70)]~~ (71) "Transferable development right" means a right to develop and use land that

955 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer

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

957 ~~[(71)]~~ (72) "Unincorporated" means the area outside of the incorporated area of a city  
958 or town.

959 ~~[(72)]~~ (73) "Water interest" means any right to the beneficial use of water, including:

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

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

962 (i) a contract; or

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

964 ~~[(73)]~~ (74) "Zoning map" means a map, adopted as part of a land use ordinance, that  
965 depicts land use zones, overlays, or districts.

966 Section 9. Section 10-9a-504 is amended to read:

967 **10-9a-504. Temporary land use regulations.**

968 (1) (a) ~~[A]~~ Except as provided in Subsection (2)(b), a municipal legislative body may,  
969 without prior consideration of or recommendation from the planning commission, enact an  
970 ordinance establishing a temporary land use regulation for any part or all of the area within the  
971 municipality if:

972 (i) the legislative body makes a finding of compelling, countervailing public interest;  
973 or

974 (ii) the area is unregulated.

975 (b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate  
976 the erection, construction, reconstruction, or alteration of any building or structure or any  
977 subdivision approval.

978 (c) A temporary land use regulation under Subsection (1)(a) may not impose an impact  
979 fee or other financial requirement on building or development.

980 (2) (a) The municipal legislative body shall establish a period of limited effect for the  
981 ordinance not to exceed ~~[six months]~~ 180 days.

982 (b) A municipal legislative body may not apply the provisions of a temporary land use  
983 regulation to the review of a specific land use application if the land use application is impaired  
984 or prohibited by proceedings initiated under Subsection 10-9a-509(1)(a)(ii)(B).

985 (3) (a) A municipal legislative body may, without prior planning commission  
986 consideration or recommendation, enact an ordinance establishing a temporary land use



987 regulation prohibiting construction, subdivision approval, and other development activities  
988 within an area that is the subject of an Environmental Impact Statement or a Major Investment  
989 Study examining the area as a proposed highway or transportation corridor.

990 (b) A regulation under Subsection (3)(a):

991 (i) may not exceed [~~six months~~] 180 days in duration;

992 (ii) may be renewed, if requested by the Transportation Commission created under  
993 Section 72-1-301, for up to two additional [~~six-month~~] 180-day periods by ordinance enacted  
994 before the expiration of the previous regulation; and

995 (iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the  
996 Environmental Impact Statement or Major Investment Study is in progress.

997 Section 10. Section **10-9a-508** is amended to read:

998 **10-9a-508. Exactions -- Exaction for water interest -- Requirement to offer to**  
999 **original owner property acquired by exaction.**

1000 (1) A municipality may impose an exaction or exactions on development proposed in a  
1001 land use application, including, subject to Subsection (3), an exaction for a water interest, if:

1002 (a) an essential link exists between a legitimate governmental interest and each  
1003 exaction; and

1004 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of  
1005 the proposed development.

1006 (2) If a land use authority imposes an exaction for another governmental entity:

1007 (a) the governmental entity shall request the exaction; and

1008 (b) the land use authority shall transfer the exaction to the governmental entity for  
1009 which it was exacted.

1010 (3) (a) (i) A municipality shall base any exaction for a water interest on the culinary  
1011 water authority's established calculations of projected water interest requirements.

1012 (ii) Upon an applicant's request, the culinary water authority shall provide the applicant  
1013 with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on  
1014 which an exaction for a water interest is based.

1015 (b) A municipality may not impose an exaction for a water interest if the culinary water  
1016 authority's existing available water interests exceed the water interests needed to meet the  
1017 reasonable future water requirement of the public, as determined under Subsection

1018 73-1-4(2)(f).

1019 (4) (a) If a municipality plans to dispose of surplus real property that was acquired  
1020 under this section and has been owned by the municipality for less than 15 years, the  
1021 municipality shall first offer to reconvey the property, without receiving additional  
1022 consideration, to the person who granted the property to the municipality.

1023 (b) A person to whom a municipality offers to reconvey property under Subsection  
1024 (4)(a) has 90 days to accept or reject the municipality's offer.

1025 (c) If a person to whom a municipality offers to reconvey property declines the offer,  
1026 the municipality may offer the property for sale.

1027 (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by  
1028 a community reinvestment agency.

1029 (5) (a) A municipality may not, as part of an infrastructure improvement, require the  
1030 installation of pavement on a residential roadway at a width in excess of 32 feet.

1031 (b) Subsection (5)(a) does not apply if a municipality requires the installation of  
1032 pavement in excess of 32 feet:

1033 (i) in a vehicle turnaround area;

1034 (ii) in a cul-de-sac;

1035 (iii) to address specific traffic flow constraints at an intersection, mid-block crossings,  
1036 or other areas;

1037 (iv) to address an applicable general or master plan improvement, including  
1038 transportation, bicycle lanes, trails or other similar improvements that are not included within  
1039 an impact fee area;

1040 (v) to address traffic flow constraints for service to or abutting higher density  
1041 developments or uses that generate higher traffic volumes, including community centers,  
1042 schools and other similar uses;

1043 (vi) as needed for the installation or location of a utility which is maintained by the  
1044 municipality and is considered a transmission line or requires additional roadway width;

1045 (vii) for third-party utility lines that have an easement preventing the installation of  
1046 utilities maintained by the municipality within the roadway;

1047 (viii) for utilities over 12 feet in depth;

1048 (ix) for roadways with a design speed that exceeds 25 miles per hour;

- 1049 (x) as needed for flood and stormwater routing;  
1050 (xi) as needed to meet fire code requirements for parking and hydrants; or  
1051 (xii) as needed to accommodate street parking.  
1052 (c) Nothing in this section shall be construed to prevent a municipality from approving  
1053 a road cross section with a pavement width less than 32 feet.  
1054 (d) (i) A land use applicant may appeal a municipal requirement for pavement in  
1055 excess of 32 feet on a residential roadway.  
1056 (ii) A land use applicant that has appealed a municipal specification for a residential  
1057 roadway pavement width in excess of 32 feet may request that the municipality assemble a  
1058 panel of qualified experts to serve as the appeal authority for purposes of determining the  
1059 technical aspects of the appeal.  
1060 (iii) Unless otherwise agreed by the applicant and the municipality, the panel described  
1061 in Subsection (5)(d)(ii) shall consist of the following three experts:  
1062 (A) one licensed engineer, designated by the municipality;  
1063 (B) one licensed engineer, designated by the land use applicant; and  
1064 (C) one licensed engineer, agreed upon and designated by the two designated engineers  
1065 under Subsections (5)(a)(d)(iii)(A) and (B).  
1066 (iv) A member of the panel assembled by the municipality under Subsection (5)(d)(ii)  
1067 may not have an interest in the application that is the subject of the appeal.  
1068 (v) The land use applicant shall pay:  
1069 (A) 50% of the cost of the panel; and  
1070 (B) the municipality's published appeal fee.  
1071 (vi) The decision of the panel is a final decision, subject to a petition for review under  
1072 Subsection (5)(d)(vii).  
1073 (vii) Pursuant to Section [10-9a-801](#), a land use applicant or the municipality may file a  
1074 petition for review of the decision with the district court within 30 days after the date that the  
1075 decision is final.  
1076 Section 11. Section **10-9a-509** is amended to read:  
1077 **10-9a-509. Applicant's entitlement to land use application approval --**  
1078 **Municipality's requirements and limitations -- Vesting upon submission of development**  
1079 **plan and schedule.**

1080 (1) (a) (i) An applicant who has submitted a complete land use application as described  
1081 in Subsection (1)(c), including the payment of all application fees, is entitled to substantive  
1082 review of the application under the land use regulations:

1083 (A) in effect on the date that the application is complete; and

1084 (B) applicable to the application or to the information shown on the application.

1085 (ii) An applicant is entitled to approval of a land use application if the application  
1086 conforms to the requirements of the applicable land use regulations, land use decisions, and  
1087 development standards in effect when the applicant submits a complete application and pays  
1088 application fees, unless:

1089 (A) the land use authority, on the record, formally finds that a compelling,  
1090 countervailing public interest would be jeopardized by approving the application and specifies  
1091 the compelling, countervailing public interest in writing; or

1092 (B) in the manner provided by local ordinance and before the applicant submits the  
1093 application, the municipality formally initiates proceedings to amend the municipality's land  
1094 use regulations in a manner that would prohibit approval of the application as submitted.

1095 (b) The municipality shall process an application without regard to proceedings the  
1096 municipality initiated to amend the municipality's ordinances as described in Subsection  
1097 (1)(a)(ii)(B) if:

1098 (i) 180 days have passed since the municipality initiated the proceedings; and

1099 (ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the  
1100 application as submitted[-]; or

1101 (B) during the 12 months prior to the municipality processing the application, or  
1102 multiple applications of the same type, are impaired or prohibited under the terms of a  
1103 temporary land use regulation adopted under Section [10-9a-504](#).

