

None
Utah Code Sections Affected:
AMENDS:
10-2-401, as last amended by Laws of Utah 2021, Chapter 112
10-2-402, as last amended by Laws of Utah 2021, Chapter 112
10-2-403, as last amended by Laws of Utah 2021, Chapter 112
10-2-407, as last amended by Laws of Utah 2022, Chapter 355
10-2-408, as last amended by Laws of Utah 2021, Chapter 112
10-2-416, as last amended by Laws of Utah 2015, Chapter 352
10-9a-103, as last amended by Laws of Utah 2022, Chapters 355, 406
10-9a-504, as renumbered and amended by Laws of Utah 2005, Chapter 254
10-9a-508, as last amended by Laws of Utah 2016, Chapter 350
10-9a-509, as last amended by Laws of Utah 2022, Chapters 325, 355 and 406
10-9a-532, as enacted by Laws of Utah 2021, Chapter 385
10-9a-534, as enacted by Laws of Utah 2021, First Special Session, Chapter 3
10-9a-604.5, as last amended by Laws of Utah 2019, Chapter 384
17-27a-103, as last amended by Laws of Utah 2022, Chapter 406
17-27a-504, as renumbered and amended by Laws of Utah 2005, Chapter 254
17-27a-507, as last amended by Laws of Utah 2013, Chapter 309
17-27a-508, as last amended by Laws of Utah 2022, Chapters 325, 355 and 406
17-27a-528, as enacted by Laws of Utah 2021, Chapter 385
17-27a-530, as enacted by Laws of Utah 2021, First Special Session, Chapter 3
17-27a-604.5, as last amended by Laws of Utah 2020, Chapter 354
Be it enacted by the Legislature of the state of Utah:
Section 1. Section 10-2-401 is amended to read:
10-2-401. Definitions Property owner provisions.
(1) As used in this part:
(a) "Affected entity" means:
(i) a county of the first or second class in whose unincorporated area the area proposed
for annexation is located;

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

- (iii) a local district under Title 17B, Limited Purpose Local Government Entities -Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, whose boundary includes any part of an area proposed for annexation;
- (iv) a school district whose boundary includes any part of an area proposed for annexation, if the boundary is proposed to be adjusted as a result of the annexation; and
- (v) a municipality whose boundaries are within 1/2 mile of an area proposed for annexation.
- (b) "Annexation petition" means a petition under Section 10-2-403 proposing the annexation to a municipality of a contiguous, unincorporated area that is contiguous to the municipality.
- (c) "Commission" means a boundary commission established under Section 10-2-409 for the county in which the property that is proposed for annexation is located.
- (d) "Expansion area" means the unincorporated area that is identified in an annexation policy plan under Section 10-2-401.5 as the area that the municipality anticipates annexing in the future.
- (e) "Feasibility consultant" means a person or firm with expertise in the processes and economics of local government.
- (f) "Mining protection area" means the same as that term is defined in Section 17-41-101.
- (g) "Municipal selection committee" means a committee in each county composed of the mayor of each municipality within that county.
- (h) "Planning advisory area" means the same as that term is defined in Section 17-27a-306.
- (i) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, a municipality, a school district, a local district under Title 17B, Limited Purpose Local Government Entities Local Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision or governmental entity of the state.

88	(j) (i) "Rural real property" means [the same as that term is defined in Section
89	17B-2a-1107.] a group of contiguous tax parcels, or a single tax parcel, that:
90	(A) are under common ownership;
91	(B) consist of no less than 1,000 total acres;
92	(C) are zoned for manufacturing or agricultural purposes; and
93	(D) do not have a residential unit density greater than one unit per acre.
94	(ii) "Rural real property" includes any portion of private real property, if the private
95	real property:
96	(A) qualifies as rural real property under Subsection (1)(j)(i); and
97	(B) consists of more than 1,500 total acres.
98	(k) "Specified county" means a county of the second, third, fourth, fifth, or sixth class.
99	(l) "Unincorporated peninsula" means an unincorporated area:
100	(i) that is part of a larger unincorporated area;
101	(ii) that extends from the rest of the unincorporated area of which it is a part;
102	(iii) that is surrounded by land that is within a municipality, except where the area
103	connects to and extends from the rest of the unincorporated area of which it is a part; and
104	(iv) whose width, at any point where a straight line may be drawn from a place where it
105	borders a municipality to another place where it borders a municipality, is no more than 25% of
106	the boundary of the area where it borders a municipality.
107	(m) "Urban development" means:
108	(i) a housing development with more than 15 residential units and an average density
109	greater than one residential unit per acre; or
110	(ii) a commercial or industrial development for which cost projections exceed
111	\$750,000 for all phases.
112	(2) For purposes of this part:
113	(a) the owner of real property shall be:
114	(i) except as provided in Subsection (2)(a)(ii), the record title owner according to the
115	records of the county recorder on the date of the filing of the petition or protest; or
116	(ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed
117	for annexation includes military land that is within a project area described in a project area
118	plan adopted by the military installation development authority under Title 63H, Chapter 1,

119	Military Installation Development Authority Act; and
120	(b) the value of private real property shall be determined according to the last
121	assessment roll for county taxes before the filing of the petition or protest.
122	(3) For purposes of each provision of this part that requires the owners of private real
123	property covering a percentage or majority of the total private land area within an area to sign a
124	petition or protest:
125	(a) a parcel of real property may not be included in the calculation of the required
126	percentage or majority unless the petition or protest is signed by:
127	(i) except as provided in Subsection (3)(a)(ii), owners representing a majority
128	ownership interest in that parcel; or
129	(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number
130	of owners of that parcel;
131	(b) the signature of a person signing a petition or protest in a representative capacity on
132	behalf of an owner is invalid unless:
133	(i) the person's representative capacity and the name of the owner the person represents
134	are indicated on the petition or protest with the person's signature; and
135	(ii) the person provides documentation accompanying the petition or protest that
136	substantiates the person's representative capacity; and
137	(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a
138	petition or protest on behalf of a deceased owner.
139	Section 2. Section 10-2-402 is amended to read:
140	10-2-402. Annexation Limitations.
141	(1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be
142	annexed to the municipality as provided in this part.
143	(b) Except as provided in Subsection (1)(c), an unincorporated area may not be
144	annexed to a municipality unless:
145	(i) the unincorporated area is a contiguous area;
146	(ii) the unincorporated area is contiguous to the municipality;
147	(iii) annexation will not leave or create an unincorporated island or unincorporated
148	peninsula:
149	(A) except as provided in Subsection 10-2-418(3);

150 (B) except where an unincorporated island or peninsula existed before the annexation, 151 if the annexation will reduce the size of the unincorporated island or peninsula; or 152 [(B)] (C) unless the county and municipality have otherwise agreed; and 153 (iv) for an area located in a specified county, the area is within the proposed annexing 154 municipality's expansion area. 155 (c) A municipality may annex an unincorporated area within a specified county that 156 does not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated 157 island or unincorporated peninsula, if: 158 (i) the area is within the annexing municipality's expansion area; 159 (ii) the specified county in which the area is located and the annexing municipality 160 agree to the annexation; 161 (iii) the area is not within the area of another municipality's annexation policy plan, 162 unless the other municipality agrees to the annexation; and (iv) the annexation is for the purpose of providing municipal services to the area. 163 (2) Except as provided in Section 10-2-418, a municipality may not annex an 164 165 unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation. 166 (3) (a) An annexation under this part may not include part of a parcel of real property 167 and exclude part of that same parcel unless the owner of that parcel has signed the annexation 168 petition under Section 10-2-403. 169 (b) A piece of real property that has more than one parcel number is considered to be a 170 single parcel for purposes of Subsection (3)(a) if owned by the same owner. (4) A municipality may not annex an unincorporated area in a specified county for the 171 172 sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the 173 174 annexed area by providing municipal services to the annexed area. 175 (5) (a) As used in this subsection, "expansion area urban development" means: 176 (i) for a specified county, urban development within a city or town's expansion area; or 177 (ii) for a county of the first class, urban development within a city or town's expansion 178 area that: 179 (A) consists of 50 or more acres;

(B) requires the county to change the zoning designation of the land on which the

urban development is located; and

- (C) does not include commercial or industrial development that is located within a mining protection area as defined in Section 17-41-101, regardless of whether the commercial or industrial development is for a mining use as defined in Section 17-41-101.
- (b) A county legislative body may not approve expansion area urban development unless:
 - (i) the county notifies the city or town of the proposed development; and
 - (ii) (A) the city or town consents in writing to the development;
- (B) within 90 days after the county's notification of the proposed development, the city or town submits to the county a written objection to the county's approval of the proposed development and the county responds in writing to the city or town's objection; or
- (C) the city or town fails to respond to the county's notification of the proposed development within 90 days after the day on which the county provides the notice.
- (6) (a) As used in this Subsection (6), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.
- (b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation.
- (c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection (6)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.
- (7) (a) As used in this Subsection (7), "project area" means a project area as defined in Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act.
- (b) A municipality may not annex an unincorporated area located within a project area without the authority's approval.

212	(c) (i) Except as provided in Subsection (7)(c)(ii), the Military Installation
213	Development Authority may petition for annexation of the following areas to a municipality as
214	if the Military Installation Development Authority was the sole private property owner within
215	the area:
216	(A) an area within a project area;
217	(B) an area that is contiguous to a project area and within the boundaries of a military
218	installation;
219	(C) an area owned by the Military Installation Development Authority; and
220	(D) an area that is contiguous to an area owned by the Military Installation
221	Development Authority that the Military Installation Development Authority plans to add to an
222	existing project area.
223	(ii) If any portion of an area annexed under a petition for annexation filed by the
224	Military Installation Development Authority is located in a specified county:
225	(A) the annexation process shall follow the requirements for a specified county; and
226	(B) the provisions of Section 10-2-402.5 do not apply.
227	(8) A municipality may not annex an unincorporated area if:
228	(a) the area is proposed for incorporation in:
229	(i) a feasibility study conducted under Section 10-2a-205; or
230	(ii) a supplemental feasibility study conducted under Section 10-2a-206;
231	(b) the lieutenant governor completes the first public hearing on the proposed
232	incorporation under Subsection 10-2a-207(4); and
233	(c) the time period for a specified landowner, as defined in Section 10-2a-203, to
234	request that the lieutenant governor exclude the specified landowner's property from the
235	proposed incorporation under Subsection 10-2a-207(5)(a) has expired.
236	Section 3. Section 10-2-403 is amended to read:
237	10-2-403. Annexation petition Requirements Notice required before filing.
238	(1) Except as provided in Section 10-2-418, the process to annex an unincorporated
239	area to a municipality is initiated by a petition as provided in this section.
240	(2) (a) (i) Before filing a petition under Subsection (1), the person or persons intending
241	to file a petition shall:
242	(A) file with the city recorder or town clerk of the proposed annexing municipality a

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243 notice of intent to file a petition; and 244 (B) send a copy of the notice of intent to each affected entity. 245 (ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the 246 area that is proposed to be annexed. 247 (b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be 248 annexed is located shall: 249 (A) mail the notice described in Subsection (2)(b)(iii) to: 250 (I) each owner of real property located within the area proposed to be annexed; and 251 (II) each owner of real property located within 300 feet of the area proposed to be 252 annexed; and 253 (B) send to the proposed annexing municipality a copy of the notice and a certificate 254 indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A). 255 (ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent: 256 257 (A) a written request to mail the required notice; and 258 (B) payment of an amount equal to the county's expected actual cost of mailing the 259 notice. 260 (iii) Each notice required under Subsection (2)(b)(i)(A) shall: 261 (A) be in writing; (B) state, in bold and conspicuous terms, substantially the following: 262 263 "Attention: Your property may be affected by a proposed annexation." 264 Records show that you own property within an area that is intended to be included in a 265 proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be 266 267 asked to sign a petition supporting the annexation. You may choose whether to sign the 268 petition. By signing the petition, you indicate your support of the proposed annexation. If you 269 sign the petition but later change your mind about supporting the annexation, you may 270 withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk

There will be no public election on the proposed annexation because Utah law does not

of (state the name of the proposed annexing municipality) within 30 days after (state the name

of the proposed annexing municipality) receives notice that the petition has been certified.

provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

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

- (C) be accompanied by an accurate map identifying the area proposed for annexation.
- (iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.
- (c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.
- (ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.
 - (3) Each petition under Subsection (1) shall:
- (a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;
- (b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:
 - (i) is located within the area proposed for annexation;

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

(4) A petition under Subsection (1) may not propose the annexation of all or part of an

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private real property that:

annexation;

