

1                   **MUNICIPAL LAND USE REGULATION MODIFICATIONS**

                          2024 GENERAL SESSION

                          STATE OF UTAH

**Chief Sponsor: Stephen L. Whyte**

                          Senate Sponsor: Lincoln Fillmore

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2  
3   **LONG TITLE**

4   **General Description:**

5       This bill modifies provisions relating to local governments.

6   **Highlighted Provisions:**

7       This bill:

- 8       ▸ modifies the signature requirements for a petition proposing to annex an area to a
- 9   municipality;
- 10      ▸ modifies county and municipal land use provisions;
- 11      ▸ requires a county or municipality to accept and process a complete land use application
- 12   under specified conditions;
- 13      ▸ modifies provisions relating to development agreements;
- 14      ▸ modifies the limitation of a provision on building design elements;
- 15      ▸ authorizes a county or municipality to require a seller to notify a buyer of water wise
- 16   landscaping requirements;
- 17      ▸ enacts language relating to residential rear setback limitations;
- 18      ▸ modifies provisions relating to the review of subdivision applications and subdivision
- 19   improvement plans;
- 20      ▸ modifies a provision relating to the landscaping of residential lots or open space;
- 21      ▸ modifies a provision relating to a completion assurance bond;
- 22      ▸ modifies provisions relating to the enforcement of county and municipal land use
- 23   regulations; and
- 24      ▸ makes technical and conforming changes.

25   **Money Appropriated in this Bill:**

26       None

27   **Other Special Clauses:**

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **10-2-403 (Effective 11/01/24)**, as last amended by Laws of Utah 2023, Chapters 16, 34  
32 and 478

33 **10-9a-509 (Effective 11/01/24)**, as last amended by Laws of Utah 2023, Chapter 478

34 **10-9a-532 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 478

35 **10-9a-534 (Effective 11/01/24)**, as last amended by Laws of Utah 2023, Chapters 160,  
36 478

37 **10-9a-536 (Effective 11/01/24)**, as last amended by Laws of Utah 2023, Chapters 139,  
38 247

39 **10-9a-604.2 (Effective 11/01/24)**, as enacted by Laws of Utah 2023, Chapter 501

40 **10-9a-604.5 (Effective 11/01/24)**, as last amended by Laws of Utah 2023, Chapter 478

41 **10-9a-802 (Effective 11/01/24)**, as last amended by Laws of Utah 2020, Chapter 434

42 **17-27a-508 (Effective 11/01/24)**, as last amended by Laws of Utah 2023, Chapter 478

43 **17-27a-528 (Effective 11/01/24)**, as last amended by Laws of Utah 2023, Chapter 478

44 **17-27a-530 (Effective 11/01/24)**, as last amended by Laws of Utah 2023, Chapters 160,  
45 478

46 **17-27a-532 (Effective 11/01/24)**, as last amended by Laws of Utah 2023, Chapters 139,  
47 247

48 **17-27a-604.2 (Effective 11/01/24)**, as enacted by Laws of Utah 2023, Chapter 501

49 **17-27a-604.5 (Effective 11/01/24)**, as last amended by Laws of Utah 2023, Chapter 478

50 **17-27a-802 (Effective 11/01/24)**, as last amended by Laws of Utah 2020, Chapter 434

51 **38-9-102 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 16

52 ENACTS:

53 **10-9a-538 (Effective 11/01/24)**, Utah Code Annotated 1953

54 **17-27a-534 (Effective 11/01/24)**, Utah Code Annotated 1953

55

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

57 Section 1. Section **10-2-403** is amended to read:

58 **10-2-403 (Effective 11/01/24). Annexation petition -- Requirements -- Notice**  
59 **required before filing.**

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

- 62 (2) (a) (i) Before filing a petition under Subsection (1), the person or persons  
63 intending to file a petition shall:
- 64 (A) file with the city recorder or town clerk of the proposed annexing municipality  
65 a notice of intent to file a petition; and  
66 (B) send a copy of the notice of intent to each affected entity.
- 67 (ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of  
68 the area that is proposed to be annexed.
- 69 (b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be  
70 annexed is located shall:
- 71 (A) mail the notice described in Subsection (2)(b)(iii) to:
- 72 (I) each owner of real property located within the area proposed to be annexed;  
73 and  
74 (II) each owner of real property located within 300 feet of the area proposed to  
75 be annexed; and
- 76 (B) send to the proposed annexing municipality a copy of the notice and a  
77 certificate indicating that the notice has been mailed as required under  
78 Subsection (2)(b)(i)(A).
- 79 (ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20  
80 days after receiving from the person or persons who filed the notice of intent:
- 81 (A) a written request to mail the required notice; and  
82 (B) payment of an amount equal to the county's expected actual cost of mailing  
83 the notice.
- 84 (iii) Each notice required under Subsection (2)(b)(i)(A) shall:
- 85 (A) be in writing;
- 86 (B) state, in bold and conspicuous terms, substantially the following:
- 87 "Attention: Your property may be affected by a proposed annexation.  
88 Records show that you own property within an area that is intended to be included in a  
89 proposed annexation to (state the name of the proposed annexing municipality) or that is  
90 within 300 feet of that area. If your property is within the area proposed for annexation, you  
91 may be asked to sign a petition supporting the annexation. You may choose whether to sign  
92 the petition. By signing the petition, you indicate your support of the proposed annexation. If  
93 you sign the petition but later change your mind about supporting the annexation, you may  
94 withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk  
95 of (state the name of the proposed annexing municipality) within 30 days after (state the name