1104 (c) A land use application is considered submitted and complete when the applicant  
1105 provides the application in a form that complies with the requirements of applicable ordinances  
1106 and pays all applicable fees.

1107 (d) A subsequent incorporation of a municipality or a petition that proposes the  
1108 incorporation of a municipality does not affect a land use application approved by a county in  
1109 accordance with Section [17-27a-508](#).

1110 (e) The continuing validity of an approval of a land use application is conditioned upon

1111 the applicant proceeding after approval to implement the approval with reasonable diligence.

1112 (f) A municipality may not impose on an applicant who has submitted a complete  
1113 application a requirement that is not expressed in:

1114 (i) this chapter;

1115 (ii) a municipal ordinance in effect on the date that the applicant submits a complete  
1116 application, subject to Subsection 10-9a-509(1)(a)(ii); or

1117 (iii) a municipal specification for public improvements applicable to a subdivision or  
1118 development that is in effect on the date that the applicant submits an application.

1119 (g) A municipality may not impose on a holder of an issued land use permit or a final,  
1120 unexpired subdivision plat a requirement that is not expressed:

1121 (i) in a land use permit;

1122 (ii) on the subdivision plat;

1123 (iii) in a document on which the land use permit or subdivision plat is based;

1124 (iv) in the written record evidencing approval of the land use permit or subdivision  
1125 plat;

1126 (v) in this chapter; [~~or~~]

1127 (vi) in a municipal ordinance; or

1128 (vii) in a municipal specification for residential roadways in effect at the time a  
1129 residential subdivision was approved.

1130 (h) Except as provided in Subsection (1)(i), a municipality may not withhold issuance  
1131 of a certificate of occupancy or acceptance of subdivision improvements because of an  
1132 applicant's failure to comply with a requirement that is not expressed:

1133 (i) in the building permit or subdivision plat, documents on which the building permit  
1134 or subdivision plat is based, or the written record evidencing approval of the land use permit or  
1135 subdivision plat; or

1136 (ii) in this chapter or the municipality's ordinances.

1137 (i) A municipality may not unreasonably withhold issuance of a certificate of  
1138 occupancy where an applicant has met all requirements essential for the public health, public  
1139 safety, and general welfare of the occupants, in accordance with this chapter, unless:

1140 (i) the applicant and the municipality have agreed in a written document to the  
1141 withholding of a certificate of occupancy; or

1142 (ii) the applicant has not provided a financial assurance for required and uncompleted  
1143 [~~landscaping~~] public landscaping improvements or infrastructure improvements in accordance  
1144 with an applicable ordinance that the legislative body adopts under this chapter.

1145 (2) A municipality is bound by the terms and standards of applicable land use  
1146 regulations and shall comply with mandatory provisions of those regulations.

1147 (3) A municipality may not, as a condition of land use application approval, require a  
1148 person filing a land use application to obtain documentation regarding a school district's  
1149 willingness, capacity, or ability to serve the development proposed in the land use application.

1150 (4) Upon a specified public agency's submission of a development plan and schedule as  
1151 required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the  
1152 specified public agency vests in the municipality's applicable land use maps, zoning map,  
1153 hookup fees, impact fees, other applicable development fees, and land use regulations in effect  
1154 on the date of submission.

1155 (5) (a) If sponsors of a referendum timely challenge a project in accordance with  
1156 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use  
1157 approval by delivering a written notice:

1158 (i) to the local clerk as defined in Section 20A-7-101; and

1159 (ii) no later than seven days after the day on which a petition for a referendum is  
1160 determined sufficient under Subsection 20A-7-607(5).

1161 (b) Upon delivery of a written notice described in Subsection (5)(a) the following are  
1162 rescinded and are of no further force or effect:

1163 (i) the relevant land use approval; and

1164 (ii) any land use regulation enacted specifically in relation to the land use approval.

1165 Section 12. Section 10-9a-532 is amended to read:

1166 **10-9a-532. Development agreements.**

1167 (1) Subject to Subsection (2), a municipality may enter into a development agreement  
1168 containing any term that the municipality considers necessary or appropriate to accomplish the  
1169 purposes of this chapter.

1170 (2) (a) A development agreement may not:

1171 (i) limit a municipality's authority in the future to:

1172 (A) enact a land use regulation; or

- 1173 (B) take any action allowed under Section [10-8-84](#);
- 1174 (ii) require a municipality to change the zoning designation of an area of land within  
1175 the municipality in the future; or
- 1176 ~~[(iii) contain a term that conflicts with, or is different from, a standard set forth in an  
1177 existing land use regulation that governs the area subject to the development agreement]~~
- 1178 (iii) allow a use or development of land that applicable land use regulations governing  
1179 the area subject to the development agreement would otherwise prohibit, unless the legislative  
1180 body approves the development agreement in accordance with the same procedures for  
1181 enacting a land use regulation under Section [10-9a-502](#), including a review and  
1182 recommendation from the planning commission and a public hearing.
- 1183 (b) A development agreement that requires the implementation of an existing land use  
1184 regulation as an administrative act does not require a legislative body's approval under Section  
1185 [10-9a-502](#).
- 1186 ~~[(c) A municipality may not require a development agreement as the only option for  
1187 developing land within the municipality.]~~
- 1188 (c) (i) If a development agreement restricts an applicant's rights under clearly  
1189 established state law, the municipality shall disclose in writing to the applicant the rights of the  
1190 applicant the development agreement restricts.
- 1191 (ii) A municipality's failure to disclose in accordance with Subsection (2)(c)(i) voids  
1192 any provision in the development agreement pertaining to the undisclosed rights.
- 1193 (d) A municipality may not require a development agreement as a condition for  
1194 developing land if the municipality's land use regulations establish all applicable standards for  
1195 development on the land.
- 1196 ~~[(d)]~~ (e) To the extent that a development agreement does not specifically address a  
1197 matter or concern related to land use or development, the matter or concern is governed by:
- 1198 (i) this chapter; and
- 1199 (ii) any applicable land use regulations.
- 1200 Section 13. Section [10-9a-534](#) is amended to read:
- 1201 **10-9a-534. Regulation of building design elements prohibited -- Exceptions.**
- 1202 (1) As used in this section, "building design element" means:
- 1203 (a) exterior color;

- 1204 (b) type or style of exterior cladding material;
- 1205 (c) style, dimensions, or materials of a roof structure, roof pitch, or porch;
- 1206 (d) exterior nonstructural architectural ornamentation;
- 1207 (e) location, design, placement, or architectural styling of a window or door;
- 1208 (f) location, design, placement, or architectural styling of a garage door, not including a
- 1209 rear-loading garage door;
- 1210 (g) number or type of rooms;
- 1211 (h) interior layout of a room;
- 1212 (i) minimum square footage over 1,000 square feet, not including a garage;
- 1213 (j) rear yard landscaping requirements;
- 1214 (k) minimum building dimensions; or
- 1215 (l) a requirement to install front yard fencing.
- 1216 (2) Except as provided in Subsection (3), a municipality may not impose a requirement
- 1217 for a building design element on a [~~one to two family dwelling~~] one- or two-family dwelling.
- 1218 (3) Subsection (2) does not apply to:
- 1219 (a) a dwelling located within an area designated as a historic district in:
- 1220 (i) the National Register of Historic Places;
- 1221 (ii) the state register as defined in Section [9-8-402](#); or
- 1222 (iii) a local historic district or area, or a site designated as a local landmark, created by
- 1223 ordinance before January 1, 2021, except as provided under Subsection (4)(b);
- 1224 (b) an ordinance enacted as a condition for participation in the National Flood
- 1225 Insurance Program administered by the Federal Emergency Management Agency;
- 1226 (c) an ordinance enacted to implement the requirements of the Utah Wildland Urban
- 1227 Interface Code adopted under Section [15A-2-103](#);
- 1228 (d) building design elements agreed to under a development agreement;
- 1229 (e) a dwelling located within an area that:
- 1230 (i) is zoned primarily for residential use; and
- 1231 (ii) was substantially developed before calendar year 1950;
- 1232 (f) an ordinance enacted to implement water efficient landscaping in a rear yard;
- 1233 (g) an ordinance enacted to regulate type of cladding, in response to findings or
- 1234 evidence from the construction industry of:



- 1235 (i) defects in the material of existing cladding; or
- 1236 (ii) consistent defects in the installation of existing cladding; or
- 1237 (h) a land use regulation, including a planned unit development or overlay zone, that a
- 1238 property owner requests:
- 1239 (i) the municipality to apply to the owner's property; and
- 1240 (ii) in exchange for an increase in density or other benefit not otherwise available as a
- 1241 permitted use in the zoning area or district.