- 336 area proposed for annexation to a municipality in a previously filed petition that has not been 337 denied, rejected, or granted. 338 (5) If practicable and feasible, the boundaries of an area proposed for annexation shall 339 be drawn: 340 (a) along the boundaries of existing local districts and special service districts for 341 sewer, water, and other services, along the boundaries of school districts whose boundaries 342 follow city boundaries or school districts adjacent to school districts whose boundaries follow 343 city boundaries, and along the boundaries of other taxing entities: 344 (b) to eliminate islands and peninsulas of territory that is not receiving municipal-type 345 services; 346 (c) to facilitate the consolidation of overlapping functions of local government; 347 (d) to promote the efficient delivery of services; and 348 (e) to encourage the equitable distribution of community resources and obligations. (6) On the date of filing, the petition sponsors shall deliver or mail a copy of the 349 350 petition to the clerk of the county in which the area proposed for annexation is located. 351 (7) A property owner who signs an annexation petition may withdraw the owner's 352 signature by filing a written withdrawal, signed by the property owner, with the city recorder or 353 town clerk no later than 30 days after the municipal legislative body's receipt of the notice of 354 certification under Subsection 10-2-405(2)(c)(i). 355 Section 4. Section 10-2-407 is amended to read: 356 10-2-407. Protest to annexation petition -- Planning advisory area planning 357 commission recommendation -- Petition requirements -- Disposition of petition if no 358 protest filed. 359 (1) A protest to an annexation petition under Section 10-2-403 may only be filed by: 360 (a) the legislative body or governing board of an affected entity; 361 (b) an owner of rural real property located within the area proposed for annexation; 362 (c) for a proposed annexation of an area within a county of the first class, an owner of
 - (ii) covers at least 25% of the private land area located in the unincorporated area

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

307	within 1/2 infle of the area proposed for annexation, and
368	(iii) is equal in value to at least 15% of all real property located in the unincorporated
369	area within 1/2 mile of the area proposed for annexation; or
370	(d) an owner of private real property located in a mining protection area.
371	(2) Each protest under Subsection (1) shall:
372	(a) be filed:
373	(i) no later than 30 days after the municipal legislative body's receipt of the notice of
374	certification under Subsection 10-2-405(2)(c)(i); and
375	(ii) (A) in a county that has already created a commission under Section 10-2-409, with
376	the commission; or
377	(B) in a county that has not yet created a commission under Section 10-2-409, with the
378	clerk of the county in which the area proposed for annexation is located;
379	(b) state each reason for the protest of the annexation petition and, if the area proposed
380	to be annexed is located in a specified county, justification for the protest under the standards
381	established in this chapter;
382	(c) if the area proposed to be annexed is located in a specified county, contain other
383	information that the commission by rule requires or that the party filing the protest considers
384	pertinent; and
385	(d) contain the name and address of a contact person who is to receive notices sent by
386	the commission with respect to the protest proceedings.
387	(3) The party filing a protest under this section shall on the same date deliver or mail a
388	copy of the protest to the city recorder or town clerk of the proposed annexing municipality.
389	(4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:
390	(a) immediately notify the county legislative body of the protest; and
391	(b) deliver the protest to the boundary commission within five days after:
392	(i) receipt of the protest, if the boundary commission has previously been created; or
393	(ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the
394	boundary commission has not previously been created.
395	(5) (a) If a protest is filed under this section:
396	(i) the municipal legislative body may, at its next regular meeting after expiration of
397	the deadline under Subsection (2)(a)(i), deny the annexation petition; or

- (ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.
- (b) If a municipal legislative body denies an annexation petition under Subsection (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:
 - (i) the contact sponsor of the annexation petition;
 - (ii) the commission; and
 - (iii) each entity that filed a protest.
- (6) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (7), approve the petition.
- (7) Before approving an annexation petition under Subsection (6), the municipal legislative body shall hold a public hearing and provide notice of the public hearing:
- (a) (i) at least seven days before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the municipality and the area proposed for annexation, in places within that combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or
- (ii) at least 10 days before the day of the public hearing, by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (7)(a)(i);
- (b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the public hearing; and
- (c) if the municipality has a website, by posting notice on the municipality's website for seven days before the day of the public hearing.
- (8) (a) Subject to Subsection (8)(b), only a person or entity that is described in Subsection (1) has standing to challenge an annexation in district court.
- (b) A person or entity described in Subsection (1) may only bring an action in district court to challenge an annexation if the person or entity has timely filed a protest as described in Subsection (2) and exhausted the administrative remedies described in this section.

429	Section 5. Section 10-2-408 is amended to read:
430	10-2-408. Denying or approving the annexation petition Notice of approval.
431	(1) After receipt of the commission's decision on a protest under Subsection
432	10-2-416(2), a municipal legislative body may:
433	(a) deny the annexation petition; or
434	(b) subject to Subsection (2), if the commission approves the annexation, approve the
435	annexation petition consistent with the commission's decision.
436	(2) A municipal legislative body shall exclude from the annexed area:
437	(a) rural real property, unless the owner of the rural real property <u>has signed the</u>
438	petition for annexation or gives written consent to include the rural real property; and
439	(b) private real property located in a mining protection area, unless the owner of the
440	private real property gives written consent to include the private real property.
441	Section 6. Section 10-2-416 is amended to read:
442	10-2-416. Commission decision Time limit Limitation on approval of
443	annexation.
444	(1) (a) Subject to [Subsection (3)] Subsections (1)(b) and (3), after the public hearing
445	under Subsection 10-2-415(1) the boundary commission may:
446	[(a)] (i) approve the proposed annexation, either with or without conditions;
447	[(b)] (ii) make minor modifications to the proposed annexation and approve it, either
448	with or without conditions; or
449	[(c)] (iii) disapprove the proposed annexation.
450	(b) If a legislative body or governing board of an affected entity files a timely protest to
451	the annexation petition in accordance with Section 10-2-407, the boundary commission, in
452	making a decision under Subsection (1)(a), shall consider and weigh the preferences, to the
453	extent made known during the boundary commission's proceedings, of:
454	(i) the person or persons who submitted the annexation petition; and
455	(ii) any property owner who has timely filed a protest in accordance with Section
456	<u>10-2-407.</u>
457	(2) The commission shall issue a written decision on the proposed annexation within
458	30 days after the conclusion of the hearing under Section 10-2-415 and shall send a copy of the
459	decision to:

460 (a) the legislative body of the county in which the area proposed for annexation is 461 located; 462 (b) the legislative body of the proposed annexing municipality: 463 (c) the contact person on the annexation petition; 464 (d) the contact person of each entity that filed a protest; and 465 (e) if a protest was filed under Subsection 10-2-407(1)(c) with respect to a proposed 466 annexation of an area located in a county of the first class, the contact person designated in the 467 protest. 468 (3) Except for an annexation for which a feasibility study may not be required under 469 Subsection 10-2-413(1)(b), the commission may not approve a proposed annexation of an area 470 located within a county of the first class unless the results of the feasibility study under Section 471 10-2-413 show that the average annual amount under Subsection 10-2-413(3)(a)(ix) does not 472 exceed the average annual amount under Subsection 10-2-413(3)(a)(viii) by more than 5%. 473 Section 7. Section 10-9a-103 is amended to read: 474 10-9a-103. Definitions. 475 As used in this chapter: 476 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or 477 detached from a primary single-family dwelling and contained on one lot. 478 (2) "Adversely affected party" means a person other than a land use applicant who: 479 (a) owns real property adjoining the property that is the subject of a land use application or land use decision; or 480 481 (b) will suffer a damage different in kind than, or an injury distinct from, that of the 482 general community as a result of the land use decision. 483 (3) "Affected entity" means a county, municipality, local district, special service 484 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal 485 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified 486 public utility, property owner, property owners association, or the Utah Department of 487 Transportation, if: 488 (a) the entity's services or facilities are likely to require expansion or significant 489 modification because of an intended use of land;

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

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491	plan; or
492	(c) the entity has filed with the municipality a request for notice during the same
493	calendar year and before the municipality provides notice to an affected entity in compliance
494	with a requirement imposed under this chapter.
495	(4) "Affected owner" means the owner of real property that is:
496	(a) a single project;
497	(b) the subject of a land use approval that sponsors of a referendum timely challenged
498	in accordance with Subsection 20A-7-601(6); and
499	(c) determined to be legally referable under Section 20A-7-602.8.
500	(5) "Appeal authority" means the person, board, commission, agency, or other body
501	designated by ordinance to decide an appeal of a decision of a land use application or a
502	variance.
503	(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
504	residential property if the sign is designed or intended to direct attention to a business, product,
505	or service that is not sold, offered, or existing on the property where the sign is located.
506	(7) (a) "Charter school" means:
507	(i) an operating charter school;
508	(ii) a charter school applicant that a charter school authorizer approves in accordance
509	with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
510	(iii) an entity that is working on behalf of a charter school or approved charter
511	applicant to develop or construct a charter school building.
512	(b) "Charter school" does not include a therapeutic school.
513	(8) "Conditional use" means a land use that, because of the unique characteristics or
514	potential impact of the land use on the municipality, surrounding neighbors, or adjacent land
515	uses, may not be compatible in some areas or may be compatible only if certain conditions are
516	required that mitigate or eliminate the detrimental impacts.
517	(9) "Constitutional taking" means a governmental action that results in a taking of
518	private property so that compensation to the owner of the property is required by the:
519	(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(10) "Culinary water authority" means the department, agency, or public entity with

(b) Utah Constitution Article I, Section 22.

522	responsibility to review and approve the feasibility of the culinary water system and sources for
523	the subject property.
524	(11) "Development activity" means:
525	(a) any construction or expansion of a building, structure, or use that creates additional
526	demand and need for public facilities;
527	(b) any change in use of a building or structure that creates additional demand and need
528	for public facilities; or
529	(c) any change in the use of land that creates additional demand and need for public
530	facilities.
531	(12) (a) "Development agreement" means a written agreement or amendment to a
532	written agreement between a municipality and one or more parties that regulates or controls the
533	use or development of a specific area of land.
534	(b) "Development agreement" does not include an improvement completion assurance.
535	(13) (a) "Disability" means a physical or mental impairment that substantially limits
536	one or more of a person's major life activities, including a person having a record of such an
537	impairment or being regarded as having such an impairment.
538	(b) "Disability" does not include current illegal use of, or addiction to, any federally
539	controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
540	802.
541	(14) "Educational facility":
542	(a) means:
543	(i) a school district's building at which pupils assemble to receive instruction in a
544	program for any combination of grades from preschool through grade 12, including
545	kindergarten and a program for children with disabilities;
546	(ii) a structure or facility:
547	(A) located on the same property as a building described in Subsection (14)(a)(i); and
548	(B) used in support of the use of that building; and
549	(iii) a building to provide office and related space to a school district's administrative
550	personnel; and
551	(b) does not include:
552	(i) land or a structure, including land or a structure for inventory storage, equipment

553	storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
554	(A) not located on the same property as a building described in Subsection (14)(a)(i);
555	and
556	(B) used in support of the purposes of a building described in Subsection (14)(a)(i); or
557	(ii) a therapeutic school.
558	(15) "Fire authority" means the department, agency, or public entity with responsibility
559	to review and approve the feasibility of fire protection and suppression services for the subject
560	property.
561	(16) "Flood plain" means land that:
562	(a) is within the 100-year flood plain designated by the Federal Emergency
563	Management Agency; or
564	(b) has not been studied or designated by the Federal Emergency Management Agency
565	but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
566	the land has characteristics that are similar to those of a 100-year flood plain designated by the
567	Federal Emergency Management Agency.
568	(17) "General plan" means a document that a municipality adopts that sets forth genera
569	guidelines for proposed future development of the land within the municipality.
570	(18) "Geologic hazard" means:
571	(a) a surface fault rupture;
572	(b) shallow groundwater;
573	(c) liquefaction;
574	(d) a landslide;
575	(e) a debris flow;
576	(f) unstable soil;
577	(g) a rock fall; or
578	(h) any other geologic condition that presents a risk:
579	(i) to life;
580	(ii) of substantial loss of real property; or
581	(iii) of substantial damage to real property.
582	(19) "Historic preservation authority" means a person, board, commission, or other
583	body designated by a legislative body to:

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workmanship; and

584 (a) recommend land use regulations to preserve local historic districts or areas; and 585 (b) administer local historic preservation land use regulations within a local historic 586 district or area. 587 (20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, 588 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other 589 utility system. 590 (21) "Identical plans" means building plans submitted to a municipality that: 591 (a) are clearly marked as "identical plans": 592 (b) are substantially identical to building plans that were previously submitted to and 593 reviewed and approved by the municipality; and 594 (c) describe a building that: 595 (i) is located on land zoned the same as the land on which the building described in the 596 previously approved plans is located: 597 (ii) is subject to the same geological and meteorological conditions and the same law 598 as the building described in the previously approved plans; 599 (iii) has a floor plan identical to the building plan previously submitted to and reviewed 600 and approved by the municipality; and 601 (iv) does not require any additional engineering or analysis. 602 (22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, 603 Impact Fees Act. (23) "Improvement completion assurance" means a surety bond, letter of credit, 604 605 financial institution bond, cash, assignment of rights, lien, or other equivalent security required 606 by a municipality to guaranty the proper completion of landscaping or an infrastructure 607 improvement required as a condition precedent to: 608 (a) recording a subdivision plat; or 609 (b) development of a commercial, industrial, mixed use, or multifamily project. 610 (24) "Improvement warranty" means an applicant's unconditional warranty that the 611 applicant's installed and accepted landscaping or infrastructure improvement: 612 (a) complies with the municipality's written standards for design, materials, and