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

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

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

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

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

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

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

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

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

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

129 (i) is located within the area proposed for annexation;

- 130 (ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land  
131 area within the area proposed for annexation;
- 132 (B) covers 100% of all of the rural real property within the area proposed for  
133 annexation; and
- 134 (C) covers 100% of all of the private land area within the area proposed for  
135 annexation [or] if the area is within a migratory bird production area created  
136 under Title 23A, Chapter 13, Migratory Bird Production Area; and
- 137 (iii) is equal in value to at least 1/3 of the value of all private real property within the  
138 area proposed for annexation;
- 139 (c) be accompanied by:
- 140 (i) an accurate and recordable map, prepared by a licensed surveyor in accordance  
141 with Section 17-23-20, of the area proposed for annexation; and
- 142 (ii) a copy of the notice sent to affected entities as required under Subsection  
143 (2)(a)(i)(B) and a list of the affected entities to which notice was sent;
- 144 (d) contain on each signature page a notice in bold and conspicuous terms that states  
145 substantially the following:
- 146 "Notice:
- 147 • There will be no public election on the annexation proposed by this petition because Utah  
148 law does not provide for an annexation to be approved by voters at a public election.
- 149 • If you sign this petition and later decide that you do not support the petition, you may  
150 withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk  
151 of (state the name of the proposed annexing municipality). If you choose to withdraw your  
152 signature, you shall do so no later than 30 days after (state the name of the proposed annexing  
153 municipality) receives notice that the petition has been certified.";
- 154 (e) if the petition proposes a cross-county annexation, as defined in Section 10-2-402.5,  
155 be accompanied by a copy of the resolution described in Subsection 10-2-402.5  
156 (4)(a)(iii)(A); and
- 157 (f) designate up to five of the signers of the petition as sponsors, one of whom shall be  
158 designated as the contact sponsor, and indicate the mailing address of each sponsor.
- 159 (4) A petition under Subsection (1) may not propose the annexation of all or part of an area  
160 proposed for annexation to a municipality in a previously filed petition that has not been  
161 denied, rejected, or granted.
- 162 (5) If practicable and feasible, the boundaries of an area proposed for annexation shall be  
163 drawn:

- 164 (a) along the boundaries of existing special districts and special service districts for  
 165 sewer, water, and other services, along the boundaries of school districts whose  
 166 boundaries follow city boundaries or school districts adjacent to school districts  
 167 whose boundaries follow city boundaries, and along the boundaries of other taxing  
 168 entities;
- 169 (b) to eliminate islands and peninsulas of territory that is not receiving municipal-type  
 170 services;
- 171 (c) to facilitate the consolidation of overlapping functions of local government;
- 172 (d) to promote the efficient delivery of services; and
- 173 (e) to encourage the equitable distribution of community resources and obligations.
- 174 (6) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to  
 175 the clerk of the county in which the area proposed for annexation is located.
- 176 (7) A property owner who signs an annexation petition may withdraw the owner's signature  
 177 by filing a written withdrawal, signed by the property owner, with the city recorder or  
 178 town clerk no later than 30 days after the municipal legislative body's receipt of the  
 179 notice of certification under Subsection 10-2-405(2)(c)(i).

180 Section 2. Section **10-9a-509** is amended to read:

181 **10-9a-509 (Effective 11/01/24). Applicant's entitlement to land use application**  
 182 **approval -- Municipality's requirements and limitations -- Vesting upon submission**  
 183 **of development plan and schedule.**

- 184 (1) (a) (i) An applicant who has submitted a complete land use application as  
 185 described in Subsection (1)(c), including the payment of all application fees, is  
 186 entitled to substantive review of the application under the land use regulations:
- 187 (A) in effect on the date that the application is complete; and  
 188 (B) applicable to the application or to the information shown on the application.
- 189 (ii) An applicant is entitled to approval of a land use application if the application  
 190 conforms to the requirements of the applicable land use regulations, land use  
 191 decisions, and development standards in effect when the applicant submits a  
 192 complete application and pays application fees, unless:
- 193 (A) the land use authority, on the record, formally finds that a compelling,  
 194 countervailing public interest would be jeopardized by approving the  
 195 application and specifies the compelling, countervailing public interest in  
 196 writing; or  
 197 (B) in the manner provided by local ordinance and before the applicant submits

198 the application, the municipality formally initiates proceedings to amend the  
199 municipality's land use regulations in a manner that would prohibit approval of  
200 the application as submitted.

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

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

205 (ii) (A) the proceedings have not resulted in an enactment that prohibits approval  
206 of the application as submitted; or

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

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

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

216 (e) Unless a phasing sequence is required in an executed development agreement, a  
217 municipality shall, without regard to any other separate and distinct land use  
218 application, accept and process a complete land use application.

219 [(e)] (f) The continuing validity of an approval of a land use application is conditioned  
220 upon the applicant proceeding after approval to implement the approval with  
221 reasonable diligence.