1242 Section 14. Section **10-9a-604.5** is amended to read:

1243 **10-9a-604.5. Subdivision plat recording or development activity before required**

1244 **landscaping or infrastructure is completed -- Improvement completion assurance --**

1245 **Improvement warranty.**

1246 (1) As used in this section, "public landscaping improvement" means landscaping that

1247 an applicant is required to install to comply with published installation and inspection

1248 specifications for public improvements that:

- 1249 (a) will be dedicated to and maintained by the municipality; or
- 1250 (b) are associated with and proximate to trail improvements that connect to planned or
- 1251 existing public infrastructure.

1252 ~~(1)~~ (2) A land use authority shall establish objective inspection standards for

1253 acceptance of a ~~[landscaping]~~ public landscaping improvement or infrastructure improvement

1254 that the land use authority requires.

1255 ~~(2)~~ (3) (a) Before an applicant conducts any development activity or records a plat,

1256 the applicant shall:

- 1257 (i) complete any required ~~[landscaping]~~ public landscaping improvements or
- 1258 infrastructure improvements; or
- 1259 (ii) post an improvement completion assurance for any required ~~[landscaping]~~ public
- 1260 landscaping improvements or infrastructure improvements.
- 1261 (b) If an applicant elects to post an improvement completion assurance, the applicant
- 1262 shall provide completion assurance for:
- 1263 (i) completion of 100% of the required ~~[landscaping]~~ public landscaping improvements
- 1264 or infrastructure improvements; or
- 1265 (ii) if the municipality has inspected and accepted a portion of the ~~[landscaping]~~ public

1266 landscaping improvements or infrastructure improvements, 100% of the incomplete or  
1267 unaccepted [~~landscaping~~] public landscaping improvements or infrastructure improvements.

1268 (c) A municipality shall:

1269 (i) establish a minimum of two acceptable forms of completion assurance;

1270 (ii) if an applicant elects to post an improvement completion assurance, allow the  
1271 applicant to post an assurance that meets the conditions of this title, and any local ordinances;

1272 (iii) establish a system for the partial release of an improvement completion assurance  
1273 as portions of required [~~landscaping~~] public landscaping improvements or infrastructure  
1274 improvements are completed and accepted in accordance with local ordinance; and

1275 (iv) issue or deny a building permit in accordance with Section 10-9a-802 based on the  
1276 installation of [~~landscaping~~] public landscaping improvements or infrastructure improvements.

1277 (d) A municipality may not require an applicant to post an improvement completion  
1278 assurance for:

1279 (i) [~~landscaping~~] public landscaping improvements or an infrastructure improvement  
1280 that the municipality has previously inspected and accepted;

1281 (ii) infrastructure improvements that are private and not essential or required to meet  
1282 the building code, fire code, flood or storm water management provisions, street and access  
1283 requirements, or other essential necessary public safety improvements adopted in a land use  
1284 regulation; [or]

1285 (iii) in a municipality where ordinances require all infrastructure improvements within  
1286 the area to be private, infrastructure improvements within a development that the municipality  
1287 requires to be private[-]; or

1288 (iv) landscaping improvements that are not public landscaping improvements, as  
1289 defined in Section 10-9a-103, unless the landscaping improvements and completion assurance  
1290 are required under the terms of a development agreement.

1291 (4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or  
1292 other entitlement benefit not currently available under the existing zone, a municipality may  
1293 require a completion assurance bond for landscaped amenities and common area that are  
1294 dedicated to and maintained by a homeowners association.

1295 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)  
1296 between the applicant and the municipality shall be memorialized in a development agreement.

1297 (c) A municipality may not require a completion assurance bond for the landscaping of  
1298 residential lots or the equivalent open space surrounding single family attached homes, whether  
1299 platted as lots or common area.

1300 (5) The sum of the improvement completion assurance required under Subsections (3)  
1301 and (4) may not exceed the sum of:

1302 (a) 100% of the estimated cost of the public landscaping improvements or  
1303 infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's  
1304 bid; and

1305 (b) 10% of the amount of the bond to cover administrative costs incurred by the  
1306 municipality to complete the improvements, if necessary.

1307 ~~[(3)]~~ (6) At any time before a municipality accepts a [landscaping] public landscaping  
1308 improvement or infrastructure improvement, and for the duration of each improvement  
1309 warranty period, the municipality may require the applicant to:

1310 (a) execute an improvement warranty for the improvement warranty period; and

1311 (b) post a cash deposit, surety bond, letter of credit, or other similar security, as  
1312 required by the municipality, in the amount of up to 10% of the lesser of the:

1313 (i) municipal engineer's original estimated cost of completion; or

1314 (ii) applicant's reasonable proven cost of completion.

1315 ~~[(4)]~~ (7) When a municipality accepts an improvement completion assurance for  
1316 [landscaping] public landscaping improvements or infrastructure improvements for a  
1317 development in accordance with [Subsection (2)(c)(ii)] Subsection (3)(c)(ii), the municipality  
1318 may not deny an applicant a building permit if the development meets the requirements for the  
1319 issuance of a building permit under the building code and fire code.

1320 ~~[(5)]~~ (8) The provisions of this section do not supersede the terms of a valid  
1321 development agreement, an adopted phasing plan, or the state construction code.

1322 Section 15. Section **17-27a-103** is amended to read:

1323 **17-27a-103. Definitions.**

1324 As used in this chapter:

1325 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or  
1326 detached from a primary single-family dwelling and contained on one lot.

1327 (2) "Adversely affected party" means a person other than a land use applicant who:

- 1328 (a) owns real property adjoining the property that is the subject of a land use  
1329 application or land use decision; or
- 1330 (b) will suffer a damage different in kind than, or an injury distinct from, that of the  
1331 general community as a result of the land use decision.
- 1332 (3) "Affected entity" means a county, municipality, local district, special service  
1333 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal  
1334 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified  
1335 property owner, property owner's association, public utility, or the Utah Department of  
1336 Transportation, if:
- 1337 (a) the entity's services or facilities are likely to require expansion or significant  
1338 modification because of an intended use of land;
- 1339 (b) the entity has filed with the county a copy of the entity's general or long-range plan;  
1340 or
- 1341 (c) the entity has filed with the county a request for notice during the same calendar  
1342 year and before the county provides notice to an affected entity in compliance with a  
1343 requirement imposed under this chapter.
- 1344 (4) "Affected owner" means the owner of real property that is:
- 1345 (a) a single project;
- 1346 (b) the subject of a land use approval that sponsors of a referendum timely challenged  
1347 in accordance with Subsection [20A-7-601\(6\)](#); and
- 1348 (c) determined to be legally referable under Section [20A-7-602.8](#).
- 1349 (5) "Appeal authority" means the person, board, commission, agency, or other body  
1350 designated by ordinance to decide an appeal of a decision of a land use application or a  
1351 variance.
- 1352 (6) "Billboard" means a freestanding ground sign located on industrial, commercial, or  
1353 residential property if the sign is designed or intended to direct attention to a business, product,  
1354 or service that is not sold, offered, or existing on the property where the sign is located.
- 1355 (7) (a) "Charter school" means:
- 1356 (i) an operating charter school;
- 1357 (ii) a charter school applicant that a charter school authorizer approves in accordance  
1358 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

- 1359 (iii) an entity that is working on behalf of a charter school or approved charter  
1360 applicant to develop or construct a charter school building.
- 1361 (b) "Charter school" does not include a therapeutic school.
- 1362 (8) "Chief executive officer" means the person or body that exercises the executive  
1363 powers of the county.
- 1364 (9) "Conditional use" means a land use that, because of the unique characteristics or  
1365 potential impact of the land use on the county, surrounding neighbors, or adjacent land uses,  
1366 may not be compatible in some areas or may be compatible only if certain conditions are  
1367 required that mitigate or eliminate the detrimental impacts.
- 1368 (10) "Constitutional taking" means a governmental action that results in a taking of  
1369 private property so that compensation to the owner of the property is required by the:
- 1370 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or  
1371 (b) Utah Constitution, Article I, Section 22.
- 1372 (11) "County utility easement" means an easement that:
- 1373 (a) a plat recorded in a county recorder's office described as a county utility easement  
1374 or otherwise as a utility easement;
- 1375 (b) is not a protected utility easement or a public utility easement as defined in Section  
1376 [54-3-27](#);
- 1377 (c) the county or the county's affiliated governmental entity owns or creates; and  
1378 (d) (i) either:
- 1379 (A) no person uses or occupies; or  
1380 (B) the county or the county's affiliated governmental entity uses and occupies to  
1381 provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or  
1382 communications or data lines; or
- 1383 (ii) a person uses or occupies with or without an authorized franchise or other  
1384 agreement with the county.
- 1385 (12) "Culinary water authority" means the department, agency, or public entity with  
1386 responsibility to review and approve the feasibility of the culinary water system and sources for  
1387 the subject property.
- 1388 (13) "Development activity" means:
- 1389 (a) any construction or expansion of a building, structure, or use that creates additional

1390 demand and need for public facilities;

1391 (b) any change in use of a building or structure that creates additional demand and need  
1392 for public facilities; or

1393 (c) any change in the use of land that creates additional demand and need for public  
1394 facilities.