(b) will not fail in any material respect, as a result of poor workmanship or materials,

615	within the improvement warranty period.
616	(25) "Improvement warranty period" means a period:
617	(a) no later than one year after a municipality's acceptance of required landscaping; or
618	(b) no later than one year after a municipality's acceptance of required infrastructure,
619	unless the municipality:
620	(i) determines for good cause that a one-year period would be inadequate to protect the
621	public health, safety, and welfare; and
622	(ii) has substantial evidence, on record:
623	(A) of prior poor performance by the applicant; or
624	(B) that the area upon which the infrastructure will be constructed contains suspect soil
625	and the municipality has not otherwise required the applicant to mitigate the suspect soil.
626	(26) "Infrastructure improvement" means permanent infrastructure that is essential for
627	the public health and safety or that:
628	(a) is required for human occupation; and
629	(b) an applicant must install:
630	(i) in accordance with published installation and inspection specifications for public
631	improvements; and
632	(ii) whether the improvement is public or private, as a condition of:
633	(A) recording a subdivision plat;
634	(B) obtaining a building permit; or
635	(C) development of a commercial, industrial, mixed use, condominium, or multifamily
636	project.
637	(27) "Internal lot restriction" means a platted note, platted demarcation, or platted
638	designation that:
639	(a) runs with the land; and
640	(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
641	the plat; or
642	(ii) designates a development condition that is enclosed within the perimeter of a lot
643	described on the plat.
644	(28) "Land use applicant" means a property owner, or the property owner's designee,
645	who submits a land use application regarding the property owner's land.

646	(29) "Land use application":
647	(a) means an application that is:
648	(i) required by a municipality; and
649	(ii) submitted by a land use applicant to obtain a land use decision; and
650	(b) does not mean an application to enact, amend, or repeal a land use regulation.
651	(30) "Land use authority" means:
652	(a) a person, board, commission, agency, or body, including the local legislative body,
653	designated by the local legislative body to act upon a land use application; or
654	(b) if the local legislative body has not designated a person, board, commission,
655	agency, or body, the local legislative body.
656	(31) "Land use decision" means an administrative decision of a land use authority or
657	appeal authority regarding:
658	(a) a land use permit; or
659	(b) a land use application.
660	(32) "Land use permit" means a permit issued by a land use authority.
661	(33) "Land use regulation":
662	(a) means a legislative decision enacted by ordinance, law, code, map, resolution,
663	specification, fee, or rule that governs the use or development of land;
664	(b) includes the adoption or amendment of a zoning map or the text of the zoning code;
665	and
666	(c) does not include:
667	(i) a land use decision of the legislative body acting as the land use authority, even if
668	the decision is expressed in a resolution or ordinance; or
669	(ii) a temporary revision to an engineering specification that does not materially:
670	(A) increase a land use applicant's cost of development compared to the existing
671	specification; or
672	(B) impact a land use applicant's use of land.
673	(34) "Legislative body" means the municipal council.
674	(35) "Local district" means an entity under Title 17B, Limited Purpose Local
675	Government Entities - Local Districts, and any other governmental or quasi-governmental
676	entity that is not a county, municipality, school district, or the state.

677	(36) "Local historic district or area" means a geographically definable area that:
678	(a) contains any combination of buildings, structures, sites, objects, landscape features,
679	archeological sites, or works of art that contribute to the historic preservation goals of a
680	legislative body; and
681	(b) is subject to land use regulations to preserve the historic significance of the local
682	historic district or area.
683	(37) "Lot" means a tract of land, regardless of any label, that is created by and shown
684	on a subdivision plat that has been recorded in the office of the county recorder.
685	(38) (a) "Lot line adjustment" means a relocation of a lot line boundary between
686	adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:
687	(i) whether or not the lots are located in the same subdivision; and
688	(ii) with the consent of the owners of record.
689	(b) "Lot line adjustment" does not mean a new boundary line that:
690	(i) creates an additional lot; or
691	(ii) constitutes a subdivision or a subdivision amendment.
692	(c) "Lot line adjustment" does not include a boundary line adjustment made by the
693	Department of Transportation.
694	(39) "Major transit investment corridor" means public transit service that uses or
695	occupies:
696	(a) public transit rail right-of-way;
697	(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;
698	or
699	(c) fixed-route bus corridors subject to an interlocal agreement or contract between a
700	municipality or county and:
701	(i) a public transit district as defined in Section 17B-2a-802; or
702	(ii) an eligible political subdivision as defined in Section 59-12-2219.
703	(40) "Moderate income housing" means housing occupied or reserved for occupancy
704	by households with a gross household income equal to or less than 80% of the median gross
705	income for households of the same size in the county in which the city is located.
706	(41) "Municipal utility easement" means an easement that:
707	(a) is created or depicted on a plat recorded in a county recorder's office and is

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- described as a municipal utility easement granted for public use;
- 709 (b) is not a protected utility easement or a public utility easement as defined in Section 710 54-3-27;
 - (c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;
 - (d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;
 - (e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and
 - (ii) is located in a utility easement granted for public use; or
 - (f) is described in Section 10-9a-529 and is used by a specified public utility.
- 720 (42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time 721 spent and expenses incurred in:
 - (a) verifying that building plans are identical plans; and
 - (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.
 - (43) "Noncomplying structure" means a structure that:
 - (a) legally existed before the structure's current land use designation; and
 - (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.
 - (44) "Nonconforming use" means a use of land that:
 - (a) legally existed before its current land use designation;
 - (b) has been maintained continuously since the time the land use ordinance governing the land changed; and
 - (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.
 - (45) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:
 - (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for

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moderate income housing.

- 739 highways and other transportation facilities; 740 (b) provides a basis for restricting development in designated rights-of-way or between 741 designated setbacks to allow the government authorities time to purchase or otherwise reserve 742 the land; and 743 (c) has been adopted as an element of the municipality's general plan. 744 (46) "Parcel" means any real property that is not a lot. 745 (47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of 746 adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line 747 agreement in accordance with Section 10-9a-524, if no additional parcel is created and: 748 (i) none of the property identified in the agreement is a lot; or 749 (ii) the adjustment is to the boundaries of a single person's parcels. 750 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary 751 line that: 752 (i) creates an additional parcel; or 753 (ii) constitutes a subdivision. 754 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by 755 the Department of Transportation. 756 (48) "Person" means an individual, corporation, partnership, organization, association, 757 trust, governmental agency, or any other legal entity. 758 (49) "Plan for moderate income housing" means a written document adopted by a 759 municipality's legislative body that includes: 760 (a) an estimate of the existing supply of moderate income housing located within the 761 municipality; 762 (b) an estimate of the need for moderate income housing in the municipality for the 763 next five years; 764 (c) a survey of total residential land use; 765 (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and 766

(50) "Plat" means an instrument subdividing property into lots as depicted on a map or

(e) a description of the municipality's program to encourage an adequate supply of

- other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.
 - (51) "Potential geologic hazard area" means an area that:
- 773 (a) is designated by a Utah Geological Survey map, county geologist map, or other 774 relevant map or report as needing further study to determine the area's potential for geologic 775 hazard; or
 - (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.
 - (52) "Public agency" means:
 - (a) the federal government;
- 781 (b) the state;

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- 782 (c) a county, municipality, school district, local district, special service district, or other 783 political subdivision of the state; or
 - (d) a charter school.
- 785 (53) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.
 - (54) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.
 - (55) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.
 - (56) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.
 - (57) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.
 - (58) "Residential facility for persons with a disability" means a residence:
- 799 (a) in which more than one person with a disability resides; and
 - (b) (i) which is licensed or certified by the Department of Human Services under Title

801	62A, Chapter 2, Licensure of Programs and Facilities; or
802	(ii) which is licensed or certified by the Department of Health under Title 26, Chapter
803	21, Health Care Facility Licensing and Inspection Act.
804	(59) "Residential roadway" means a public local residential road that:
805	(a) will serve primarily to provide access to adjacent primarily residential areas and
806	property;
807	(b) is designed to accommodate minimal traffic volumes or vehicular traffic;
808	(c) is not identified as a supplementary to a collector or other higher system classified
809	street in an approved municipal street or transportation master plan;
810	(d) has a posted speed limit of 25 miles per hour or less;
811	(e) does not have higher traffic volumes resulting from connecting previously separated
812	areas of the municipal road network;
813	(f) cannot have a primary access, but can have a secondary access, and does not abut
814	lots intended for high volume traffic or community centers, including schools, recreation
815	centers, sports complexes, or libraries; and
816	(g) is primarily serves traffic within a neighborhood or limited residential area and is
817	not necessarily continuous through several residential areas.
818	$[\frac{(59)}{(60)}]$ "Rules of order and procedure" means a set of rules that govern and
819	prescribe in a public meeting:
820	(a) parliamentary order and procedure;
821	(b) ethical behavior; and
822	(c) civil discourse.
823	[(60)] (61) "Sanitary sewer authority" means the department, agency, or public entity
824	with responsibility to review and approve the feasibility of sanitary sewer services or onsite
825	wastewater systems.
826	[(61)] (62) "Sending zone" means an area of a municipality that the municipality
827	designates, by ordinance, as an area from which an owner of land may transfer a transferable
828	development right.
829	[(62)] <u>(63)</u> "Specified public agency" means:
830	(a) the state;
831	(b) a school district; or

332	(c) a charter school.
333	[(63)] (64) "Specified public utility" means an electrical corporation, gas corporation,
334	or telephone corporation, as those terms are defined in Section 54-2-1.
335	[(64)] (65) "State" includes any department, division, or agency of the state.
336	[(65)] (66) (a) "Subdivision" means any land that is divided, resubdivided, or proposed
337	to be divided into two or more lots or other division of land for the purpose, whether
838	immediate or future, for offer, sale, lease, or development either on the installment plan or
339	upon any and all other plans, terms, and conditions.
340	(b) "Subdivision" includes:
841	(i) the division or development of land, whether by deed, metes and bounds
342	description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
343	the division includes all or a portion of a parcel or lot; and
344	(ii) except as provided in Subsection (65)(c), divisions of land for residential and
345	nonresidential uses, including land used or to be used for commercial, agricultural, and
346	industrial purposes.
347	(c) "Subdivision" does not include:
348	(i) a bona fide division or partition of agricultural land for the purpose of joining one of
349	the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
350	neither the resulting combined parcel nor the parcel remaining from the division or partition
351	violates an applicable land use ordinance;
352	(ii) a boundary line agreement recorded with the county recorder's office between
353	owners of adjoining parcels adjusting the mutual boundary in accordance with Section
354	10-9a-524 if no new parcel is created;
355	(iii) a recorded document, executed by the owner of record:
356	(A) revising the legal descriptions of multiple parcels into one legal description
357	encompassing all such parcels; or
358	(B) joining a lot to a parcel;
359	(iv) a boundary line agreement between owners of adjoining subdivided properties
360	adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:
361	(A) no new dwelling lot or housing unit will result from the adjustment; and
362	(B) the adjustment will not violate any applicable land use ordinance:

863	(v) a bona fide division of land by deed or other instrument if the deed or other
864	instrument states in writing that the division:
865	(A) is in anticipation of future land use approvals on the parcel or parcels;
866	(B) does not confer any land use approvals; and
867	(C) has not been approved by the land use authority;
868	(vi) a parcel boundary adjustment;
869	(vii) a lot line adjustment;
870	(viii) a road, street, or highway dedication plat;
871	(ix) a deed or easement for a road, street, or highway purpose; or
872	(x) any other division of land authorized by law.
873	[(66)] (67) (a) "Subdivision amendment" means an amendment to a recorded
874	subdivision in accordance with Section 10-9a-608 that:
875	[(a)] (i) vacates all or a portion of the subdivision;
876	[(b)] (ii) alters the outside boundary of the subdivision;
877	[(c)] (iii) changes the number of lots within the subdivision;
878	[(d)] (iv) alters a public right-of-way, a public easement, or public infrastructure within
879	the subdivision; or
880	$[\underline{(e)}]$ $\underline{(v)}$ alters a common area or other common amenity within the subdivision.
881	(b) "Subdivision amendment" does not include a lot line adjustment, between a single
882	lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.
883	[(67)] (68) "Substantial evidence" means evidence that:
884	(a) is beyond a scintilla; and
885	(b) a reasonable mind would accept as adequate to support a conclusion.
886	[(68)] (69) "Suspect soil" means soil that has:
887	(a) a high susceptibility for volumetric change, typically clay rich, having more than a
888	3% swell potential;
889	(b) bedrock units with high shrink or swell susceptibility; or
890	(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
891	commonly associated with dissolution and collapse features.
892	[(69)] (70) "Therapeutic school" means a residential group living facility:
893	(a) for four or more individuals who are not related to:

894	(i) the owner of the facility; or
895	(ii) the primary service provider of the facility;
896	(b) that serves students who have a history of failing to function:
897	(i) at home;
898	(ii) in a public school; or
899	(iii) in a nonresidential private school; and
900	(c) that offers:
901	(i) room and board; and
902	(ii) an academic education integrated with:
903	(A) specialized structure and supervision; or
904	(B) services or treatment related to a disability, an emotional development, a
905	behavioral development, a familial development, or a social development.
906	[(70)] (71) "Transferable development right" means a right to develop and use land that
907	originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
908	land use rights from a designated sending zone to a designated receiving zone.
909	$[\frac{(71)}{(72)}]$ "Unincorporated" means the area outside of the incorporated area of a city
910	or town.
911	$\left[\frac{(72)}{(73)}\right]$ "Water interest" means any right to the beneficial use of water, including:
912	(a) each of the rights listed in Section 73-1-11; and
913	(b) an ownership interest in the right to the beneficial use of water represented by:
914	(i) a contract; or
915	(ii) a share in a water company, as defined in Section 73-3-3.5.
916	$\left[\frac{(73)}{(74)}\right]$ "Zoning map" means a map, adopted as part of a land use ordinance, that
917	depicts land use zones, overlays, or districts.
918	Section 8. Section 10-9a-504 is amended to read:
919	10-9a-504. Temporary land use regulations.
920	(1) (a) [A] Except as provided in Subsection (2)(b), a municipal legislative body may,
921	without prior consideration of or recommendation from the planning commission, enact an
922	ordinance establishing a temporary land use regulation for any part or all of the area within the
923	municipality if:
924	(i) the legislative body makes a finding of compelling, countervailing public interest;

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925	or
926	(ii) the area is unregulated.
927	(b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate
928	the erection, construction, reconstruction, or alteration of any building or structure or any
929	subdivision approval.
930	(c) A temporary land use regulation under Subsection (1)(a) may not impose an impact
931	fee or other financial requirement on building or development.
932	(2) (a) The municipal legislative body shall establish a period of limited effect for the
933	ordinance not to exceed [six months] 180 days.
934	(b) A municipal legislative body may not apply the provisions of a temporary land use
935	regulation to the review of a specific land use application if the land use application is impaired
936	or prohibited by proceedings initiated under Subsection 10-9a-509(1)(a)(ii)(B).
937	(3) (a) A municipal legislative body may, without prior planning commission
938	consideration or recommendation, enact an ordinance establishing a temporary land use
939	regulation prohibiting construction, subdivision approval, and other development activities
940	within an area that is the subject of an Environmental Impact Statement or a Major Investment
941	Study examining the area as a proposed highway or transportation corridor.
942	(b) A regulation under Subsection (3)(a):
943	(i) may not exceed [six months] 180 days in duration;
944	(ii) may be renewed, if requested by the Transportation Commission created under
945	Section 72-1-301, for up to two additional [six-month] 180-day periods by ordinance enacted
946	before the expiration of the previous regulation; and
947	(iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the
948	Environmental Impact Statement or Major Investment Study is in progress.
949	Section 9. Section 10-9a-508 is amended to read:
950	10-9a-508. Exactions Exaction for water interest Requirement to offer to
951	original owner property acquired by exaction.
952	(1) A municipality may impose an exaction or exactions on development proposed in a
953	land use application, including, subject to Subsection (3), an exaction for a water interest, if:

- (a) an essential link exists between a legitimate governmental interest and each
- 955 exaction; and

956 (b) each exaction is roughly proportionate, both in nature and extent, to the impact of 957 the proposed development. 958 (2) If a land use authority imposes an exaction for another governmental entity: 959 (a) the governmental entity shall request the exaction; and 960 (b) the land use authority shall transfer the exaction to the governmental entity for 961 which it was exacted. 962 (3) (a) (i) A municipality shall base any exaction for a water interest on the culinary 963 water authority's established calculations of projected water interest requirements. 964 (ii) Upon an applicant's request, the culinary water authority shall provide the applicant 965 with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on 966 which an exaction for a water interest is based. 967 (b) A municipality may not impose an exaction for a water interest if the culinary water 968 authority's existing available water interests exceed the water interests needed to meet the 969 reasonable future water requirement of the public, as determined under Subsection 970 73-1-4(2)(f). 971 (4) (a) If a municipality plans to dispose of surplus real property that was acquired 972 under this section and has been owned by the municipality for less than 15 years, the 973 municipality shall first offer to reconvey the property, without receiving additional 974 consideration, to the person who granted the property to the municipality. 975 (b) A person to whom a municipality offers to reconvey property under Subsection 976 (4)(a) has 90 days to accept or reject the municipality's offer. 977 (c) If a person to whom a municipality offers to reconvey property declines the offer, 978 the municipality may offer the property for sale. 979 (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by 980 a community reinvestment agency. (5) (a) A municipality may not, as part of an infrastructure improvement, require the 981 982 installation of pavement on a residential roadway at a width in excess of 32 feet.

(ii) in a cul-de-sac;

(i) in a vehicle turnaround area;

pavement in excess of 32 feet:

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(b) Subsection (5)(a) does not apply if a municipality requires the installation of

987	(iii) to address specific traffic flow constraints at an intersection, mid-block crossings,
988	or other areas;
989	(iv) to address an applicable general or master plan improvement, including
990	transportation, bicycle lanes, trails or other similar improvements that are not included within
991	an impact fee area;
992	(v) to address traffic flow constraints for service to or abutting higher density
993	developments or uses that generate higher traffic volumes, including community centers,
994	schools and other similar uses;
995	(vi) as needed for the installation or location of a utility which is maintained by the
996	municipality and is considered a transmission line or requires additional roadway width;
997	(vii) for third-party utility lines that have an easement preventing the installation of
998	utilities maintained by the municipality within the roadway;
999	(viii) for utilities over 12 feet in depth;
1000	(ix) for roadways with a design speed that exceeds 25 miles per hour;
1001	(x) as needed for flood and stormwater routing;
1002	(xi) as needed to meet fire code requirements for parking and hydrants; or
1003	(xii) as needed to accommodate street parking.
1004	(c) Nothing in this section shall be construed to prevent a municipality from approving
1005	a road cross section with a pavement width less than 32 feet.
1006	(d) (i) A land use applicant may appeal a municipal requirement for pavement in
1007	excess of 32 feet on a residential roadway.
1008	(ii) A land use applicant that has appealed a municipal specification for a residential
1009	roadway pavement width in excess of 32 feet may request that the municipality assemble a
1010	panel of qualified experts to serve as the appeal authority for purposes of determining the
1011	technical aspects of the appeal.
1012	(iii) Unless otherwise agreed by the applicant and the municipality, the panel described
1013	in Subsection (5)(d)(ii) shall consist of the following three experts:
1014	(A) one licensed engineer, designated by the municipality;
1015	(B) one licensed engineer, designated by the land use applicant; and
1016	(C) one licensed engineer, agreed upon and designated by the two designated engineers
1017	under Subsections (5)(a)(d)(iii)(A) and (B).

1018	(iv) A member of the panel assembled by the municipality under Subsection (5)(d)(ii)
1019	may not have an interest in the application that is the subject of the appeal.
1020	(v) The land use applicant shall pay:
1021	(A) 50% of the cost of the panel; and
1022	(B) the municipality's published appeal fee.
1023	(vi) The decision of the panel is a final decision, subject to a petition for review under
1024	Subsection (5)(d)(vii).
1025	(vii) Pursuant to Section 10-9a-801, a land use applicant or the municipality may file a
1026	petition for review of the decision with the district court within 30 days after the date that the
1027	decision is final.
1028	Section 10. Section 10-9a-509 is amended to read:
1029	10-9a-509. Applicant's entitlement to land use application approval
1030	Municipality's requirements and limitations Vesting upon submission of development
1031	plan and schedule.
1032	(1) (a) (i) An applicant who has submitted a complete land use application as described
1033	in Subsection (1)(c), including the payment of all application fees, is entitled to substantive
1034	review of the application under the land use regulations:
1035	(A) in effect on the date that the application is complete; and
1036	(B) applicable to the application or to the information shown on the application.
1037	(ii) An applicant is entitled to approval of a land use application if the application
1038	conforms to the requirements of the applicable land use regulations, land use decisions, and
1039	development standards in effect when the applicant submits a complete application and pays
1040	application fees, unless:
1041	(A) the land use authority, on the record, formally finds that a compelling,
1042	countervailing public interest would be jeopardized by approving the application and specifies
1043	the compelling, countervailing public interest in writing; or
1044	(B) in the manner provided by local ordinance and before the applicant submits the
1045	application, the municipality formally initiates proceedings to amend the municipality's land
1046	use regulations in a manner that would prohibit approval of the application as submitted.
1047	(b) The municipality shall process an application without regard to proceedings the
1048	municipality initiated to amend the municipality's ordinances as described in Subsection

1049	(1)(a)(ii)(B) if:
1050	(i) 180 days have passed since the municipality initiated the proceedings; and
1051	(ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the
1052	application as submitted[-]; or
1053	(B) during the 12 months prior to the municipality processing the application, or
1054	multiple applications of the same type, are impaired or prohibited under the terms of a
1055	temporary land use regulation adopted under Section 10-9a-504.
1056	(c) A land use application is considered submitted and complete when the applicant
1057	provides the application in a form that complies with the requirements of applicable ordinances
1058	and pays all applicable fees.
1059	(d) A subsequent incorporation of a municipality or a petition that proposes the
1060	incorporation of a municipality does not affect a land use application approved by a county in
1061	accordance with Section 17-27a-508.
1062	(e) The continuing validity of an approval of a land use application is conditioned upon
1063	the applicant proceeding after approval to implement the approval with reasonable diligence.
1064	(f) A municipality may not impose on an applicant who has submitted a complete
1065	application a requirement that is not expressed in:
1066	(i) this chapter;
1067	(ii) a municipal ordinance in effect on the date that the applicant submits a complete
1068	application, subject to Subsection 10-9a-509(1)(a)(ii); or
1069	(iii) a municipal specification for public improvements applicable to a subdivision or
1070	development that is in effect on the date that the applicant submits an application.
1071	(g) A municipality may not impose on a holder of an issued land use permit or a final,
1072	unexpired subdivision plat a requirement that is not expressed:
1073	(i) in a land use permit;
1074	(ii) on the subdivision plat;
1075	(iii) in a document on which the land use permit or subdivision plat is based;
1076	(iv) in the written record evidencing approval of the land use permit or subdivision
1077	plat;
1078	(v) in this chapter; [or]

(vi) in a municipal ordinance; or

- (vii) in a municipal specification for residential roadways in effect at the time a residential subdivision was approved.
- (h) Except as provided in Subsection (1)(i), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:
- (i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or
 - (ii) in this chapter or the municipality's ordinances.
- (i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:
- (i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or
- (ii) the applicant has not provided a financial assurance for required and uncompleted [landscaping] public landscaping improvements or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.
- (2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.
- (3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.
- (4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.
- (5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:
 - (i) to the local clerk as defined in Section 20A-7-101; and

1111	(ii) no later than seven days after the day on which a petition for a referendum is
1112	determined sufficient under Subsection 20A-7-607(5).
1113	(b) Upon delivery of a written notice described in Subsection (5)(a) the following are
1114	rescinded and are of no further force or effect:
1115	(i) the relevant land use approval; and
1116	(ii) any land use regulation enacted specifically in relation to the land use approval.
1117	Section 11. Section 10-9a-532 is amended to read:
1118	10-9a-532. Development agreements.
1119	(1) Subject to Subsection (2), a municipality may enter into a development agreement
1120	containing any term that the municipality considers necessary or appropriate to accomplish the
1121	purposes of this chapter.
1122	(2) (a) A development agreement may not:
1123	(i) limit a municipality's authority in the future to:
1124	(A) enact a land use regulation; or
1125	(B) take any action allowed under Section 10-8-84;
1126	(ii) require a municipality to change the zoning designation of an area of land within
1127	the municipality in the future; or
1128	[(iii) contain a term that conflicts with, or is different from, a standard set forth in an
1129	existing land use regulation that governs the area subject to the development agreement]
1130	(iii) allow a use or development of land that applicable land use regulations governing
1131	the area subject to the development agreement would otherwise prohibit, unless the legislative
1132	body approves the development agreement in accordance with the same procedures for
1133	enacting a land use regulation under Section 10-9a-502, including a review and
1134	recommendation from the planning commission and a public hearing.
1135	(b) A development agreement that requires the implementation of an existing land use
1136	regulation as an administrative act does not require a legislative body's approval under Section
1137	10-9a-502.
1138	[(c) A municipality may not require a development agreement as the only option for
1139	developing land within the municipality.]
1140	(c) (i) If a development agreement restricts an applicant's rights under clearly
1141	established state law, the municipality shall disclose in writing to the applicant the rights of the