222 [(f)] (g) A municipality may not impose on an applicant who has submitted a complete  
223 application a requirement that is not expressed in:

224 (i) this chapter;

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

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

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

231 (i) in a land use permit;

- 232 (ii) on the subdivision plat;
- 233 (iii) in a document on which the land use permit or subdivision plat is based;
- 234 (iv) in the written record evidencing approval of the land use permit or subdivision  
235 plat;
- 236 (v) in this chapter;
- 237 (vi) in a municipal ordinance; or
- 238 (vii) in a municipal specification for residential roadways in effect at the time a  
239 residential subdivision was approved.
- 240 ~~[(h)]~~ (i) Except as provided in Subsection (1)(i), a municipality may not withhold  
241 issuance of a certificate of occupancy or acceptance of subdivision improvements  
242 because of an applicant's failure to comply with a requirement that is not expressed:
- 243 (i) in the building permit or subdivision plat, documents on which the building permit  
244 or subdivision plat is based, or the written record evidencing approval of the land  
245 use permit or subdivision plat; or
- 246 (ii) in this chapter or the municipality's ordinances.
- 247 ~~[(i)]~~ (j) A municipality may not unreasonably withhold issuance of a certificate of  
248 occupancy where an applicant has met all requirements essential for the public  
249 health, public safety, and general welfare of the occupants, in accordance with this  
250 chapter, unless:
- 251 (i) the applicant and the municipality have agreed in a written document to the  
252 withholding of a certificate of occupancy; or
- 253 (ii) the applicant has not provided a financial assurance for required and uncompleted  
254 public landscaping improvements or infrastructure improvements in accordance  
255 with an applicable ordinance that the legislative body adopts under this chapter.
- 256 (2) A municipality is bound by the terms and standards of applicable land use regulations  
257 and shall comply with mandatory provisions of those regulations.
- 258 (3) A municipality may not, as a condition of land use application approval, require a  
259 person filing a land use application to obtain documentation regarding a school district's  
260 willingness, capacity, or ability to serve the development proposed in the land use  
261 application.
- 262 (4) Upon a specified public agency's submission of a development plan and schedule as  
263 required in Subsection 10-9a-305(8) that complies with the requirements of that  
264 subsection, the specified public agency vests in the municipality's applicable land use  
265 maps, zoning map, hookup fees, impact fees, other applicable development fees, and



- 266 land use regulations in effect on the date of submission.
- 267 (5) (a) If sponsors of a referendum timely challenge a project in accordance with
- 268 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land
- 269 use approval by delivering a written notice:
- 270 (i) to the local clerk as defined in Section 20A-7-101; and
- 271 (ii) no later than seven days after the day on which a petition for a referendum is
- 272 determined sufficient under Subsection 20A-7-607(5).
- 273 (b) Upon delivery of a written notice described in Subsection (5)(a) the following are
- 274 rescinded and are of no further force or effect:
- 275 (i) the relevant land use approval; and
- 276 (ii) any land use regulation enacted specifically in relation to the land use approval.

277 Section 3. Section **10-9a-532** is amended to read:

278 **10-9a-532 (Effective 05/01/24). Development agreements.**

- 279 (1) Subject to Subsection (2), a municipality may enter into a development agreement
- 280 containing any term that the municipality considers necessary or appropriate to
- 281 accomplish the purposes of this chapter, including a term relating to:
- 282 (a) a master planned development;
- 283 (b) a planned unit development;
- 284 (c) an annexation;
- 285 (d) affordable or moderate income housing with development incentives;
- 286 (e) a public-private partnership; or
- 287 (f) a density transfer or bonus within a development project or between development
- 288 projects.
- 289 (2) (a) A development agreement may not:
- 290 (i) limit a municipality's authority in the future to:
- 291 (A) enact a land use regulation; or
- 292 (B) take any action allowed under Section 10-8-84;
- 293 (ii) require a municipality to change the zoning designation of an area of land within
- 294 the municipality in the future; or
- 295 (iii) allow a use or development of land that applicable land use regulations
- 296 governing the area subject to the development agreement would otherwise
- 297 prohibit, unless the legislative body approves the development agreement in
- 298 accordance with the same procedures for enacting a land use regulation under
- 299 Section 10-9a-502, including a review and recommendation from the planning

- 300 commission and a public hearing.
- 301 (b) A development agreement that requires the implementation of an existing land use  
302 regulation as an administrative act does not require a legislative body's approval  
303 under Section 10-9a-502.
- 304 ~~[(e) (i) If a development agreement restricts an applicant's rights under clearly  
305 established state law, the municipality shall disclose in writing to the applicant the  
306 rights of the applicant the development agreement restricts.]~~
- 307 ~~[(ii) A municipality's failure to disclose in accordance with Subsection (2)(c)(i) voids  
308 any provision in the development agreement pertaining to the undisclosed rights.]~~
- 309 ~~[(d) A municipality may not require a development agreement as a condition for  
310 developing land if the municipality's land use regulations establish all applicable  
311 standards for development on the land.]~~
- 312 (c) Subject to Subsection (2)(d), a municipality may require a development agreement  
313 for developing land within the municipality if the applicant has applied for a  
314 legislative or discretionary approval, including an approval relating to:
- 315 (i) the height of a structure;  
316 (ii) a parking or setback exception;  
317 (iii) a density transfer or bonus;  
318 (iv) a development incentive;  
319 (v) a zone change; or  
320 (vi) an amendment to a prior development agreement.
- 321 (d) A municipality may not require a development agreement as a condition for  
322 developing land within the municipality if:
- 323 (i) the development otherwise complies with applicable statute and municipal  
324 ordinances;  
325 (ii) the development is an allowed or permitted use; or  
326 (iii) the municipality's land use regulations otherwise establish all applicable  
327 standards for development on the land.
- 328 (e) A municipality may submit to a county recorder's office for recording:
- 329 (i) a fully executed agreement; or  
330 (ii) a document related to:
- 331 (A) code enforcement;  
332 (B) a special assessment area;  
333 (C) a local historic district boundary; or

334                   (D) the memorializing or enforcement of an agreed upon restriction, incentive, or  
335                   covenant.