1395 (14) (a) "Development agreement" means a written agreement or amendment to a  
1396 written agreement between a county and one or more parties that regulates or controls the use  
1397 or development of a specific area of land.

1398 (b) "Development agreement" does not include an improvement completion assurance.

1399 (15) (a) "Disability" means a physical or mental impairment that substantially limits  
1400 one or more of a person's major life activities, including a person having a record of such an  
1401 impairment or being regarded as having such an impairment.

1402 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
1403 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
1404 Sec. 802.

1405 (16) "Educational facility":

1406 (a) means:

1407 (i) a school district's building at which pupils assemble to receive instruction in a  
1408 program for any combination of grades from preschool through grade 12, including  
1409 kindergarten and a program for children with disabilities;

1410 (ii) a structure or facility:

1411 (A) located on the same property as a building described in Subsection (16)(a)(i); and

1412 (B) used in support of the use of that building; and

1413 (iii) a building to provide office and related space to a school district's administrative  
1414 personnel; and

1415 (b) does not include:

1416 (i) land or a structure, including land or a structure for inventory storage, equipment  
1417 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

1418 (A) not located on the same property as a building described in Subsection (16)(a)(i);

1419 and

1420 (B) used in support of the purposes of a building described in Subsection (16)(a)(i); or

1421 (ii) a therapeutic school.

1422 (17) "Fire authority" means the department, agency, or public entity with responsibility  
1423 to review and approve the feasibility of fire protection and suppression services for the subject  
1424 property.

1425 (18) "Flood plain" means land that:

1426 (a) is within the 100-year flood plain designated by the Federal Emergency  
1427 Management Agency; or

1428 (b) has not been studied or designated by the Federal Emergency Management Agency  
1429 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because  
1430 the land has characteristics that are similar to those of a 100-year flood plain designated by the  
1431 Federal Emergency Management Agency.

1432 (19) "Gas corporation" has the same meaning as defined in Section [54-2-1](#).

1433 (20) "General plan" means a document that a county adopts that sets forth general  
1434 guidelines for proposed future development of:

1435 (a) the unincorporated land within the county; or

1436 (b) for a mountainous planning district, the land within the mountainous planning  
1437 district.

1438 (21) "Geologic hazard" means:

1439 (a) a surface fault rupture;

1440 (b) shallow groundwater;

1441 (c) liquefaction;

1442 (d) a landslide;

1443 (e) a debris flow;

1444 (f) unstable soil;

1445 (g) a rock fall; or

1446 (h) any other geologic condition that presents a risk:

1447 (i) to life;

1448 (ii) of substantial loss of real property; or

1449 (iii) of substantial damage to real property.

1450 (22) "Hookup fee" means a fee for the installation and inspection of any pipe, line,  
1451 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility

1452 system.

1453 (23) "Identical plans" means building plans submitted to a county that:

1454 (a) are clearly marked as "identical plans";

1455 (b) are substantially identical building plans that were previously submitted to and  
1456 reviewed and approved by the county; and

1457 (c) describe a building that:

1458 (i) is located on land zoned the same as the land on which the building described in the  
1459 previously approved plans is located;

1460 (ii) is subject to the same geological and meteorological conditions and the same law  
1461 as the building described in the previously approved plans;

1462 (iii) has a floor plan identical to the building plan previously submitted to and reviewed  
1463 and approved by the county; and

1464 (iv) does not require any additional engineering or analysis.

1465 (24) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,  
1466 Impact Fees Act.

1467 (25) "Improvement completion assurance" means a surety bond, letter of credit,  
1468 financial institution bond, cash, assignment of rights, lien, or other equivalent security required  
1469 by a county to guaranty the proper completion of landscaping or an infrastructure improvement  
1470 required as a condition precedent to:

1471 (a) recording a subdivision plat; or

1472 (b) development of a commercial, industrial, mixed use, or multifamily project.

1473 (26) "Improvement warranty" means an applicant's unconditional warranty that the  
1474 applicant's installed and accepted landscaping or infrastructure improvement:

1475 (a) complies with the county's written standards for design, materials, and  
1476 workmanship; and

1477 (b) will not fail in any material respect, as a result of poor workmanship or materials,  
1478 within the improvement warranty period.

1479 (27) "Improvement warranty period" means a period:

1480 (a) no later than one year after a county's acceptance of required landscaping; or

1481 (b) no later than one year after a county's acceptance of required infrastructure, unless  
1482 the county:



1483 (i) determines for good cause that a one-year period would be inadequate to protect the  
1484 public health, safety, and welfare; and

1485 (ii) has substantial evidence, on record:

1486 (A) of prior poor performance by the applicant; or

1487 (B) that the area upon which the infrastructure will be constructed contains suspect soil  
1488 and the county has not otherwise required the applicant to mitigate the suspect soil.

1489 (28) "Infrastructure improvement" means permanent infrastructure that is essential for  
1490 the public health and safety or that:

1491 (a) is required for human consumption; and

1492 (b) an applicant must install:

1493 (i) in accordance with published installation and inspection specifications for public  
1494 improvements; and

1495 (ii) as a condition of:

1496 (A) recording a subdivision plat;

1497 (B) obtaining a building permit; or

1498 (C) developing a commercial, industrial, mixed use, condominium, or multifamily  
1499 project.

1500 (29) "Internal lot restriction" means a platted note, platted demarcation, or platted  
1501 designation that:

1502 (a) runs with the land; and

1503 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on  
1504 the plat; or

1505 (ii) designates a development condition that is enclosed within the perimeter of a lot  
1506 described on the plat.

1507 (30) "Interstate pipeline company" means a person or entity engaged in natural gas  
1508 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under  
1509 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1510 (31) "Intrastate pipeline company" means a person or entity engaged in natural gas  
1511 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory  
1512 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1513 (32) "Land use applicant" means a property owner, or the property owner's designee,

1514 who submits a land use application regarding the property owner's land.

1515 (33) "Land use application":

1516 (a) means an application that is:

1517 (i) required by a county; and

1518 (ii) submitted by a land use applicant to obtain a land use decision; and

1519 (b) does not mean an application to enact, amend, or repeal a land use regulation.

1520 (34) "Land use authority" means:

1521 (a) a person, board, commission, agency, or body, including the local legislative body,  
1522 designated by the local legislative body to act upon a land use application; or

1523 (b) if the local legislative body has not designated a person, board, commission,  
1524 agency, or body, the local legislative body.

1525 (35) "Land use decision" means an administrative decision of a land use authority or  
1526 appeal authority regarding:

1527 (a) a land use permit;

1528 (b) a land use application; or

1529 (c) the enforcement of a land use regulation, land use permit, or development  
1530 agreement.

1531 (36) "Land use permit" means a permit issued by a land use authority.

1532 (37) "Land use regulation":

1533 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,  
1534 specification, fee, or rule that governs the use or development of land;

1535 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;  
1536 and

1537 (c) does not include:

1538 (i) a land use decision of the legislative body acting as the land use authority, even if  
1539 the decision is expressed in a resolution or ordinance; or

1540 (ii) a temporary revision to an engineering specification that does not materially:

1541 (A) increase a land use applicant's cost of development compared to the existing  
1542 specification; or

1543 (B) impact a land use applicant's use of land.

1544 (38) "Legislative body" means the county legislative body, or for a county that has

1545 adopted an alternative form of government, the body exercising legislative powers.

1546 (39) "Local district" means any entity under Title 17B, Limited Purpose Local  
1547 Government Entities - Local Districts, and any other governmental or quasi-governmental  
1548 entity that is not a county, municipality, school district, or the state.

1549 (40) "Lot" means a tract of land, regardless of any label, that is created by and shown  
1550 on a subdivision plat that has been recorded in the office of the county recorder.

1551 (41) (a) "Lot line adjustment" means a relocation of a lot line boundary between  
1552 adjoining lots or between a lot and adjoining parcels in accordance with Section [17-27a-608](#):

1553 (i) whether or not the lots are located in the same subdivision; and

1554 (ii) with the consent of the owners of record.

1555 (b) "Lot line adjustment" does not mean a new boundary line that:

1556 (i) creates an additional lot; or

1557 (ii) constitutes a subdivision or a subdivision amendment.