1142	applicant the development agreement restricts.
1143	(ii) A municipality's failure to disclose in accordance with Subsection (2)(c)(i) voids
1144	any provision in the development agreement pertaining to the undisclosed rights.
1145	(d) A municipality may not require a development agreement as a condition for
1146	developing land if the municipality's land use regulations establish all applicable standards for
1147	development on the land.
1148	[(d)] (e) To the extent that a development agreement does not specifically address a
1149	matter or concern related to land use or development, the matter or concern is governed by:
1150	(i) this chapter; and
1151	(ii) any applicable land use regulations.
1152	Section 12. Section 10-9a-534 is amended to read:
1153	10-9a-534. Regulation of building design elements prohibited Exceptions.
1154	(1) As used in this section[;]:
1155	(a) "[building] Building design element" means:
1156	[(a)] (i) exterior color;
1157	[(b)] (ii) type or style of exterior cladding material;
1158	[(c)] (iii) style, dimensions, or materials of a roof structure, roof pitch, or porch;
1159	[(d)] (iv) exterior nonstructural architectural ornamentation;
1160	[(e)] (v) location, design, placement, or architectural styling of a window or door;
1161	[(f)] (vi) location, design, placement, or architectural styling of a garage door, not
1162	including a rear-loading garage door;
1163	[(g)] <u>(vii)</u> number or type of rooms;
1164	[(h)] (viii) interior layout of a room;
1165	[(i)] (ix) minimum square footage over 1,000 square feet, not including a garage;
1166	$[\frac{(i)}{(i)}]$ rear yard landscaping requirements;
1167	[(k)] (xi) minimum building dimensions; or
1168	[(1)] (xii) a requirement to install front yard fencing.
1169	(b) "Local non-historic lot" means a lot that:
1170	(i) is in an area designated in:
1171	(A) the National Register of Historic places;
1172	(R) the state register, as defined in Section 9-8-402; or

11/3	(C) a local historic district or area, or a site designated as a local landmark;
1174	(ii) was created by a subdivision plat approved by a municipality and recorded after
1175	January 1, 1990;
1176	(iii) is larger than one acre; and
1177	(iv) includes primary structures built after January 1, 1999.
1178	(c) "Subterranean improvement" means an improvement or area for connecting
1179	structures that is:
1180	(i) located entirely below grade; and
1181	(ii) constructed or will be constructed consistent with Title 15A, Chapter 2, State
1182	Constructions and Fire Codes Act.
1183	(2) Except as provided in Subsection (3), a municipality may not impose a requirement
1184	for a building design element on a one to two family dwelling.
1185	(3) Subsection (2) does not apply to:
1186	(a) a dwelling located within an area designated as a historic district in:
1187	(i) the National Register of Historic Places;
1188	(ii) the state register as defined in Section 9-8-402; or
1189	(iii) a local historic district or area, or a site designated as a local landmark, created by
1190	ordinance before January 1, 2021;
1191	(b) an ordinance enacted as a condition for participation in the National Flood
1192	Insurance Program administered by the Federal Emergency Management Agency;
1193	(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban
1194	Interface Code adopted under Section 15A-2-103;
1195	(d) building design elements agreed to under a development agreement;
1196	(e) a dwelling located within an area that:
1197	(i) is zoned primarily for residential use; and
1198	(ii) was substantially developed before calendar year 1950;
1199	(f) an ordinance enacted to implement water efficient landscaping in a rear yard;
1200	(g) an ordinance enacted to regulate type of cladding, in response to findings or
1201	evidence from the construction industry of:
1202	(i) defects in the material of existing cladding; or
1203	(ii) consistent defects in the installation of existing cladding; or

1204	(h) a land use regulation, including a planned unit development or overlay zone, that a
1205	property owner requests:
1206	(i) the municipality to apply to the owner's property; and
1207	(ii) in exchange for an increase in density or other benefit not otherwise available as a
1208	permitted use in the zoning area or district.
1209	(4) For a dwelling on a local non-historic lot, a municipality may not impose
1210	restrictions on any dwelling's vertical or horizontal facade or massing on any dwelling, and the
1211	exemption under Subsections (3)(a)(iii) and (3)(h) shall not apply for any building design
1212	element.
1213	(5) Any conditional use for a dwelling, use, or activity on a local non-historic lot shall
1214	be a permitted use.
1215	(6) A municipality may not include subterranean improvements in any determination or
1216	evaluation of whether a single family dwelling and any accessory buildings on a local
1217	non-historic lot comply with a land use regulation, plat, or other location restriction.
1218	Section 13. Section 10-9a-604.5 is amended to read:
1219	10-9a-604.5. Subdivision plat recording or development activity before required
1220	landscaping or infrastructure is completed Improvement completion assurance
1221	Improvement warranty.
1222	(1) As used in this section, "public landscaping improvement" means landscaping that
1223	an applicant is required to install to comply with published installation and inspection
1224	specifications for public improvements that:
1225	(a) will be dedicated to and maintained by the municipality; or
1226	(b) are associated with and proximate to trail improvements that connect to planned or
1227	existing public infrastructure.
1228	[(1)] (2) A land use authority shall establish objective inspection standards for
1229	acceptance of a [landscaping] public landscaping improvement or infrastructure improvement
1230	that the land use authority requires.
1231	[(2)] (a) Before an applicant conducts any development activity or records a plat,
1232	the applicant shall:
1233	(i) complete any required [tandscaping] public landscaping improvements or
1234	infrastructure improvements; or

1235 (ii) post an improvement completion assurance for any required [landscaping] public 1236 landscaping improvements or infrastructure improvements. 1237 (b) If an applicant elects to post an improvement completion assurance, the applicant 1238 shall provide completion assurance for: 1239 (i) completion of 100% of the required [landscaping] public landscaping improvements 1240 or infrastructure improvements; or 1241 (ii) if the municipality has inspected and accepted a portion of the [landscaping] public 1242 landscaping improvements or infrastructure improvements, 100% of the incomplete or 1243 unaccepted [landscaping] public landscaping improvements or infrastructure improvements. 1244 (c) A municipality shall: 1245 (i) establish a minimum of two acceptable forms of completion assurance; 1246 (ii) if an applicant elects to post an improvement completion assurance, allow the 1247 applicant to post an assurance that meets the conditions of this title, and any local ordinances: 1248 (iii) establish a system for the partial release of an improvement completion assurance 1249 as portions of required [landscaping] public landscaping improvements or infrastructure 1250 improvements are completed and accepted in accordance with local ordinance; and (iv) issue or deny a building permit in accordance with Section 10-9a-802 based on the 1251 1252 installation of [landscaping] public landscaping improvements or infrastructure improvements. 1253 (d) A municipality may not require an applicant to post an improvement completion 1254 assurance for: 1255 (i) [landscaping] public landscaping improvements or an infrastructure improvement 1256 that the municipality has previously inspected and accepted; 1257 (ii) infrastructure improvements that are private and not essential or required to meet 1258 the building code, fire code, flood or storm water management provisions, street and access 1259 requirements, or other essential necessary public safety improvements adopted in a land use 1260 regulation; [or] 1261 (iii) in a municipality where ordinances require all infrastructure improvements within 1262 the area to be private, infrastructure improvements within a development that the municipality 1263 requires to be private[.]; or 1264 (iv) landscaping improvements that are not public landscaping improvements, as

defined in Section 10-9a-103, unless the landscaping improvements and completion assurance

1266	are required under the terms of a development agreement.
1267	(4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or
1268	other entitlement benefit not currently available under the existing zone, a municipality may
1269	require a completion assurance bond for landscaped amenities and common area that are
1270	dedicated to and maintained by a homeowners association.
1271	(b) Any agreement regarding a completion assurance bond under Subsection (4)(a)
1272	between the applicant and the municipality shall be memorialized in a development agreement.
1273	(c) A municipality may not require a completion assurance bond for the landscaping of
1274	residential lots or the equivalent open space surrounding single family attached homes, whether
1275	platted as lots or common area.
1276	(5) The sum of the improvement completion assurance required under Subsections (3)
1277	and (4) may not exceed the sum of:
1278	(a) 100% of the estimated cost of the public landscaping improvements or
1279	infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's
1280	bid; and
1281	(b) 10% of the amount of the bond to cover administrative costs incurred by the
1282	municipality to complete the improvements, if necessary.
1283	[(3)] (6) At any time before a municipality accepts a [landscaping] public landscaping
1284	improvement or infrastructure improvement, and for the duration of each improvement
1285	warranty period, the municipality may require the applicant to:
1286	(a) execute an improvement warranty for the improvement warranty period; and
1287	(b) post a cash deposit, surety bond, letter of credit, or other similar security, as
1288	required by the municipality, in the amount of up to 10% of the lesser of the:
1289	(i) municipal engineer's original estimated cost of completion; or
1290	(ii) applicant's reasonable proven cost of completion.
1291	[(4)] (7) When a municipality accepts an improvement completion assurance for
1292	[landscaping] public landscaping improvements or infrastructure improvements for a
1293	development in accordance with [Subsection (2)(c)(ii)] Subsection (3)(c)(ii), the municipality
1294	may not deny an applicant a building permit if the development meets the requirements for the
1295	issuance of a building permit under the building code and fire code.

[(5)] (8) The provisions of this section do not supersede the terms of a valid

1297	development agreement, an adopted phasing plan, or the state construction code.
1298	Section 14. Section 17-27a-103 is amended to read:
1299	17-27a-103. Definitions.
1300	As used in this chapter:
1301	(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
1302	detached from a primary single-family dwelling and contained on one lot.
1303	(2) "Adversely affected party" means a person other than a land use applicant who:
1304	(a) owns real property adjoining the property that is the subject of a land use
1305	application or land use decision; or
1306	(b) will suffer a damage different in kind than, or an injury distinct from, that of the
1307	general community as a result of the land use decision.
1308	(3) "Affected entity" means a county, municipality, local district, special service
1309	district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
1310	cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
1311	property owner, property owner's association, public utility, or the Utah Department of
1312	Transportation, if:
1313	(a) the entity's services or facilities are likely to require expansion or significant
1314	modification because of an intended use of land;
1315	(b) the entity has filed with the county a copy of the entity's general or long-range plan;
1316	or
1317	(c) the entity has filed with the county a request for notice during the same calendar
1318	year and before the county provides notice to an affected entity in compliance with a
1319	requirement imposed under this chapter.
1320	(4) "Affected owner" means the owner of real property that is:
1321	(a) a single project;
1322	(b) the subject of a land use approval that sponsors of a referendum timely challenged
1323	in accordance with Subsection 20A-7-601(6); and
1324	(c) determined to be legally referable under Section 20A-7-602.8.
1325	(5) "Appeal authority" means the person, board, commission, agency, or other body
1326	designated by ordinance to decide an appeal of a decision of a land use application or a
1327	variance.