336           (f) Subject to Subsection (2)(e), a municipality may not cause to be recorded against  
337           private real property a document that imposes development requirements,  
338           development regulations, or development controls on the property.

339           [(e)] (g) To the extent that a development agreement does not specifically address a  
340           matter or concern related to land use or development, the matter or concern is  
341           governed by:

342           (i) this chapter; and

343           (ii) any applicable land use regulations.

344           Section 4. Section **10-9a-534** is amended to read:

345           **10-9a-534 (Effective 11/01/24). Regulation of building design elements**  
346           **prohibited -- Exceptions.**

347           (1) As used in this section, "building design element" means:

348           (a) exterior color;

349           (b) type or style of exterior cladding material;

350           (c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

351           (d) exterior nonstructural architectural ornamentation;

352           (e) location, design, placement, or architectural styling of a window or door;

353           (f) location, design, placement, or architectural styling of a garage door, not including a  
354           rear-loading garage door;

355           (g) number or type of rooms;

356           (h) interior layout of a room;

357           (i) minimum square footage over 1,000 square feet, not including a garage;

358           (j) rear yard landscaping requirements;

359           (k) minimum building dimensions; or

360           (l) a requirement to install front yard fencing.

361           (2) Except as provided in Subsection (3), a municipality may not impose a requirement for  
362           a building design element on a one- or two-family dwelling.

363           (3) Subsection (2) does not apply to:

364           (a) a dwelling located within an area designated as a historic district in:

365           (i) the National Register of Historic Places;

366           (ii) the state register as defined in Section 9-8a-402; or

367           (iii) a local historic district or area, or a site designated as a local landmark, created

- 368 by ordinance before January 1, 2021, except as provided under Subsection (3)(b);
- 369 (b) an ordinance enacted as a condition for participation in the National Flood Insurance
- 370 Program administered by the Federal Emergency Management Agency;
- 371 (c) an ordinance enacted to implement the requirements of the Utah Wildland Urban
- 372 Interface Code adopted under Section 15A-2-103;
- 373 (d) building design elements agreed to under a development agreement;
- 374 (e) a dwelling located within an area that:
- 375 (i) is zoned primarily for residential use; and
- 376 (ii) was substantially developed before calendar year 1950;
- 377 (f) an ordinance enacted to implement water efficient landscaping in a rear yard;
- 378 (g) an ordinance enacted to regulate type of cladding, in response to findings or evidence
- 379 from the construction industry of:
- 380 (i) defects in the material of existing cladding; or
- 381 (ii) consistent defects in the installation of existing cladding; [or]
- 382 (h) a land use regulation, including a planned unit development or overlay zone, that a
- 383 property owner requests:
- 384 (i) the municipality to apply to the owner's property; and
- 385 (ii) in exchange for an increase in density or other benefit not otherwise available as a
- 386 permitted use in the zoning area or district[-] ; or
- 387 (i) an ordinance enacted to mitigate the impacts of an accidental explosion:
- 388 (i) in excess of 20,000 pounds of trinitrotoluene equivalent;
- 389 (ii) that would create overpressure waves greater than .2 pounds per square inch; and
- 390 (iii) that would pose a risk of damage to a window, garage door, or carport of a
- 391 facility located within the vicinity of the regulated area.

392 Section 5. Section **10-9a-536** is amended to read:

393 **10-9a-536 (Effective 11/01/24). Water wise landscaping.**

- 394 (1) As used in this section:
- 395 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed
- 396 grasses.
- 397 (b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose
- 398 and applied to the soil.
- 399 (c) "Overhead spray irrigation" means above ground irrigation heads that spray water
- 400 through a nozzle.
- 401 (d) (i) "Vegetative coverage" means the ground level surface area covered by the

- 402 exposed leaf area of a plant or group of plants at full maturity.
- 403 (ii) "Vegetative coverage" does not mean the ground level surface area covered by  
404 the exposed leaf area of a tree or trees.
- 405 (e) "Water wise landscaping" means any or all of the following:
- 406 (i) installation of plant materials suited to the microclimate and soil conditions that  
407 can:
- 408 (A) remain healthy with minimal irrigation once established; or  
409 (B) be maintained without the use of overhead spray irrigation;
- 410 (ii) use of water for outdoor irrigation through proper and efficient irrigation design  
411 and water application; or
- 412 (iii) use of other landscape design features that:
- 413 (A) minimize the need of the landscape for supplemental water from irrigation; or  
414 (B) reduce the landscape area dedicated to lawn or turf.
- 415 (2) A municipality may not enact or enforce an ordinance, resolution, or policy that  
416 prohibits, or has the effect of prohibiting, a property owner from incorporating water  
417 wise landscaping on the property owner's property.
- 418 (3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality from  
419 requiring a property owner to:
- 420 (i) comply with a site plan review or other review process before installing water  
421 wise landscaping;
- 422 (ii) maintain plant material in a healthy condition; and
- 423 (iii) follow specific water wise landscaping design requirements adopted by the  
424 municipality, including a requirement that:
- 425 (A) restricts or clarifies the use of mulches considered detrimental to municipal  
426 operations;
- 427 (B) imposes minimum or maximum vegetative coverage standards; or  
428 (C) restricts or prohibits the use of specific plant materials.
- 429 (b) A municipality may not require a property owner to install or keep in place lawn or  
430 turf in an area with a width less than eight feet.
- 431 (4) A municipality may require a seller of a newly constructed residence to inform the first  
432 buyer of the newly constructed residence of a municipal ordinance requiring water wise  
433 landscaping.
- 434 [(4)] (5) A municipality shall report to the Division of Water Resources the existence,  
435 enactment, or modification of an ordinance, resolution, or policy that implements