1558 (c) "Lot line adjustment" does not include a boundary line adjustment made by the  
1559 Department of Transportation.

1560 (42) "Major transit investment corridor" means public transit service that uses or  
1561 occupies:

1562 (a) public transit rail right-of-way;

1563 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

1564 or

1565 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a  
1566 municipality or county and:

1567 (i) a public transit district as defined in Section [17B-2a-802](#); or

1568 (ii) an eligible political subdivision as defined in Section [59-12-2219](#).

1569 (43) "Moderate income housing" means housing occupied or reserved for occupancy  
1570 by households with a gross household income equal to or less than 80% of the median gross  
1571 income for households of the same size in the county in which the housing is located.

1572 (44) "Mountainous planning district" means an area designated by a county legislative  
1573 body in accordance with Section [17-27a-901](#).

1574 (45) "Nominal fee" means a fee that reasonably reimburses a county only for time spent  
1575 and expenses incurred in:

1576 (a) verifying that building plans are identical plans; and  
1577 (b) reviewing and approving those minor aspects of identical plans that differ from the  
1578 previously reviewed and approved building plans.

1579 (46) "Noncomplying structure" means a structure that:

1580 (a) legally existed before the structure's current land use designation; and  
1581 (b) because of one or more subsequent land use ordinance changes, does not conform  
1582 to the setback, height restrictions, or other regulations, excluding those regulations that govern  
1583 the use of land.

1584 (47) "Nonconforming use" means a use of land that:

1585 (a) legally existed before the current land use designation;  
1586 (b) has been maintained continuously since the time the land use ordinance regulation  
1587 governing the land changed; and  
1588 (c) because of one or more subsequent land use ordinance changes, does not conform  
1589 to the regulations that now govern the use of the land.

1590 (48) "Official map" means a map drawn by county authorities and recorded in the  
1591 county recorder's office that:

1592 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for  
1593 highways and other transportation facilities;  
1594 (b) provides a basis for restricting development in designated rights-of-way or between  
1595 designated setbacks to allow the government authorities time to purchase or otherwise reserve  
1596 the land; and  
1597 (c) has been adopted as an element of the county's general plan.

1598 (49) "Parcel" means any real property that is not a lot.

1599 (50) (a) "Parcel boundary adjustment" means a recorded agreement between owners of  
1600 adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line  
1601 agreement in accordance with Section [17-27a-523](#), if no additional parcel is created and:

1602 (i) none of the property identified in the agreement is a lot; or  
1603 (ii) the adjustment is to the boundaries of a single person's parcels.

1604 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary  
1605 line that:

1606 (i) creates an additional parcel; or

1607 (ii) constitutes a subdivision.

1608 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by  
1609 the Department of Transportation.

1610 (51) "Person" means an individual, corporation, partnership, organization, association,  
1611 trust, governmental agency, or any other legal entity.

1612 (52) "Plan for moderate income housing" means a written document adopted by a  
1613 county legislative body that includes:

1614 (a) an estimate of the existing supply of moderate income housing located within the  
1615 county;

1616 (b) an estimate of the need for moderate income housing in the county for the next five  
1617 years;

1618 (c) a survey of total residential land use;

1619 (d) an evaluation of how existing land uses and zones affect opportunities for moderate  
1620 income housing; and

1621 (e) a description of the county's program to encourage an adequate supply of moderate  
1622 income housing.

1623 (53) "Planning advisory area" means a contiguous, geographically defined portion of  
1624 the unincorporated area of a county established under this part with planning and zoning  
1625 functions as exercised through the planning advisory area planning commission, as provided in  
1626 this chapter, but with no legal or political identity separate from the county and no taxing  
1627 authority.

1628 (54) "Plat" means an instrument subdividing property into lots as depicted on a map or  
1629 other graphical representation of lands that a licensed professional land surveyor makes and  
1630 prepares in accordance with Section [17-27a-603](#) or [57-8-13](#).

1631 (55) "Potential geologic hazard area" means an area that:

1632 (a) is designated by a Utah Geological Survey map, county geologist map, or other  
1633 relevant map or report as needing further study to determine the area's potential for geologic  
1634 hazard; or

1635 (b) has not been studied by the Utah Geological Survey or a county geologist but  
1636 presents the potential of geologic hazard because the area has characteristics similar to those of  
1637 a designated geologic hazard area.

1638 (56) "Public agency" means:

1639 (a) the federal government;

1640 (b) the state;

1641 (c) a county, municipality, school district, local district, special service district, or other

1642 political subdivision of the state; or

1643 (d) a charter school.

1644 (57) "Public hearing" means a hearing at which members of the public are provided a  
1645 reasonable opportunity to comment on the subject of the hearing.

1646 (58) "Public meeting" means a meeting that is required to be open to the public under  
1647 Title 52, Chapter 4, Open and Public Meetings Act.

1648 (59) "Public street" means a public right-of-way, including a public highway, public  
1649 avenue, public boulevard, public parkway, public road, public lane, public alley, public  
1650 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation  
1651 easement, or other public way.

1652 (60) "Receiving zone" means an unincorporated area of a county that the county  
1653 designates, by ordinance, as an area in which an owner of land may receive a transferable  
1654 development right.

1655 (61) "Record of survey map" means a map of a survey of land prepared in accordance  
1656 with Section [10-9a-603](#), [17-23-17](#), [17-27a-603](#), or [57-8-13](#).

1657 (62) "Residential facility for persons with a disability" means a residence:

1658 (a) in which more than one person with a disability resides; and

1659 (b) (i) which is licensed or certified by the Department of Human Services under Title  
1660 62A, Chapter 2, Licensure of Programs and Facilities; or

1661 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter  
1662 21, Health Care Facility Licensing and Inspection Act.

1663 (63) "Residential roadway" means a public local residential road that:

1664 (a) will serve primarily to provide access to adjacent primarily residential areas and  
1665 property;

1666 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;

1667 (c) is not identified as a supplementary to a collector or other higher system classified  
1668 street in an approved municipal street or transportation master plan;

1669 (d) has a posted speed limit of 25 miles per hour or less;

1670 (e) does not have higher traffic volumes resulting from connecting previously separated  
1671 areas of the municipal road network;

1672 (f) cannot have a primary access, but can have a secondary access, and does not abut  
1673 lots intended for high volume traffic or community centers, including schools, recreation  
1674 centers, sports complexes, or libraries; and

1675 (g) is primarily serves traffic within a neighborhood or limited residential area and

1675a ~~is~~ **is**

1676 not necessarily continuous through several residential areas.

1677 ~~(63)~~ (64) "Rules of order and procedure" means a set of rules that govern and  
1678 prescribe in a public meeting:

1679 (a) parliamentary order and procedure;

1680 (b) ethical behavior; and

1681 (c) civil discourse.

1682 ~~(64)~~ (65) "Sanitary sewer authority" means the department, agency, or public entity  
1683 with responsibility to review and approve the feasibility of sanitary sewer services or onsite  
1684 wastewater systems.

1685 ~~(65)~~ (66) "Sending zone" means an unincorporated area of a county that the county  
1686 designates, by ordinance, as an area from which an owner of land may transfer a transferable  
1687 development right.

1688 ~~(66)~~ (67) "Site plan" means a document or map that may be required by a county  
1689 during a preliminary review preceding the issuance of a building permit to demonstrate that an  
1690 owner's or developer's proposed development activity meets a land use requirement.

1691 ~~(67)~~ (68) "Specified public agency" means:

1692 (a) the state;

1693 (b) a school district; or

1694 (c) a charter school.

1695 ~~(68)~~ (69) "Specified public utility" means an electrical corporation, gas corporation,  
1696 or telephone corporation, as those terms are defined in Section 54-2-1.

1697 ~~(69)~~ (70) "State" includes any department, division, or agency of the state.

1698 ~~(70)~~ (71) (a) "Subdivision" means any land that is divided, resubdivided, or proposed  
1699 to be divided into two or more lots or other division of land for the purpose, whether

1700 immediate or future, for offer, sale, lease, or development either on the installment plan or  
1701 upon any and all other plans, terms, and conditions.

1702 (b) "Subdivision" includes:

1703 (i) the division or development of land, whether by deed, metes and bounds  
1704 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether  
1705 the division includes all or a portion of a parcel or lot; and

1706 (ii) except as provided in Subsection (70)(c), divisions of land for residential and  
1707 nonresidential uses, including land used or to be used for commercial, agricultural, and  
1708 industrial purposes.