1328	(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or
1329	residential property if the sign is designed or intended to direct attention to a business, product,
1330	or service that is not sold, offered, or existing on the property where the sign is located.
1331	(7) (a) "Charter school" means:
1332	(i) an operating charter school;
1333	(ii) a charter school applicant that a charter school authorizer approves in accordance
1334	with Title 53G, Chapter 5, Part 3, Charter School Authorization; or
1335	(iii) an entity that is working on behalf of a charter school or approved charter
1336	applicant to develop or construct a charter school building.
1337	(b) "Charter school" does not include a therapeutic school.
1338	(8) "Chief executive officer" means the person or body that exercises the executive
1339	powers of the county.
1340	(9) "Conditional use" means a land use that, because of the unique characteristics or
1341	potential impact of the land use on the county, surrounding neighbors, or adjacent land uses,
1342	may not be compatible in some areas or may be compatible only if certain conditions are
1343	required that mitigate or eliminate the detrimental impacts.
1344	(10) "Constitutional taking" means a governmental action that results in a taking of
1345	private property so that compensation to the owner of the property is required by the:
1346	(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
1347	(b) Utah Constitution, Article I, Section 22.
1348	(11) "County utility easement" means an easement that:
1349	(a) a plat recorded in a county recorder's office described as a county utility easement
1350	or otherwise as a utility easement;
1351	(b) is not a protected utility easement or a public utility easement as defined in Section
1352	54-3-27;
1353	(c) the county or the county's affiliated governmental entity owns or creates; and
1354	(d) (i) either:
1355	(A) no person uses or occupies; or
1356	(B) the county or the county's affiliated governmental entity uses and occupies to
1357	provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or
1358	communications or data lines; or

1359 (ii) a person uses or occupies with or without an authorized franchise or other 1360 agreement with the county. 1361 (12) "Culinary water authority" means the department, agency, or public entity with 1362 responsibility to review and approve the feasibility of the culinary water system and sources for 1363 the subject property. 1364 (13) "Development activity" means: (a) any construction or expansion of a building, structure, or use that creates additional 1365 1366 demand and need for public facilities; 1367 (b) any change in use of a building or structure that creates additional demand and need 1368 for public facilities; or 1369 (c) any change in the use of land that creates additional demand and need for public 1370 facilities. 1371 (14) (a) "Development agreement" means a written agreement or amendment to a 1372 written agreement between a county and one or more parties that regulates or controls the use 1373 or development of a specific area of land. 1374 (b) "Development agreement" does not include an improvement completion assurance. (15) (a) "Disability" means a physical or mental impairment that substantially limits 1375 1376 one or more of a person's major life activities, including a person having a record of such an 1377 impairment or being regarded as having such an impairment. 1378 (b) "Disability" does not include current illegal use of, or addiction to, any federally 1379 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 1380 Sec. 802. 1381 (16) "Educational facility": 1382 (a) means: 1383 (i) a school district's building at which pupils assemble to receive instruction in a 1384 program for any combination of grades from preschool through grade 12, including 1385 kindergarten and a program for children with disabilities; 1386 (ii) a structure or facility: 1387 (A) located on the same property as a building described in Subsection (16)(a)(i); and 1388 (B) used in support of the use of that building; and 1389 (iii) a building to provide office and related space to a school district's administrative

1390	personnel; and
1391	(b) does not include:
1392	(i) land or a structure, including land or a structure for inventory storage, equipment
1393	storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
1394	(A) not located on the same property as a building described in Subsection (16)(a)(i);
1395	and
1396	(B) used in support of the purposes of a building described in Subsection (16)(a)(i); or
1397	(ii) a therapeutic school.
1398	(17) "Fire authority" means the department, agency, or public entity with responsibility
1399	to review and approve the feasibility of fire protection and suppression services for the subject
1400	property.
1401	(18) "Flood plain" means land that:
1402	(a) is within the 100-year flood plain designated by the Federal Emergency
1403	Management Agency; or
1404	(b) has not been studied or designated by the Federal Emergency Management Agency
1405	but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
1406	the land has characteristics that are similar to those of a 100-year flood plain designated by the
1407	Federal Emergency Management Agency.
1408	(19) "Gas corporation" has the same meaning as defined in Section 54-2-1.
1409	(20) "General plan" means a document that a county adopts that sets forth general
1410	guidelines for proposed future development of:
1411	(a) the unincorporated land within the county; or
1412	(b) for a mountainous planning district, the land within the mountainous planning
1413	district.
1414	(21) "Geologic hazard" means:
1415	(a) a surface fault rupture;
1416	(b) shallow groundwater;
1417	(c) liquefaction;
1418	(d) a landslide;
1419	(e) a debris flow;
1420	(f) unstable soil;

1421	(g) a rock fall; or
1422	(h) any other geologic condition that presents a risk:
1423	(i) to life;
1424	(ii) of substantial loss of real property; or
1425	(iii) of substantial damage to real property.
1426	(22) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
1427	meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
1428	system.
1429	(23) "Identical plans" means building plans submitted to a county that:
1430	(a) are clearly marked as "identical plans";
1431	(b) are substantially identical building plans that were previously submitted to and
1432	reviewed and approved by the county; and
1433	(c) describe a building that:
1434	(i) is located on land zoned the same as the land on which the building described in the
1435	previously approved plans is located;
1436	(ii) is subject to the same geological and meteorological conditions and the same law
1437	as the building described in the previously approved plans;
1438	(iii) has a floor plan identical to the building plan previously submitted to and reviewed
1439	and approved by the county; and
1440	(iv) does not require any additional engineering or analysis.
1441	(24) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
1442	Impact Fees Act.
1443	(25) "Improvement completion assurance" means a surety bond, letter of credit,
1444	financial institution bond, cash, assignment of rights, lien, or other equivalent security required
1445	by a county to guaranty the proper completion of landscaping or an infrastructure improvement
1446	required as a condition precedent to:
1447	(a) recording a subdivision plat; or
1448	(b) development of a commercial, industrial, mixed use, or multifamily project.
1449	(26) "Improvement warranty" means an applicant's unconditional warranty that the
1450	applicant's installed and accepted landscaping or infrastructure improvement:
1451	(a) complies with the county's written standards for design, materials, and

1452	workmanship; and
1453	(b) will not fail in any material respect, as a result of poor workmanship or materials,
1454	within the improvement warranty period.
1455	(27) "Improvement warranty period" means a period:
1456	(a) no later than one year after a county's acceptance of required landscaping; or
1457	(b) no later than one year after a county's acceptance of required infrastructure, unless
1458	the county:
1459	(i) determines for good cause that a one-year period would be inadequate to protect the
1460	public health, safety, and welfare; and
1461	(ii) has substantial evidence, on record:
1462	(A) of prior poor performance by the applicant; or
1463	(B) that the area upon which the infrastructure will be constructed contains suspect soil
1464	and the county has not otherwise required the applicant to mitigate the suspect soil.
1465	(28) "Infrastructure improvement" means permanent infrastructure that is essential for
1466	the public health and safety or that:
1467	(a) is required for human consumption; and
1468	(b) an applicant must install:
1469	(i) in accordance with published installation and inspection specifications for public
1470	improvements; and
1471	(ii) as a condition of:
1472	(A) recording a subdivision plat;
1473	(B) obtaining a building permit; or
1474	(C) developing a commercial, industrial, mixed use, condominium, or multifamily
1475	project.
1476	(29) "Internal lot restriction" means a platted note, platted demarcation, or platted
1477	designation that:
1478	(a) runs with the land; and
1479	(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
1480	the plat; or
1481	(ii) designates a development condition that is enclosed within the perimeter of a lot
1482	described on the plat.

1483	(30) "Interstate pipeline company" means a person or entity engaged in natural gas
1484	transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
1485	the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
1486	(31) "Intrastate pipeline company" means a person or entity engaged in natural gas
1487	transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
1488	Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
1489	(32) "Land use applicant" means a property owner, or the property owner's designee,
1490	who submits a land use application regarding the property owner's land.
1491	(33) "Land use application":
1492	(a) means an application that is:
1493	(i) required by a county; and
1494	(ii) submitted by a land use applicant to obtain a land use decision; and
1495	(b) does not mean an application to enact, amend, or repeal a land use regulation.
1496	(34) "Land use authority" means:
1497	(a) a person, board, commission, agency, or body, including the local legislative body,
1498	designated by the local legislative body to act upon a land use application; or
1499	(b) if the local legislative body has not designated a person, board, commission,
1500	agency, or body, the local legislative body.
1501	(35) "Land use decision" means an administrative decision of a land use authority or
1502	appeal authority regarding:
1503	(a) a land use permit;
1504	(b) a land use application; or
1505	(c) the enforcement of a land use regulation, land use permit, or development
1506	agreement.
1507	(36) "Land use permit" means a permit issued by a land use authority.
1508	(37) "Land use regulation":
1509	(a) means a legislative decision enacted by ordinance, law, code, map, resolution,
1510	specification, fee, or rule that governs the use or development of land;
1511	(b) includes the adoption or amendment of a zoning map or the text of the zoning code;
1512	and
1513	(c) does not include:

1514 (i) a land use decision of the legislative body acting as the land use authority, even if 1515 the decision is expressed in a resolution or ordinance; or 1516 (ii) a temporary revision to an engineering specification that does not materially: 1517 (A) increase a land use applicant's cost of development compared to the existing 1518 specification; or 1519 (B) impact a land use applicant's use of land. 1520 (38) "Legislative body" means the county legislative body, or for a county that has 1521 adopted an alternative form of government, the body exercising legislative powers. 1522 (39) "Local district" means any entity under Title 17B, Limited Purpose Local 1523 Government Entities - Local Districts, and any other governmental or quasi-governmental 1524 entity that is not a county, municipality, school district, or the state. 1525 (40) "Lot" means a tract of land, regardless of any label, that is created by and shown 1526 on a subdivision plat that has been recorded in the office of the county recorder. 1527 (41) (a) "Lot line adjustment" means a relocation of a lot line boundary between 1528 adjoining lots or between a lot and adjoining parcels in accordance with Section 17-27a-608: 1529 (i) whether or not the lots are located in the same subdivision; and (ii) with the consent of the owners of record. 1530 1531 (b) "Lot line adjustment" does not mean a new boundary line that: 1532 (i) creates an additional lot; or 1533 (ii) constitutes a subdivision or a subdivision amendment. 1534 (c) "Lot line adjustment" does not include a boundary line adjustment made by the 1535 Department of Transportation. 1536 (42) "Major transit investment corridor" means public transit service that uses or 1537 occupies: 1538 (a) public transit rail right-of-way; 1539 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; 1540 or 1541 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a 1542 municipality or county and: 1543 (i) a public transit district as defined in Section 17B-2a-802; or 1544 (ii) an eligible political subdivision as defined in Section 59-12-2219.

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1545	(43) "Moderate income housing" means housing occupied or reserved for occupancy
1546	by households with a gross household income equal to or less than 80% of the median gross
1547	income for households of the same size in the county in which the housing is located.
1548	(44) "Mountainous planning district" means an area designated by a county legislative
1549	body in accordance with Section 17-27a-901.
1550	(45) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
1551	and expenses incurred in:
1552	(a) verifying that building plans are identical plans; and
1553	(b) reviewing and approving those minor aspects of identical plans that differ from the
1554	previously reviewed and approved building plans.
1555	(46) "Noncomplying structure" means a structure that:
1556	(a) legally existed before the structure's current land use designation; and
1557	(b) because of one or more subsequent land use ordinance changes, does not conform
1558	to the setback, height restrictions, or other regulations, excluding those regulations that govern
1559	the use of land.
1560	(47) "Nonconforming use" means a use of land that:
1561	(a) legally existed before the current land use designation;
1562	(b) has been maintained continuously since the time the land use ordinance regulation
1563	governing the land changed; and
1564	(c) because of one or more subsequent land use ordinance changes, does not conform
1565	to the regulations that now govern the use of the land.
1566	(48) "Official map" means a map drawn by county authorities and recorded in the
1567	county recorder's office that:
1568	(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
1569	highways and other transportation facilities;
1570	(b) provides a basis for restricting development in designated rights-of-way or between
1571	designated setbacks to allow the government authorities time to purchase or otherwise reserve
1572	the land; and
1573	(c) has been adopted as an element of the county's general plan.

(50) (a) "Parcel boundary adjustment" means a recorded agreement between owners of

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

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authority.

- 1576 adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line 1577 agreement in accordance with Section 17-27a-523, if no additional parcel is created and: 1578 (i) none of the property identified in the agreement is a lot; or 1579 (ii) the adjustment is to the boundaries of a single person's parcels. 1580 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary 1581 line that: 1582 (i) creates an additional parcel; or 1583 (ii) constitutes a subdivision. 1584 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by 1585 the Department of Transportation. 1586 (51) "Person" means an individual, corporation, partnership, organization, association, 1587 trust, governmental agency, or any other legal entity. 1588 (52) "Plan for moderate income housing" means a written document adopted by a 1589 county legislative body that includes: 1590 (a) an estimate of the existing supply of moderate income housing located within the 1591 county; 1592 (b) an estimate of the need for moderate income housing in the county for the next five 1593 years; 1594 (c) a survey of total residential land use; 1595 (d) an evaluation of how existing land uses and zones affect opportunities for moderate 1596 income housing; and 1597 (e) a description of the county's program to encourage an adequate supply of moderate 1598 income housing. 1599 (53) "Planning advisory area" means a contiguous, geographically defined portion of 1600 the unincorporated area of a county established under this part with planning and zoning 1601 functions as exercised through the planning advisory area planning commission, as provided in 1602 this chapter, but with no legal or political identity separate from the county and no taxing
 - (54) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

1607 (55) "Potential geologic hazard area" means an area that: 1608 (a) is designated by a Utah Geological Survey map, county geologist map, or other 1609 relevant map or report as needing further study to determine the area's potential for geologic 1610 hazard; or 1611 (b) has not been studied by the Utah Geological Survey or a county geologist but 1612 presents the potential of geologic hazard because the area has characteristics similar to those of 1613 a designated geologic hazard area. 1614 (56) "Public agency" means: 1615 (a) the federal government; 1616 (b) the state; 1617 (c) a county, municipality, school district, local district, special service district, or other 1618 political subdivision of the state; or 1619 (d) a charter school. 1620 (57) "Public hearing" means a hearing at which members of the public are provided a 1621 reasonable opportunity to comment on the subject of the hearing. 1622 (58) "Public meeting" means a meeting that is required to be open to the public under 1623 Title 52, Chapter 4, Open and Public Meetings Act. 1624 (59) "Public street" means a public right-of-way, including a public highway, public 1625 avenue, public boulevard, public parkway, public road, public lane, public alley, public 1626 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation 1627 easement, or other public way. 1628 (60) "Receiving zone" means an unincorporated area of a county that the county 1629 designates, by ordinance, as an area in which an owner of land may receive a transferable 1630 development right. 1631 (61) "Record of survey map" means a map of a survey of land prepared in accordance 1632 with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13. 1633 (62) "Residential facility for persons with a disability" means a residence: 1634 (a) in which more than one person with a disability resides; and 1635 (b) (i) which is licensed or certified by the Department of Human Services under Title 1636 62A, Chapter 2, Licensure of Programs and Facilities; or