436 regional-based water use efficiency standards established by the Division of Water  
437 Resources by rule under Section 73-10-37.

438 Section 6. Section **10-9a-538** is enacted to read:

439 **10-9a-538 (Effective 11/01/24). Residential rear setback limitations.**

440 (1) As used in this section:

441 (a) "Allowable feature" means:

442 (i) a landing or walkout porch that:

443 (A) is no more than 32 square feet in size; and

444 (B) is used for ingress to and egress from the rear of the residential dwelling; or

445 (ii) a window well.

446 (b) "Landing" means an uncovered, above-ground platform, with or without stairs,  
447 connected to the rear of a residential dwelling.

448 (c) "Setback" means the required distance between the property line of a lot or parcel  
449 and the location where a structure is allowed to be placed under an adopted land use  
450 regulation.

451 (d) "Walkout porch" means an uncovered platform that is on the ground and connected  
452 to the rear of a residential dwelling.

453 (e) "Window well" means a recess in the ground around a residential dwelling to allow  
454 for ingress and egress through a window installed in a basement that is fully or  
455 partially below ground.

456 (2) A municipality may not enact or enforce an ordinance, resolution, or policy that  
457 prohibits or has the effect of prohibiting an allowable feature within the rear setback of a  
458 residential building lot or parcel.

459 (3) Subsection (2) does not apply to a historic district within the municipality.

460 Section 7. Section **10-9a-604.2** is amended to read:

461 **10-9a-604.2 (Effective 11/01/24). Review of subdivision applications and**  
462 **subdivision improvement plans.**

463 (1) As used in this section:

464 (a) "Review cycle" means the occurrence of:

465 (i) the applicant's submittal of a complete subdivision[~~land use~~] application;

466 (ii) the municipality's review of that subdivision[~~land use~~] application;

467 (iii) the municipality's response to that subdivision[~~land use~~] application, in  
468 accordance with this section; and

469 (iv) the applicant's reply to the municipality's response that addresses each of the

- 470 municipality's required modifications or requests for additional information.
- 471 (b) "Subdivision application" means a land use application for the subdivision of land.
- 472 ~~[(b)]~~ (c) "Subdivision improvement plans" means the civil engineering plans associated  
 473 with required infrastructure improvements and municipally controlled utilities  
 474 required for a subdivision.
- 475 ~~[(e)]~~ (d) "Subdivision ordinance review" means review by a municipality to verify that a  
 476 subdivision[~~land use~~] application meets the criteria of the municipality's[~~subdivision~~]  
 477 ordinances.
- 478 ~~[(d)]~~ (e) "Subdivision plan review" means a review of the applicant's subdivision  
 479 improvement plans and other aspects of the subdivision[~~land use~~] application to  
 480 verify that the application complies with municipal ordinances and applicable  
 481 installation standards and inspection specifications for infrastructure improvements.
- 482 (2) The review cycle restrictions and requirements of this section do not apply to the review  
 483 of subdivision applications affecting property within identified geological hazard areas.
- 484 (3) (a) A municipality may require a subdivision improvement plan to be submitted with  
 485 a subdivision application.
- 486 (b) A municipality may not require a subdivision improvement plan to be submitted with  
 487 both a preliminary subdivision application and a final subdivision application.
- 488 (4) (a) The review cycle requirements of this section apply:
- 489 (i) to the review of a preliminary subdivision application, if the municipality requires  
 490 a subdivision improvement plan to be submitted with a preliminary subdivision  
 491 application; or
- 492 (ii) to the review of a final subdivision application, if the municipality requires a  
 493 subdivision improvement plan to be submitted with a final subdivision application.
- 494 (b) A municipality may not, outside the review cycle, engage in a substantive review of  
 495 required infrastructure improvements or a municipally controlled utility.
- 496 ~~[(3)]~~ (a) No later than 15 business days after the day on which an applicant submits a  
 497 complete preliminary subdivision land use application for a residential subdivision for  
 498 single-family dwellings, two-family dwellings, or townhomes, the municipality shall  
 499 complete the initial review of the application, including subdivision improvement plans.]
- 500 ~~[(b)]~~ (5) (a) A municipality shall complete the initial review of a complete subdivision  
 501 application submitted for ordinance review for a residential subdivision for  
 502 single-family dwellings, two-family dwellings, or town homes:
- 503 (i) no later than 15 business days after the complete subdivision application is