1709 (c) "Subdivision" does not include:

1710 (i) a bona fide division or partition of agricultural land for agricultural purposes;

1711 (ii) a boundary line agreement recorded with the county recorder's office between  
1712 owners of adjoining parcels adjusting the mutual boundary in accordance with Section  
1713 [17-27a-523](#) if no new lot is created;

1714 (iii) a recorded document, executed by the owner of record:

1715 (A) revising the legal descriptions of multiple parcels into one legal description  
1716 encompassing all such parcels; or

1717 (B) joining a lot to a parcel;

1718 (iv) a bona fide division or partition of land in a county other than a first class county  
1719 for the purpose of siting, on one or more of the resulting separate parcels:

1720 (A) an electrical transmission line or a substation;

1721 (B) a natural gas pipeline or a regulation station; or

1722 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other  
1723 utility service regeneration, transformation, retransmission, or amplification facility;

1724 (v) a boundary line agreement between owners of adjoining subdivided properties  
1725 adjusting the mutual lot line boundary in accordance with Sections [17-27a-523](#) and [17-27a-608](#)  
1726 if:

1727 (A) no new dwelling lot or housing unit will result from the adjustment; and

1728 (B) the adjustment will not violate any applicable land use ordinance;

1729 (vi) a bona fide division of land by deed or other instrument if the deed or other  
1730 instrument states in writing that the division:



- 1731 (A) is in anticipation of future land use approvals on the parcel or parcels;  
1732 (B) does not confer any land use approvals; and  
1733 (C) has not been approved by the land use authority;  
1734 (vii) a parcel boundary adjustment;  
1735 (viii) a lot line adjustment;  
1736 (ix) a road, street, or highway dedication plat;  
1737 (x) a deed or easement for a road, street, or highway purpose; or  
1738 (xi) any other division of land authorized by law.
- 1739 ~~[(71)]~~ (72) (a) "Subdivision amendment" means an amendment to a recorded  
1740 subdivision in accordance with Section 17-27a-608 that:
- 1741 ~~[(a)]~~ (i) vacates all or a portion of the subdivision;  
1742 ~~[(b)]~~ (ii) alters the outside boundary of the subdivision;  
1743 ~~[(c)]~~ (iii) changes the number of lots within the subdivision;  
1744 ~~[(d)]~~ (iv) alters a public right-of-way, a public easement, or public infrastructure within  
1745 the subdivision; or  
1746 ~~[(e)]~~ (v) alters a common area or other common amenity within the subdivision.
- 1747 (b) "Subdivision amendment" does not include a lot line adjustment, between a single  
1748 lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.
- 1749 ~~[(72)]~~ (73) "Substantial evidence" means evidence that:  
1750 (a) is beyond a scintilla; and  
1751 (b) a reasonable mind would accept as adequate to support a conclusion.
- 1752 ~~[(73)]~~ (74) "Suspect soil" means soil that has:  
1753 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
1754 3% swell potential;  
1755 (b) bedrock units with high shrink or swell susceptibility; or  
1756 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum  
1757 commonly associated with dissolution and collapse features.
- 1758 ~~[(74)]~~ (75) "Therapeutic school" means a residential group living facility:  
1759 (a) for four or more individuals who are not related to:  
1760 (i) the owner of the facility; or  
1761 (ii) the primary service provider of the facility;

1762 (b) that serves students who have a history of failing to function:

1763 (i) at home;

1764 (ii) in a public school; or

1765 (iii) in a nonresidential private school; and

1766 (c) that offers:

1767 (i) room and board; and

1768 (ii) an academic education integrated with:

1769 (A) specialized structure and supervision; or

1770 (B) services or treatment related to a disability, an emotional development, a  
1771 behavioral development, a familial development, or a social development.

1772 ~~[(75)]~~ (76) "Transferable development right" means a right to develop and use land that  
1773 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer  
1774 land use rights from a designated sending zone to a designated receiving zone.

1775 ~~[(76)]~~ (77) "Unincorporated" means the area outside of the incorporated area of a  
1776 municipality.

1777 ~~[(77)]~~ (78) "Water interest" means any right to the beneficial use of water, including:

1778 (a) each of the rights listed in Section 73-1-11; and

1779 (b) an ownership interest in the right to the beneficial use of water represented by:

1780 (i) a contract; or

1781 (ii) a share in a water company, as defined in Section 73-3-3.5.

1782 ~~[(78)]~~ (79) "Zoning map" means a map, adopted as part of a land use ordinance, that  
1783 depicts land use zones, overlays, or districts.

1784 Section 16. Section 17-27a-504 is amended to read:

1785 **17-27a-504. Temporary land use regulations.**

1786 (1) (a) ~~[A]~~ Except as provided in Subsection 2(b), a county legislative body may,  
1787 without prior consideration of or recommendation from the planning commission, enact an  
1788 ordinance establishing a temporary land use regulation for any part or all of the area within the  
1789 county if:

1790 (i) the legislative body makes a finding of compelling, countervailing public interest;

1791 or

1792 (ii) the area is unregulated.

1793 (b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate  
1794 the erection, construction, reconstruction, or alteration of any building or structure or any  
1795 subdivision approval.

1796 (c) A temporary land use regulation under Subsection (1)(a) may not impose an impact  
1797 fee or other financial requirement on building or development.

1798 (2) (a) The legislative body shall establish a period of limited effect for the ordinance  
1799 not to exceed [~~six months~~] 180 days.

1800 (b) A county legislative body may not apply the provisions of a temporary land use  
1801 regulation to the review of a specific land use application if the land use application is impaired  
1802 or prohibited by proceedings initiated under Subsection [17-27a-508\(1\)\(a\)\(ii\)\(B\)](#).

1803 (3) (a) A legislative body may, without prior planning commission consideration or  
1804 recommendation, enact an ordinance establishing a temporary land use regulation prohibiting  
1805 construction, subdivision approval, and other development activities within an area that is the  
1806 subject of an Environmental Impact Statement or a Major Investment Study examining the area  
1807 as a proposed highway or transportation corridor.

1808 (b) A regulation under Subsection (3)(a):

1809 (i) may not exceed [~~six months~~] 180 days in duration;

1810 (ii) may be renewed, if requested by the Transportation Commission created under  
1811 Section [72-1-301](#), for up to two additional [~~six-month~~] 180-day periods by ordinance enacted  
1812 before the expiration of the previous regulation; and

1813 (iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the  
1814 Environmental Impact Statement or Major Investment Study is in progress.

1815 Section 17. Section [17-27a-507](#) is amended to read:

1816 **[17-27a-507. Exactions -- Exaction for water interest -- Requirement to offer to](#)**  
1817 **[original owner property acquired by exaction.](#)**

1818 (1) A county may impose an exaction or exactions on development proposed in a land  
1819 use application, including, subject to Subsection (3), an exaction for a water interest, if:

1820 (a) an essential link exists between a legitimate governmental interest and each  
1821 exaction; and

1822 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of  
1823 the proposed development.

1824 (2) If a land use authority imposes an exaction for another governmental entity:

1825 (a) the governmental entity shall request the exaction; and

1826 (b) the land use authority shall transfer the exaction to the governmental entity for

1827 which it was exacted.

1828 (3) (a) (i) A county or, if applicable, the county's culinary water authority shall base any

1829 exaction for a water interest on the culinary water authority's established calculations of

1830 projected water interest requirements.

1831 (ii) Upon an applicant's request, the culinary water authority shall provide the applicant

1832 with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on

1833 which an exaction for a water interest is based.

1834 (b) A county or its culinary water authority may not impose an exaction for a water

1835 interest if the culinary water authority's existing available water interests exceed the water

1836 interests needed to meet the reasonable future water requirement of the public, as determined

1837 under Subsection 73-1-4(2)(f).

1838 (4) (a) If a county plans to dispose of surplus real property under Section 17-50-312

1839 that was acquired under this section and has been owned by the county for less than 15 years,

1840 the county shall first offer to reconvey the property, without receiving additional consideration,

1841 to the person who granted the property to the county.

1842 (b) A person to whom a county offers to reconvey property under Subsection (4)(a) has

1843 90 days to accept or reject the county's offer.

1844 (c) If a person to whom a county offers to reconvey property declines the offer, the

1845 county may offer the property for sale.

1846 (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by

1847 a community development or urban renewal agency.

1848 (5) (a) A county may not, as part of an infrastructure improvement, require the

1849 installation of pavement on a residential roadway at a width in excess of 32 feet.