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

1038	21, Health Care Facility Licensing and inspection Act.
1639	(63) "Residential roadway" means a public local residential road that:
1640	(a) will serve primarily to provide access to adjacent primarily residential areas and
1641	property;
1642	(b) is designed to accommodate minimal traffic volumes or vehicular traffic;
1643	(c) is not identified as a supplementary to a collector or other higher system classified
1644	street in an approved municipal street or transportation master plan;
1645	(d) has a posted speed limit of 25 miles per hour or less;
1646	(e) does not have higher traffic volumes resulting from connecting previously separated
1647	areas of the municipal road network;
1648	(f) cannot have a primary access, but can have a secondary access, and does not abut
1649	lots intended for high volume traffic or community centers, including schools, recreation
1650	centers, sports complexes, or libraries; and
1651	(g) is primarily serves traffic within a neighborhood or limited residential area and is
1652	not necessarily continuous through several residential areas.
1653	[(63)] (64) "Rules of order and procedure" means a set of rules that govern and
1654	prescribe in a public meeting:
1655	(a) parliamentary order and procedure;
1656	(b) ethical behavior; and
1657	(c) civil discourse.
1658	[(64)] (65) "Sanitary sewer authority" means the department, agency, or public entity
1659	with responsibility to review and approve the feasibility of sanitary sewer services or onsite
1660	wastewater systems.
1661	[(65)] (66) "Sending zone" means an unincorporated area of a county that the county
1662	designates, by ordinance, as an area from which an owner of land may transfer a transferable
1663	development right.
1664	[(66)] (67) "Site plan" means a document or map that may be required by a county
1665	during a preliminary review preceding the issuance of a building permit to demonstrate that an
1666	owner's or developer's proposed development activity meets a land use requirement.
1667	[(67)] (68) "Specified public agency" means:
1668	(a) the state;

1669	(b) a school district; or
1670	(c) a charter school.
1671	[(68)] (69) "Specified public utility" means an electrical corporation, gas corporation,
1672	or telephone corporation, as those terms are defined in Section 54-2-1.
1673	[(69)] (70) "State" includes any department, division, or agency of the state.
1674	[(70)] (71) (a) "Subdivision" means any land that is divided, resubdivided, or proposed
1675	to be divided into two or more lots or other division of land for the purpose, whether
1676	immediate or future, for offer, sale, lease, or development either on the installment plan or
1677	upon any and all other plans, terms, and conditions.
1678	(b) "Subdivision" includes:
1679	(i) the division or development of land, whether by deed, metes and bounds
1680	description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
1681	the division includes all or a portion of a parcel or lot; and
1682	(ii) except as provided in Subsection (70)(c), divisions of land for residential and
1683	nonresidential uses, including land used or to be used for commercial, agricultural, and
1684	industrial purposes.
1685	(c) "Subdivision" does not include:
1686	(i) a bona fide division or partition of agricultural land for agricultural purposes;
1687	(ii) a boundary line agreement recorded with the county recorder's office between
1688	owners of adjoining parcels adjusting the mutual boundary in accordance with Section
1689	17-27a-523 if no new lot is created;
1690	(iii) a recorded document, executed by the owner of record:
1691	(A) revising the legal descriptions of multiple parcels into one legal description
1692	encompassing all such parcels; or
1693	(B) joining a lot to a parcel;
1694	(iv) a bona fide division or partition of land in a county other than a first class county
1695	for the purpose of siting, on one or more of the resulting separate parcels:
1696	(A) an electrical transmission line or a substation;
1697	(B) a natural gas pipeline or a regulation station; or
1698	(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
1699	utility service regeneration, transformation, retransmission, or amplification facility:

1700	(v) a boundary line agreement between owners of adjoining subdivided properties
1701	adjusting the mutual lot line boundary in accordance with Sections 17-27a-523 and 17-27a-608
1702	if:
1703	(A) no new dwelling lot or housing unit will result from the adjustment; and
1704	(B) the adjustment will not violate any applicable land use ordinance;
1705	(vi) a bona fide division of land by deed or other instrument if the deed or other
1706	instrument states in writing that the division:
1707	(A) is in anticipation of future land use approvals on the parcel or parcels;
1708	(B) does not confer any land use approvals; and
1709	(C) has not been approved by the land use authority;
1710	(vii) a parcel boundary adjustment;
1711	(viii) a lot line adjustment;
1712	(ix) a road, street, or highway dedication plat;
1713	(x) a deed or easement for a road, street, or highway purpose; or
1714	(xi) any other division of land authorized by law.
1715	[(71)] (72) (a) "Subdivision amendment" means an amendment to a recorded
1716	subdivision in accordance with Section 17-27a-608 that:
1717	[(a)] (i) vacates all or a portion of the subdivision;
1718	[(b)] (ii) alters the outside boundary of the subdivision;
1719	[(c)] (iii) changes the number of lots within the subdivision;
1720	[(d)] (iv) alters a public right-of-way, a public easement, or public infrastructure within
1721	the subdivision; or
1722	$[\underline{(e)}]$ $\underline{(v)}$ alters a common area or other common amenity within the subdivision.
1723	(b) "Subdivision amendment" does not include a lot line adjustment, between a single
1724	lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.
1725	[(72)] <u>(73)</u> "Substantial evidence" means evidence that:
1726	(a) is beyond a scintilla; and
1727	(b) a reasonable mind would accept as adequate to support a conclusion.
1728	[(73)] <u>(74)</u> "Suspect soil" means soil that has:
1729	(a) a high susceptibility for volumetric change, typically clay rich, having more than a
1730	3% swell potential;

1/31	(b) bedrock units with high shrink or swell susceptibility; or
1732	(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
1733	commonly associated with dissolution and collapse features.
1734	[(74)] <u>(75)</u> "Therapeutic school" means a residential group living facility:
1735	(a) for four or more individuals who are not related to:
1736	(i) the owner of the facility; or
1737	(ii) the primary service provider of the facility;
1738	(b) that serves students who have a history of failing to function:
1739	(i) at home;
1740	(ii) in a public school; or
1741	(iii) in a nonresidential private school; and
1742	(c) that offers:
1743	(i) room and board; and
1744	(ii) an academic education integrated with:
1745	(A) specialized structure and supervision; or
1746	(B) services or treatment related to a disability, an emotional development, a
1747	behavioral development, a familial development, or a social development.
1748	[(75)] (76) "Transferable development right" means a right to develop and use land that
1749	originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
1750	land use rights from a designated sending zone to a designated receiving zone.
1751	[(76)] (77) "Unincorporated" means the area outside of the incorporated area of a
1752	municipality.
1753	[(77)] (78) "Water interest" means any right to the beneficial use of water, including:
1754	(a) each of the rights listed in Section 73-1-11; and
1755	(b) an ownership interest in the right to the beneficial use of water represented by:
1756	(i) a contract; or
1757	(ii) a share in a water company, as defined in Section 73-3-3.5.
1758	[(78)] (79) "Zoning map" means a map, adopted as part of a land use ordinance, that
1759	depicts land use zones, overlays, or districts.
1760	Section 15. Section 17-27a-504 is amended to read:
1761	17-27a-504. Temporary land use regulations.

- 1762 (1) (a) [A] Except as provided in Subsection 2(b), a county legislative body may, without prior consideration of or recommendation from the planning commission, enact an 1763 1764 ordinance establishing a temporary land use regulation for any part or all of the area within the 1765 county if: 1766 (i) the legislative body makes a finding of compelling, countervailing public interest; 1767 or 1768 (ii) the area is unregulated. 1769 (b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any 1770 1771 subdivision approval. 1772 (c) A temporary land use regulation under Subsection (1)(a) may not impose an impact 1773 fee or other financial requirement on building or development. 1774 (2) (a) The legislative body shall establish a period of limited effect for the ordinance 1775 not to exceed [six months] 180 days. 1776 (b) A county legislative body may not apply the provisions of a temporary land use regulation to the review of a specific land use application if the land use application is impaired 1777 or prohibited by proceedings initiated under Subsection 17-27a-508(1)(a)(ii)(B). 1778 1779 (3) (a) A legislative body may, without prior planning commission consideration or 1780 recommendation, enact an ordinance establishing a temporary land use regulation prohibiting 1781 construction, subdivision approval, and other development activities within an area that is the 1782 subject of an Environmental Impact Statement or a Major Investment Study examining the area 1783 as a proposed highway or transportation corridor. 1784 (b) A regulation under Subsection (3)(a): 1785 (i) may not exceed [six months] 180 days in duration; 1786 (ii) may be renewed, if requested by the Transportation Commission created under 1787 Section 72-1-301, for up to two additional [six-month] 180-day periods by ordinance enacted 1788 before the expiration of the previous regulation; and 1789 (iii) notwithstanding Subsections (3)(b)(i) and (ii), is effective only as long as the
- 1792 17-27a-507. Exactions -- Exaction for water interest -- Requirement to offer to

Environmental Impact Statement or Major Investment Study is in progress.

Section 16. Section 17-27a-507 is amended to read:

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original owner property acquired by exaction.

- (1) A county may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (3), an exaction for a water interest, if:
- (a) an essential link exists between a legitimate governmental interest and each exaction; and
- (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.
 - (2) If a land use authority imposes an exaction for another governmental entity:
 - (a) the governmental entity shall request the exaction; and
- (b) the land use authority shall transfer the exaction to the governmental entity for which it was exacted.
- (3) (a) (i) A county or, if applicable, the county's culinary water authority shall base any exaction for a water interest on the culinary water authority's established calculations of projected water interest requirements.
- (ii) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (3)(a)(i) on which an exaction for a water interest is based.
- (b) A county or its culinary water authority may not impose an exaction for a water interest if the culinary water authority's existing available water interests exceed the water interests needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).
- (4) (a) If a county plans to dispose of surplus real property under Section 17-50-312 that was acquired under this section and has been owned by the county for less than 15 years, the county shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the county.
- (b) A person to whom a county offers to reconvey property under Subsection (4)(a) has 90 days to accept or reject the county's offer.
- (c) If a person to whom a county offers to reconvey property declines the offer, the county may offer the property for sale.
- (d) Subsection (4)(a) does not apply to the disposal of property acquired by exaction by a community development or urban renewal agency.

1824	(5) (a) A county may not, as part of an infrastructure improvement, require the
1825	installation of pavement on a residential roadway at a width in excess of 32 feet.
1826	(b) Subsection (5)(a) does not apply if a county requires the installation of pavement in
1827	excess of 32 feet:
1828	(i) in a vehicle turnaround area;
1829	(ii) in a cul-de-sac;
1830	(iii) to address specific traffic flow constraints at an intersection, mid-block crossings,
1831	or other areas;
1832	(iv) to address an applicable general or master plan improvement, including
1833	transportation, bicycle lanes, trails or other similar improvements that are not included within
1834	an impact fee area;
1835	(v) to address traffic flow constraints for service to or abutting higher density
1836	developments or uses that generate higher traffic volumes, including community centers,
1837	schools and other similar uses;
1838	(vi) as needed for the installation or location of a utility which is maintained by the
1839	county and is considered a transmission line or requires additional roadway width;
1840	(vii) for third-party utility lines that have an easement preventing the installation of
1841	utilities maintained by the county within the roadway;
1842	(viii) for utilities over 12 feet in depth;
1843	(ix) for roadways with a design speed that exceeds 25 miles per hour;
1844	(x) as needed for flood and stormwater routing;
1845	(xi) as needed to meet fire code requirements for parking and hydrants; or
1846	(xii) as needed to accommodate street parking.
1847	(c) Nothing in this section shall be construed to prevent a county from approving a
1848	road cross section with a pavement width less than 32 feet.
1849	(d) (i) A land use applicant may appeal a municipal requirement for pavement in
1850	excess of 32 feet on a residential roadway.
1851	(ii) A land use applicant that has appealed a municipal specification for a residential
1852	roadway pavement width in excess of 32 feet may request that the county assemble a panel of
1853	qualified experts to serve as the appeal authority for purposes of determining the technical
1854	aspects of the appeal.