- 504 submitted, if the municipality has a population over 5,000; or  
 505 (ii) no later than 30 business days after the complete subdivision application is  
 506 submitted, if the municipality has a population of 5,000 or less.
- 507 (b) A municipality shall maintain and publish a list of the items comprising the complete[  
 508 preliminary] subdivision[~~land use~~] application, including:  
 509 (i) the application;  
 510 (ii) the owner's affidavit;  
 511 (iii) an electronic copy of all plans in PDF format;  
 512 (iv) the preliminary subdivision plat drawings; and  
 513 (v) a breakdown of fees due upon approval of the application.
- 514 ~~[(4)]~~ (6) ~~[(a)]~~ A municipality shall publish a list of the items that comprise a complete[  
 515 final] subdivision land use application.
- 516 ~~[(b) No later than 20 business days after the day on which an applicant submits a plat,~~  
 517 ~~the municipality shall complete a review of the applicant's final subdivision land use~~  
 518 ~~application for a residential subdivision for single-family dwellings, two-family~~  
 519 ~~dwellings, or townhomes, including all subdivision plan reviews.]~~
- 520 (7) A municipality shall complete a subdivision plan review of a subdivision improvement  
 521 plan that is submitted with a complete subdivision application for a residential  
 522 subdivision for single-family dwellings, two-family dwellings, or town homes:  
 523 (a) within 20 business days after the complete subdivision application is submitted, if the  
 524 municipality has a population over 5,000; or  
 525 (b) within 40 business days after the complete subdivision application is submitted, if  
 526 the municipality has a population of 5,000 or less.
- 527 ~~[(5)]~~ (8) (a) In reviewing a subdivision[~~land use~~] application, a municipality may require:  
 528 (i) additional information relating to an applicant's plans to ensure compliance with  
 529 municipal ordinances and approved standards and specifications for construction  
 530 of public improvements; and  
 531 (ii) modifications to plans that do not meet current ordinances, applicable standards  
 532 or specifications, or do not contain complete information.
- 533 (b) A municipality's request for additional information or modifications to plans under  
 534 Subsection ~~[(5)(a)(i)]~~ (8)(a)(i) or (ii) shall be specific and include citations to  
 535 ordinances, standards, or specifications that require the modifications to subdivision  
 536 improvement plans, and shall be logged in an index of requested modifications or  
 537 additions.



- 538 (c) A municipality may not require more than four review cycles for a subdivision  
539 improvement plan review.
- 540 (d) (i) Subject to Subsection [~~(5)(d)(ii)~~] (8)(d)(ii), unless the change or correction is  
541 necessitated by the applicant's adjustment to a subdivision improvement plan[-set]  
542 or an update to a phasing plan that adjusts the infrastructure needed for the  
543 specific development, a change or correction not addressed or referenced in a  
544 municipality's subdivision improvement plan review is waived.
- 545 (ii) A modification or correction necessary to protect public health and safety or to  
546 enforce state or federal law may not be waived.
- 547 (iii) If an applicant makes a material change to a subdivision improvement plan[-set],  
548 the municipality has the discretion to restart the review process at the first review  
549 of the [~~final application~~] subdivision improvement plan review, but only with  
550 respect to the portion of the subdivision improvement plan[-set] that the material  
551 change substantively [~~effects~~] affects.
- 552 (e) (i) [~~H~~] This Subsection (8)(e) applies if an applicant does not submit a revised  
553 subdivision improvement plan within[-] :  
554 (A) 20 business days after the municipality requires a modification or correction, [  
555 the municipality shall have an additional 20 business days to respond to the  
556 plans] if the municipality has a population over 5,000; or  
557 (B) 40 business days after the municipality requires a modification or correction,  
558 if the municipality has a population of 5,000 or less.
- 559 (ii) If an applicant does not submit a revised subdivision improvement plan within the  
560 time specified in Subsection (8)(e)(i), a municipality has an additional 20 business  
561 days after the time specified in Subsection (7) to respond to a revised subdivision  
562 improvement plan.
- 563 [~~(6)~~] (9) After the applicant has responded to the final review cycle, and the applicant has  
564 complied with each modification requested in the municipality's previous review cycle,  
565 the municipality may not require additional revisions if the applicant has not materially  
566 changed the plan, other than changes that were in response to requested modifications or  
567 corrections.
- 568 [~~(7)~~] (10) (a) In addition to revised plans, an applicant shall provide a written explanation  
569 in response to the municipality's review comments, identifying and explaining the  
570 applicant's revisions and reasons for declining to make revisions, if any.
- 571 (b) The applicant's written explanation shall be comprehensive and specific, including