1850 (b) Subsection (5)(a) does not apply if a county requires the installation of pavement in

1851 excess of 32 feet:

1852 (i) in a vehicle turnaround area;

1853 (ii) in a cul-de-sac;

1854 (iii) to address specific traffic flow constraints at an intersection, mid-block crossings,

1855 or other areas;

1856 (iv) to address an applicable general or master plan improvement, including  
1857 transportation, bicycle lanes, trails or other similar improvements that are not included within  
1858 an impact fee area;

1859 (v) to address traffic flow constraints for service to or abutting higher density  
1860 developments or uses that generate higher traffic volumes, including community centers,  
1861 schools and other similar uses;

1862 (vi) as needed for the installation or location of a utility which is maintained by the  
1863 county and is considered a transmission line or requires additional roadway width;

1864 (vii) for third-party utility lines that have an easement preventing the installation of  
1865 utilities maintained by the county within the roadway;

1866 (viii) for utilities over 12 feet in depth;

1867 (ix) for roadways with a design speed that exceeds 25 miles per hour;

1868 (x) as needed for flood and stormwater routing;

1869 (xi) as needed to meet fire code requirements for parking and hydrants; or

1870 (xii) as needed to accommodate street parking.

1871 (c) Nothing in this section shall be construed to prevent a county from approving a  
1872 road cross section with a pavement width less than 32 feet.

1873 (d) (i) A land use applicant may appeal a municipal requirement for pavement in  
1874 excess of 32 feet on a residential roadway.

1875 (ii) A land use applicant that has appealed a municipal specification for a residential  
1876 roadway pavement width in excess of 32 feet may request that the county assemble a panel of  
1877 qualified experts to serve as the appeal authority for purposes of determining the technical  
1878 aspects of the appeal.

1879 (iii) Unless otherwise agreed by the applicant and the county, the panel described in  
1880 Subsection (5)(d)(ii) shall consist of the following three experts:

1881 (A) one licensed engineer, designated by the county;

1882 (B) one licensed engineer, designated by the land use applicant; and

1883 (C) one licensed engineer, agreed upon and designated by the two designated engineers  
1884 under Subsections (5)(a)(d)(iii)(A) and (B).

1885 (iv) A member of the panel assembled by the county under Subsection (5)(d)(ii) may

1886 not have an interest in the application that is the subject of the appeal.

1887 (v) The land use applicant shall pay:

1888 (A) 50% of the cost of the panel; and

1889 (B) the county's published appeal fee.

1890 (vi) The decision of the panel is a final decision, subject to a petition for review under  
1891 Subsection (5)(d)(vii).

1892 (vii) Pursuant to Section [17-27a-801](#), a land use applicant or the county may file a  
1893 petition for review of the decision with the district court within 30 days after the date that the  
1894 decision is final.

1895 Section 18. Section **17-27a-508** is amended to read:

1896 **17-27a-508. Applicant's entitlement to land use application approval --**  
1897 **Application relating to land in a high priority transportation corridor -- County's**  
1898 **requirements and limitations -- Vesting upon submission of development plan and**  
1899 **schedule.**

1900 (1) (a) (i) An applicant who has submitted a complete land use application, including  
1901 the payment of all application fees, is entitled to substantive review of the application under the  
1902 land use regulations:

1903 (A) in effect on the date that the application is complete; and

1904 (B) applicable to the application or to the information shown on the submitted  
1905 application.

1906 (ii) An applicant is entitled to approval of a land use application if the application  
1907 conforms to the requirements of the applicable land use regulations, land use decisions, and  
1908 development standards in effect when the applicant submits a complete application and pays all  
1909 application fees, unless:

1910 (A) the land use authority, on the record, formally finds that a compelling,  
1911 countervailing public interest would be jeopardized by approving the application and specifies  
1912 the compelling, countervailing public interest in writing; or

1913 (B) in the manner provided by local ordinance and before the applicant submits the  
1914 application, the county formally initiates proceedings to amend the county's land use  
1915 regulations in a manner that would prohibit approval of the application as submitted.

1916 (b) The county shall process an application without regard to proceedings the county

- 1917 initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:
- 1918 (i) 180 days have passed since the county initiated the proceedings; and
- 1919 (ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the
- 1920 application as submitted~~[-]; or~~
- 1921 (B) during the 12 months prior to the county processing the application or multiple
- 1922 applications of the same type, the application is impaired or prohibited under the terms of a
- 1923 temporary land use regulation adopted under Section [17-27a-504](#).
- 1924 (c) A land use application is considered submitted and complete when the applicant
- 1925 provides the application in a form that complies with the requirements of applicable ordinances
- 1926 and pays all applicable fees.
- 1927 (d) The continuing validity of an approval of a land use application is conditioned upon
- 1928 the applicant proceeding after approval to implement the approval with reasonable diligence.
- 1929 (e) A county may not impose on an applicant who has submitted a complete
- 1930 application a requirement that is not expressed in:
- 1931 (i) ~~[in]~~ this chapter;
- 1932 (ii) ~~[in]~~ a county ordinance in effect on the date that the applicant submits a complete
- 1933 application, subject to Subsection [17-27a-508\(1\)\(a\)\(ii\)](#); or
- 1934 (iii) ~~[in]~~ a county specification for public improvements applicable to a subdivision or
- 1935 development that is in effect on the date that the applicant submits an application.
- 1936 (f) A county may not impose on a holder of an issued land use permit or a final,
- 1937 unexpired subdivision plat a requirement that is not expressed:
- 1938 (i) in a land use permit;
- 1939 (ii) on the subdivision plat;
- 1940 (iii) in a document on which the land use permit or subdivision plat is based;
- 1941 (iv) in the written record evidencing approval of the land use permit or subdivision
- 1942 plat;
- 1943 (v) in this chapter; ~~[or]~~
- 1944 (vi) in a county ordinance; or
- 1945 (vii) in a county specification for residential roadways in effect at the time a residential
- 1946 subdivision was approved.
- 1947 (g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a

1948 certificate of occupancy or acceptance of subdivision improvements because of an applicant's  
1949 failure to comply with a requirement that is not expressed:

1950 (i) in the building permit or subdivision plat, documents on which the building permit  
1951 or subdivision plat is based, or the written record evidencing approval of the building permit or  
1952 subdivision plat; or

1953 (ii) in this chapter or the county's ordinances.

1954 (h) A county may not unreasonably withhold issuance of a certificate of occupancy  
1955 where an applicant has met all requirements essential for the public health, public safety, and  
1956 general welfare of the occupants, in accordance with this chapter, unless:

1957 (i) the applicant and the county have agreed in a written document to the withholding  
1958 of a certificate of occupancy; or

1959 (ii) the applicant has not provided a financial assurance for required and uncompleted  
1960 [~~landscaping~~] public landscaping improvements or infrastructure improvements in accordance  
1961 with an applicable ordinance that the legislative body adopts under this chapter.

1962 (2) A county is bound by the terms and standards of applicable land use regulations and  
1963 shall comply with mandatory provisions of those regulations.

1964 (3) A county may not, as a condition of land use application approval, require a person  
1965 filing a land use application to obtain documentation regarding a school district's willingness,  
1966 capacity, or ability to serve the development proposed in the land use application.

1967 (4) Upon a specified public agency's submission of a development plan and schedule as  
1968 required in Subsection [17-27a-305\(8\)](#) that complies with the requirements of that subsection,  
1969 the specified public agency vests in the county's applicable land use maps, zoning map, hookup  
1970 fees, impact fees, other applicable development fees, and land use regulations in effect on the  
1971 date of submission.

1972 (5) (a) If sponsors of a referendum timely challenge a project in accordance with  
1973 Subsection [20A-7-601\(6\)](#), the project's affected owner may rescind the project's land use  
1974 approval by delivering a written notice:

1975 (i) to the local clerk as defined in Section [20A-7-101](#); and

1976 (ii) no later than seven days after the day on which a petition for a referendum is  
1977 determined sufficient under Subsection [20A-7-607\(5\)](#).

1978 (b) Upon delivery of a written notice described in Subsection(5)(a) the following are



1979 rescinded and are of no further force or effect:

1980 (i) the relevant land use approval; and

1981 (ii) any land use regulation enacted specifically in relation to the land use approval.

1982 Section 19. Section **17-27a-528** is amended to read:

1983 **17-27a-528. Development agreements.**

1984 (1) Subject to Subsection (2), a county may enter into a development agreement  
1985 containing any term that the county considers necessary or appropriate to accomplish the  
1986 purposes of this chapter.

1987 (2) (a) A development agreement may not:

1988 (i) limit a county's authority in the future to:

1989 (A) enact a land use regulation; or

1990 (B) take any action allowed under Section [17-53-223](#);

1991 (ii) require a county to change the zoning designation of an area of land within the  
1992 county in the future; or

1993 (iii) [~~contain a term that conflicts with, or is different from, a standard set forth in an~~  
1994 ~~existing land use regulation that governs the area subject to the development agreement~~] allow  
1995 a use or development of land that applicable land use regulations governing the area subject to  
1996 the development agreement would otherwise prohibit, unless the legislative body approves the  
1997 development agreement in accordance with the same procedures for enacting a land use  
1998 regulation under Section [17-27a-502](#), including a review and recommendation from the  
1999 planning commission and a public hearing.