1855	(iii) Unless otherwise agreed by the applicant and the county, the panel described in
1856	Subsection (5)(d)(ii) shall consist of the following three experts:
1857	(A) one licensed engineer, designated by the county;
1858	(B) one licensed engineer, designated by the land use applicant; and
1859	(C) one licensed engineer, agreed upon and designated by the two designated engineers
1860	under Subsections (5)(a)(d)(iii)(A) and (B).
1861	(iv) A member of the panel assembled by the county under Subsection (5)(d)(ii) may
1862	not have an interest in the application that is the subject of the appeal.
1863	(v) The land use applicant shall pay:
1864	(A) 50% of the cost of the panel; and
1865	(B) the county's published appeal fee.
1866	(vi) The decision of the panel is a final decision, subject to a petition for review under
1867	Subsection (5)(d)(vii).
1868	(vii) Pursuant to Section 17-27a-801, a land use applicant or the county may file a
1869	petition for review of the decision with the district court within 30 days after the date that the
1870	decision is final.
1871	Section 17. Section 17-27a-508 is amended to read:
1872	17-27a-508. Applicant's entitlement to land use application approval
1873	Application relating to land in a high priority transportation corridor County's
1874	requirements and limitations Vesting upon submission of development plan and
1875	schedule.
1876	(1) (a) (i) An applicant who has submitted a complete land use application, including
1877	the payment of all application fees, is entitled to substantive review of the application under the
1878	land use regulations:
1879	(A) in effect on the date that the application is complete; and
1880	(B) applicable to the application or to the information shown on the submitted
1881	application.
1882	(ii) An applicant is entitled to approval of a land use application if the application
1883	conforms to the requirements of the applicable land use regulations, land use decisions, and
1884	development standards in effect when the applicant submits a complete application and pays all
1885	application fees, unless:

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(i) in a land use permit;

(ii) on the subdivision plat;

1886 (A) the land use authority, on the record, formally finds that a compelling, 1887 countervailing public interest would be jeopardized by approving the application and specifies 1888 the compelling, countervailing public interest in writing; or 1889 (B) in the manner provided by local ordinance and before the applicant submits the 1890 application, the county formally initiates proceedings to amend the county's land use 1891 regulations in a manner that would prohibit approval of the application as submitted. 1892 (b) The county shall process an application without regard to proceedings the county 1893 initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if: 1894 (i) 180 days have passed since the county initiated the proceedings; and 1895 (ii) (A) the proceedings have not resulted in an enactment that prohibits approval of the 1896 application as submitted[-]; or 1897 (B) during the 12 months prior to the county processing the application or multiple 1898 applications of the same type, the application is impaired or prohibited under the terms of a temporary land use regulation adopted under Section 17-27a-504. 1899 1900 (c) A land use application is considered submitted and complete when the applicant 1901 provides the application in a form that complies with the requirements of applicable ordinances 1902 and pays all applicable fees. 1903 (d) The continuing validity of an approval of a land use application is conditioned upon 1904 the applicant proceeding after approval to implement the approval with reasonable diligence. 1905 (e) A county may not impose on an applicant who has submitted a complete 1906 application a requirement that is not expressed in: 1907 (i) [in] this chapter; 1908 (ii) [in] a county ordinance in effect on the date that the applicant submits a complete 1909 application, subject to Subsection 17-27a-508(1)(a)(ii); or 1910 (iii) [in] a county specification for public improvements applicable to a subdivision or 1911 development that is in effect on the date that the applicant submits an application. 1912 (f) A county may not impose on a holder of an issued land use permit or a final, 1913 unexpired subdivision plat a requirement that is not expressed:

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

1917 (iv) in the written record evidencing approval of the land use permit or subdivision 1918 plat; 1919 (v) in this chapter; [or] 1920 (vi) in a county ordinance; or 1921 (vii) in a county specification for residential roadways in effect at the time a residential 1922 subdivision was approved. 1923 (g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a 1924 certificate of occupancy or acceptance of subdivision improvements because of an applicant's 1925 failure to comply with a requirement that is not expressed: 1926 (i) in the building permit or subdivision plat, documents on which the building permit 1927 or subdivision plat is based, or the written record evidencing approval of the building permit or 1928 subdivision plat; or (ii) in this chapter or the county's ordinances. 1929 1930 (h) A county may not unreasonably withhold issuance of a certificate of occupancy 1931 where an applicant has met all requirements essential for the public health, public safety, and 1932 general welfare of the occupants, in accordance with this chapter, unless: 1933 (i) the applicant and the county have agreed in a written document to the withholding 1934 of a certificate of occupancy: or 1935 (ii) the applicant has not provided a financial assurance for required and uncompleted 1936 [landscaping] public landscaping improvements or infrastructure improvements in accordance 1937 with an applicable ordinance that the legislative body adopts under this chapter. 1938 (2) A county is bound by the terms and standards of applicable land use regulations and 1939 shall comply with mandatory provisions of those regulations. (3) A county may not, as a condition of land use application approval, require a person 1940 1941 filing a land use application to obtain documentation regarding a school district's willingness, 1942 capacity, or ability to serve the development proposed in the land use application. 1943 (4) Upon a specified public agency's submission of a development plan and schedule as 1944 required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, 1945 the specified public agency vests in the county's applicable land use maps, zoning map, hookup 1946 fees, impact fees, other applicable development fees, and land use regulations in effect on the 1947 date of submission.

1948	(5) (a) If sponsors of a referendum timely challenge a project in accordance with
1949	Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use
1950	approval by delivering a written notice:
1951	(i) to the local clerk as defined in Section 20A-7-101; and
1952	(ii) no later than seven days after the day on which a petition for a referendum is
1953	determined sufficient under Subsection 20A-7-607(5).
1954	(b) Upon delivery of a written notice described in Subsection(5)(a) the following are
1955	rescinded and are of no further force or effect:
1956	(i) the relevant land use approval; and
1957	(ii) any land use regulation enacted specifically in relation to the land use approval.
1958	Section 18. Section 17-27a-528 is amended to read:
1959	17-27a-528. Development agreements.
1960	(1) Subject to Subsection (2), a county may enter into a development agreement
1961	containing any term that the county considers necessary or appropriate to accomplish the
1962	purposes of this chapter.
1963	(2) (a) A development agreement may not:
1964	(i) limit a county's authority in the future to:
1965	(A) enact a land use regulation; or
1966	(B) take any action allowed under Section 17-53-223;
1967	(ii) require a county to change the zoning designation of an area of land within the
1968	county in the future; or
1969	(iii) [contain a term that conflicts with, or is different from, a standard set forth in an
1970	existing land use regulation that governs the area subject to the development agreement] allow
1971	a use or development of land that applicable land use regulations governing the area subject to
1972	the development agreement would otherwise prohibit, unless the legislative body approves the
1973	development agreement in accordance with the same procedures for enacting a land use
1974	regulation under Section 17-27a-502, including a review and recommendation from the
1975	planning commission and a public hearing.
1976	(b) A development agreement that requires the implementation of an existing land use
1977	regulation as an administrative act does not require a legislative body's approval under Section
1978	17-27a-502.

1979	(c) A county may not require a development agreement as the only option for
1980	developing land within the county.]
1981	[(d)] (c) (i) If a development agreement restricts an applicant's rights under clearly
1982	established state law, the county shall disclose in writing to the applicant the rights of the
1983	applicant the development agreement restricts.
1984	(ii) A county's failure to disclose in accordance with Subsection (2)(c)(i) voids any
1985	provision in the development agreement pertaining to the undisclosed rights.
1986	(d) A county may not require a development agreement as a condition for developing
1987	land if the county's land use regulations establish all applicable standards for development on
1988	the land.
1989	(e) To the extent that a development agreement does not specifically address a matter
1990	or concern related to land use or development, the matter or concern is governed by:
1991	(i) this chapter; and
1992	(ii) any applicable land use regulations.
1993	Section 19. Section 17-27a-530 is amended to read:
1994	17-27a-530. Regulation of building design elements prohibited Exceptions.
1995	(1) As used in this section[,]:
1996	(a) "[building] Building design element" means:
1997	[(a)] <u>(i)</u> exterior color;
1998	[(b)] (ii) type or style of exterior cladding material;
1999	[(e)] (iii) style, dimensions, or materials of a roof structure, roof pitch, or porch;
2000	[(d)] (iv) exterior nonstructural architectural ornamentation;
2001	[(e)] (v) location, design, placement, or architectural styling of a window or door;
2002	[(f)] (vi) location, design, placement, or architectural styling of a garage door, not
2003	including a rear-loading garage door;
2004	[(g)] <u>(vii)</u> number or type of rooms;
2005	[(h)] (viii) interior layout of a room;
2006	[(i)] (ix) minimum square footage over 1,000 square feet, not including a garage;
2007	$[\frac{(j)}{(x)}]$ rear yard landscaping requirements;
2008	$\left[\frac{(k)}{(xi)}\right]$ minimum building dimensions; or
2009	[(1)] (xii) a requirement to install front yard fencing.

2010	(b) "Local non-historic lot" means a lot that:
2011	(i) is in an area designated in:
2012	(A) the National Register of Historic places;
2013	(B) the state register, as defined in Section 9-8-402; or
2014	(C) a local historic district or area, or a site designated as a local landmark;
2015	(ii) was created by a subdivision plat approved by a municipality and recorded after
2016	January 1, 1990;
2017	(iii) is larger than one acre; and
2018	(iv) includes primary structures built after January 1, 1999.
2019	(c) "Subterranean improvement" means an improvement or area for connecting
2020	structures that is:
2021	(i) located entirely below grade; and
2022	(ii) constructed or will be constructed consistent with Title 15A, Chapter 2, State
2023	Constructions and Fire Codes Act.
2024	(2) Except as provided in Subsection (3), a county may not impose a requirement for a
2025	building design element on a one to two family dwelling.
2026	(3) Subsection (2) does not apply to:
2027	(a) a dwelling located within an area designated as a historic district in:
2028	(i) the National Register of Historic Places;
2029	(ii) the state register as defined in Section 9-8-402; or
2030	(iii) a local historic district or area, or a site designated as a local landmark, created by
2031	ordinance before January 1, 2021;
2032	(b) an ordinance enacted as a condition for participation in the National Flood
2033	Insurance Program administered by the Federal Emergency Management Agency;
2034	(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban
2035	Interface Code adopted under Section 15A-2-103;
2036	(d) building design elements agreed to under a development agreement;
2037	(e) a dwelling located within an area that:
2038	(i) is zoned primarily for residential use; and
2039	(ii) was substantially developed before calendar year 1950;
2040	(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

2041	(g) an ordinance enacted to regulate type of cladding, in response to findings or
2042	evidence from the construction industry of:
2043	(i) defects in the material of existing cladding; or
2044	(ii) consistent defects in the installation of existing cladding; or
2045	(h) a land use regulation, including a planned unit development or overlay zone, that a
2046	property owner requests:
2047	(i) the county to apply to the owner's property; and
2048	(ii) in exchange for an increase in density or other benefit not otherwise available as a
2049	permitted use in the zoning area or district.
2050	(4) For a dwelling on a local non-historic lot, a municipality may not impose
2051	restrictions on any dwelling's vertical or horizontal facade or massing on any dwelling, and the
2052	exemption under Subsections (3)(a)(iii) and (3)(h) shall not apply for any building design
2053	element.
2054	(5) Any conditional use for a dwelling, use, or activity on a local non-historic lot shall
2055	be a permitted use.
2056	(6) A municipality may not include subterranean improvements in any determination of
2057	evaluation of whether a single family dwelling and any accessory buildings on a local
2058	non-historic lot comply with a land use regulation, plat, or other location restriction.
2059	Section 20. 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	$\left[\frac{(2)}{(2)}\right]$ (3) (a) Before an applicant conducts any development activity or records a plat,

the applicant shall:

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- (i) complete any required [landscaping] public landscaping improvements or infrastructure improvements; or
- (ii) post an improvement completion assurance for any required [landscaping] <u>public</u> landscaping improvements or infrastructure improvements.
- (b) If an applicant elects to post an improvement completion assurance, the applicant shall provide completion assurance for:
- (i) completion of 100% of the required [landscaping] public landscaping improvements or infrastructure improvements; or
- (ii) if the county has inspected and accepted a portion of the [landscaping] <u>public</u> <u>landscaping improvements</u> or infrastructure improvements, 100% of the incomplete or unaccepted [landscaping] <u>public</u> landscaping improvements or infrastructure improvements.
 - (c) A county shall:
 - (i) establish a minimum of two acceptable forms of completion assurance;
- (ii) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this title, and any local ordinances;
- (iii) establish a system for the partial release of an improvement completion assurance as portions of required [landscaping] public landscaping improvements or infrastructure improvements are completed and accepted in accordance with local ordinance; and
- (iv) issue or deny a building permit in accordance with Section 17-27a-802 based on the installation of [landscaping] public landscaping improvements or infrastructure improvements.
- (d) A county may not require an applicant to post an improvement completion assurance for:
- (i) [landscaping or an infrastructure improvement] public landscaping improvements or infrastructure improvements that the county has previously inspected and accepted;
- (ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation; or
 - (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

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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.