- 572 citations to applicable standards and ordinances for the design and an index of  
 573 requested revisions or additions for each required correction.
- 574 (c) If an applicant fails to address a review comment in the response, the review cycle is  
 575 not complete and the subsequent review cycle may not begin until all comments are  
 576 addressed.
- 577 [~~8~~] (11) (a) If, on the fourth or final review, a municipality fails to respond within 20  
 578 business days, the municipality shall, upon request of the property owner, and within  
 579 10 business days after the day on which the request is received:
- 580 (i) for a dispute arising from the subdivision improvement plans, assemble an appeal  
 581 panel in accordance with Subsection 10-9a-508(5)(d) to review and approve or  
 582 deny the final revised set of plans; or
- 583 (ii) for a dispute arising from the subdivision ordinance review, advise the applicant,  
 584 in writing, of the deficiency in the application and of the right to appeal the  
 585 determination to a designated appeal authority.
- 586 Section 8. Section **10-9a-604.5** is amended to read:
- 587 **10-9a-604.5 (Effective 11/01/24). Subdivision plat recording or development**  
 588 **activity before required landscaping or infrastructure is completed --**  
 589 **Improvement completion assurance -- Improvement warranty.**
- 590 (1) As used in this section, "public landscaping improvement" means landscaping that an  
 591 applicant is required to install to comply with published installation and inspection  
 592 specifications for public improvements that:
- 593 (a) will be dedicated to and maintained by the municipality; or  
 594 (b) are associated with and proximate to trail improvements that connect to planned or  
 595 existing public infrastructure.
- 596 (2) A land use authority shall establish objective inspection standards for acceptance of a  
 597 public landscaping improvement or infrastructure improvement that the land use  
 598 authority requires.
- 599 (3) (a) Before an applicant conducts any development activity or records a plat, the  
 600 applicant shall:
- 601 (i) complete any required public landscaping improvements or infrastructure  
 602 improvements; or  
 603 (ii) post an improvement completion assurance for any required public landscaping  
 604 improvements or infrastructure improvements.
- 605 (b) If an applicant elects to post an improvement completion assurance, the applicant

- 606 shall provide completion assurance for:
- 607 (i) completion of 100% of the required public landscaping improvements or  
608 infrastructure improvements; or
- 609 (ii) if the municipality has inspected and accepted a portion of the public landscaping  
610 improvements or infrastructure improvements, 100% of the incomplete or  
611 unaccepted public landscaping improvements or infrastructure improvements.
- 612 (c) A municipality shall:
- 613 (i) establish a minimum of two acceptable forms of completion assurance;
- 614 (ii) if an applicant elects to post an improvement completion assurance, allow the  
615 applicant to post an assurance that meets the conditions of this title, and any local  
616 ordinances;
- 617 (iii) establish a system for the partial release of an improvement completion  
618 assurance as portions of required public landscaping improvements or  
619 infrastructure improvements are completed and accepted in accordance with local  
620 ordinance; and
- 621 (iv) issue or deny a building permit in accordance with Section 10-9a-802 based on  
622 the installation of public landscaping improvements or infrastructure  
623 improvements.
- 624 (d) A municipality may not require an applicant to post an improvement completion  
625 assurance for:
- 626 (i) public landscaping improvements or an infrastructure improvement that the  
627 municipality has previously inspected and accepted;
- 628 (ii) infrastructure improvements that are private and not essential or required to meet  
629 the building code, fire code, flood or storm water management provisions, street  
630 and access requirements, or other essential necessary public safety improvements  
631 adopted in a land use regulation;
- 632 (iii) in a municipality where ordinances require all infrastructure improvements  
633 within the area to be private, infrastructure improvements within a development  
634 that the municipality requires to be private; or
- 635 (iv) landscaping improvements that are not public landscaping improvements~~[, as~~  
636 ~~defined in Section 10-9a-103]~~, unless the landscaping improvements and  
637 completion assurance are required under the terms of a development agreement.
- 638 (4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or  
639 other entitlement benefit not currently available under the existing zone, a

- 640 municipality may require a completion assurance bond for landscaped amenities and  
 641 common area that are dedicated to and maintained by a homeowners association.
- 642 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)  
 643 between the applicant and the municipality shall be memorialized in a development  
 644 agreement.
- 645 (c) A municipality may not require a completion assurance bond for or dictate who  
 646 installs or is responsible for the cost of the landscaping of residential lots or the  
 647 equivalent open space surrounding single-family attached homes, whether platted as  
 648 lots or common area.
- 649 (5) The sum of the improvement completion assurance required under Subsections (3) and  
 650 (4) may not exceed the sum of:
- 651 (a) 100% of the estimated cost of the public landscaping improvements or infrastructure  
 652 improvements, as evidenced by an engineer's estimate or licensed contractor's bid;  
 653 and
- 654 (b) 10% of the amount of the bond to cover administrative costs incurred by the  
 655 municipality to complete the improvements, if necessary.
- 656 (6) At any time before a municipality accepts a public landscaping improvement or  
 657 infrastructure improvement, and for the duration of each improvement warranty period,  
 658 the municipality may require the applicant to:
- 659 (a) execute an improvement warranty for the improvement warranty period; and  
 660 (b) post a cash deposit, surety bond, letter of credit, or other similar security, as required  
 661 by the municipality, in the amount of up to 10% of the lesser of the:
- 662 (i) municipal engineer's original estimated cost of completion; or  
 663 (ii) applicant's reasonable proven cost of completion.
- 664 (7) When a municipality accepts an improvement completion assurance for public  
 665 landscaping improvements or infrastructure improvements for a development in  
 666 accordance with Subsection (3)(c)(ii), the municipality may not deny an applicant a  
 667 building permit if the development meets the requirements for the issuance of a building  
 668 permit under the building code and fire code.
- 669 (8) The provisions of this section do not supersede the terms of a valid development  
 670 agreement, an adopted phasing plan, or the state construction code.