2000 (b) A development agreement that requires the implementation of an existing land use  
2001 regulation as an administrative act does not require a legislative body's approval under Section  
2002 [17-27a-502](#).

2003 [~~(c) A county may not require a development agreement as the only option for~~  
2004 ~~developing land within the county. (d)~~]

2005 (c) (i) If a development agreement restricts an applicant's rights under clearly  
2006 established state law, the county shall disclose in writing to the applicant the rights of the  
2007 applicant the development agreement restricts.

2008 (ii) A county's failure to disclose in accordance with Subsection (2)(c)(i) voids any  
2009 provision in the development agreement pertaining to the undisclosed rights.

2010 (d) A county may not require a development agreement as a condition for developing  
2011 land if the county's land use regulations establish all applicable standards for development on  
2012 the land.

2013 (e) To the extent that a development agreement does not specifically address a matter  
2014 or concern related to land use or development, the matter or concern is governed by:

- 2015 (i) this chapter; and
- 2016 (ii) any applicable land use regulations.

2017 Section 20. Section **17-27a-530** is amended to read:

2018 **17-27a-530. Regulation of building design elements prohibited -- Exceptions.**

2019 (1) As used in this section, "building design element" means:

- 2020 (a) exterior color;
- 2021 (b) type or style of exterior cladding material;
- 2022 (c) style, dimensions, or materials of a roof structure, roof pitch, or porch;
- 2023 (d) exterior nonstructural architectural ornamentation;
- 2024 (e) location, design, placement, or architectural styling of a window or door;
- 2025 (f) location, design, placement, or architectural styling of a garage door, not including a  
2026 rear-loading garage door;
- 2027 (g) number or type of rooms;
- 2028 (h) interior layout of a room;
- 2029 (i) minimum square footage over 1,000 square feet, not including a garage;
- 2030 (j) rear yard landscaping requirements;
- 2031 (k) minimum building dimensions; or
- 2032 (l) a requirement to install front yard fencing.

2033 (2) Except as provided in Subsection (3), a county may not impose a requirement for a  
2034 building design element on a [~~one to two family dwelling~~] one- or two-family dwelling.

2035 (3) Subsection (2) does not apply to:

- 2036 (a) a dwelling located within an area designated as a historic district in:
  - 2037 (i) the National Register of Historic Places;
  - 2038 (ii) the state register as defined in Section 9-8-402; or
  - 2039 (iii) a local historic district or area, or a site designated as a local landmark, created by  
2040 ordinance before January 1, 2021, except as provided under Subsection (4)(b);

2041 (b) an ordinance enacted as a condition for participation in the National Flood  
2042 Insurance Program administered by the Federal Emergency Management Agency;

2043 (c) an ordinance enacted to implement the requirements of the Utah Wildland Urban  
2044 Interface Code adopted under Section 15A-2-103;

2045 (d) building design elements agreed to under a development agreement;

2046 (e) a dwelling located within an area that:

2047 (i) is zoned primarily for residential use; and

2048 (ii) was substantially developed before calendar year 1950;

2049 (f) an ordinance enacted to implement water efficient landscaping in a rear yard;

2050 (g) an ordinance enacted to regulate type of cladding, in response to findings or  
2051 evidence from the construction industry of:

2052 (i) defects in the material of existing cladding; or

2053 (ii) consistent defects in the installation of existing cladding; or

2054 (h) a land use regulation, including a planned unit development or overlay zone, that a  
2055 property owner requests:

2056 (i) the county to apply to the owner's property; and

2057 (ii) in exchange for an increase in density or other benefit not otherwise available as a  
2058 permitted use in the zoning area or district.

2059 Section 21. Section 17-27a-604.5 is amended to read:

2060 **17-27a-604.5. Subdivision plat recording or development activity before required**  
2061 **infrastructure is completed -- Improvement completion assurance -- Improvement**  
2062 **warranty.**

2063 (1) As used in this section, "public landscaping improvement" means landscaping that  
2064 an applicant is required to install to comply with published installation and inspection  
2065 specifications for public improvements that:

2066 (a) will be dedicated to and maintained by the county; or

2067 (b) are associated with and proximate to trail improvements that connect to planned or  
2068 existing public infrastructure

2069 (2) A land use authority shall establish objective inspection standards for acceptance of  
2070 a required [~~landscaping~~] public landscaping improvement or infrastructure improvement.

2071 [~~2~~] (3) (a) Before an applicant conducts any development activity or records a plat,

2072 the applicant shall:

2073 (i) complete any required [~~landscaping~~] public landscaping improvements or  
2074 infrastructure improvements; or

2075 (ii) post an improvement completion assurance for any required [~~landscaping~~] public  
2076 landscaping improvements or infrastructure improvements.

2077 (b) If an applicant elects to post an improvement completion assurance, the applicant  
2078 shall provide completion assurance for:

2079 (i) completion of 100% of the required [~~landscaping~~] public landscaping improvements  
2080 or infrastructure improvements; or

2081 (ii) if the county has inspected and accepted a portion of the [~~landscaping~~] public  
2082 landscaping improvements or infrastructure improvements, 100% of the incomplete or  
2083 unaccepted [~~landscaping~~] public landscaping improvements or infrastructure improvements.

2084 (c) A county shall:

2085 (i) establish a minimum of two acceptable forms of completion assurance;

2086 (ii) if an applicant elects to post an improvement completion assurance, allow the  
2087 applicant to post an assurance that meets the conditions of this title, and any local ordinances;

2088 (iii) establish a system for the partial release of an improvement completion assurance  
2089 as portions of required [~~landscaping~~] public landscaping improvements or infrastructure  
2090 improvements are completed and accepted in accordance with local ordinance; and

2091 (iv) issue or deny a building permit in accordance with Section 17-27a-802 based on  
2092 the installation of [~~landscaping~~] public landscaping improvements or infrastructure  
2093 improvements.

2094 (d) A county may not require an applicant to post an improvement completion  
2095 assurance for:

2096 (i) [~~landscaping or an infrastructure improvement~~] public landscaping improvements or  
2097 infrastructure improvements that the county has previously inspected and accepted;

2098 (ii) infrastructure improvements that are private and not essential or required to meet  
2099 the building code, fire code, flood or storm water management provisions, street and access  
2100 requirements, or other essential necessary public safety improvements adopted in a land use  
2101 regulation; or

2102 (iii) in a county where ordinances require all infrastructure improvements within the

2103 area to be private, infrastructure improvements within a development that the county requires  
2104 to be private[-];

2105 (iv) landscaping improvements that are not public landscaping improvements, as  
2106 defined in Section 17-27a-103, unless the landscaping improvements and completion assurance  
2107 are required under the terms of a development agreement.

2108 (4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or  
2109 other entitlement benefit not currently available under the existing zone, a county may require a  
2110 completion assurance bond for landscaped amenities and common area that are dedicated to  
2111 and maintained by a homeowners association.

2112 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)  
2113 between the applicant and the county shall be memorialized in a development agreement.

2114 (c) A county may not require a completion assurance bond for the landscaping of  
2115 residential lots or the equivalent open space surrounding single family attached homes, whether  
2116 platted as lots or common area.

2117 (5) The sum of the improvement completion assurance required under Subsections (3)  
2118 and (4) may not exceed the sum of:

2119 (a) 100% of the estimated cost of the public landscaping improvements or  
2120 infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's  
2121 bid; and

2122 (b) 10% of the amount of the bond to cover administrative costs incurred by the county  
2123 to complete the improvements, if necessary.

2124 ~~[(3)]~~ (6) At any time before a county accepts a [~~landscaping~~] public landscaping  
2125 improvement or infrastructure improvement, and for the duration of each improvement  
2126 warranty period, the land use authority may require the applicant to:

2127 (a) execute an improvement warranty for the improvement warranty period; and

2128 (b) post a cash deposit, surety bond, letter of credit, or other similar security, as  
2129 required by the county, in the amount of up to 10% of the lesser of the:

2130 (i) county engineer's original estimated cost of completion; or

2131 (ii) applicant's reasonable proven cost of completion.

2132 ~~[(4)]~~ (7) When a county accepts an improvement completion assurance for  
2133 [~~landscaping~~] public landscaping improvements or infrastructure improvements for a

2134 development in accordance with [~~Subsection (2)(c)(ii)] Subsection (3)(c)(ii), the county may  
2135 not deny an applicant a building permit if the development meets the requirements for the  
2136 issuance of a building permit under the building code and fire code.~~

2137 [~~5~~] (8) The provisions of this section do not supersede the terms of a valid  
2138 development agreement, an adopted phasing plan, or the state construction code.