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

672 **10-9a-802 (Effective 11/01/24). Enforcement.**

- 673 (1) (a) A municipality or an adversely affected party may, in addition to other remedies

- 674 provided by law, institute:
- 675 (i) injunctions, mandamus, abatement, or any other appropriate actions; or
- 676 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 677 (b) A municipality need only establish the violation to obtain the injunction.
- 678 (2) (a) [A] Except as provided in Subsections (3) and (4), a municipality may enforce the
- 679 municipality's ordinance by withholding a building permit.
- 680 (b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any
- 681 building or other structure within a municipality without approval of a building
- 682 permit.
- 683 (c) A municipality may not issue a building permit unless the plans of and for the
- 684 proposed erection, construction, reconstruction, alteration, or use fully conform to all
- 685 regulations then in effect.
- 686 (d) A municipality may not deny an applicant a building permit or certificate of
- 687 occupancy because the applicant has not completed an infrastructure improvement:
- 688 (i) that is not essential to meet the requirements for the issuance of a building permit
- 689 or certificate of occupancy under the building code and fire code; and
- 690 (ii) for which the municipality has accepted an improvement completion assurance for
- 691 a public landscaping improvement, as defined in Section 10-9a-604.5, or an
- 692 infrastructure [~~improvements~~] improvement for the development.
- 693 (3) A municipality may not deny an applicant a building permit or certificate of occupancy
- 694 based on the lack of completion of a landscaping improvement that is not a public
- 695 landscaping improvement, as defined in Section 10-9a-604.5.
- 696 (4) A municipality may not withhold a building permit based on the lack of completion of a
- 697 portion of a public sidewalk to be constructed within a public right-of-way serving a lot
- 698 where a single-family or two-family residence or town home is proposed in a building
- 699 permit application if an improvement completion assurance has been posted for the
- 700 incomplete portion of the public sidewalk.
- 701 (5) A municipality may not prohibit the construction of a single-family or two-family
- 702 residence or town home, withhold recording a plat, or withhold acceptance of a public
- 703 landscaping improvement, as defined in Section 10-9a-604.5, or an infrastructure
- 704 improvement based on the lack of installation of a public sidewalk if an improvement
- 705 completion assurance has been posted for the public sidewalk.
- 706 (6) A municipality may not redeem an improvement completion assurance securing the
- 707 installation of a public sidewalk sooner than 18 months after the date the improvement

- 708 completion assurance is posted.
- 709 (7) A municipality shall allow an applicant to post an improvement completion assurance  
 710 for a public sidewalk separate from an improvement completion assurance for:
- 711 (a) another infrastructure improvement; or
- 712 (b) a public landscaping improvement, as defined in Section 10-9a-604.5.
- 713 (8) A municipality may withhold a certificate of occupancy for a single-family or  
 714 two-family residence or town home until the portion of the public sidewalk to be  
 715 constructed within a public right-of-way and located immediately adjacent to the  
 716 single-family or two-family residence or town home is completed and accepted by the  
 717 municipality.

718 Section 10. Section **17-27a-508** is amended to read:

719 **17-27a-508 (Effective 11/01/24). Applicant's entitlement to land use application**  
 720 **approval -- Application relating to land in a high priority transportation corridor --**  
 721 **County's requirements and limitations -- Vesting upon submission of development**  
 722 **plan and schedule.**

- 723 (1) (a) (i) An applicant who has submitted a complete land use application, including  
 724 the payment of all application fees, is entitled to substantive review of the  
 725 application under the land use regulations:
- 726 (A) in effect on the date that the application is complete; and
- 727 (B) applicable to the application or to the information shown on the submitted  
 728 application.
- 729 (ii) An applicant is entitled to approval of a land use application if the application  
 730 conforms to the requirements of the applicable land use regulations, land use  
 731 decisions, and development standards in effect when the applicant submits a  
 732 complete application and pays all application fees, unless:
- 733 (A) the land use authority, on the record, formally finds that a compelling,  
 734 countervailing public interest would be jeopardized by approving the  
 735 application and specifies the compelling, countervailing public interest in  
 736 writing; or
- 737 (B) in the manner provided by local ordinance and before the applicant submits  
 738 the application, the county formally initiates proceedings to amend the county's  
 739 land use regulations in a manner that would prohibit approval of the  
 740 application as submitted.
- 741 (b) The county shall process an application without regard to proceedings the county

- 742 initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:
- 743 (i) 180 days have passed since the county initiated the proceedings; and
- 744 (ii) (A) the proceedings have not resulted in an enactment that prohibits approval
- 745 of the application as submitted; or
- 746 (B) during the 12 months prior to the county processing the application or
- 747 multiple applications of the same type, the application is impaired or prohibited
- 748 under the terms of a temporary land use regulation adopted under Section
- 749 17-27a-504.
- 750 (c) A land use application is considered submitted and complete when the applicant
- 751 provides the application in a form that complies with the requirements of applicable
- 752 ordinances and pays all applicable fees.
- 753 (d) Unless a phasing sequence is required in an executed development agreement, a
- 754 county shall, without regard to any other separate and distinct land use application,
- 755 accept and process a complete land use application.
- 756 ~~(d)~~ (e) The continuing validity of an approval of a land use application is conditioned
- 757 upon the applicant proceeding after approval to implement the approval with
- 758 reasonable diligence.
- 759 ~~(e)~~ (f) A county may not impose on an applicant who has submitted a complete
- 760 application a requirement that is not expressed in:
- 761 (i) this chapter;
- 762 (ii) a county ordinance in effect on the date that the applicant submits a complete
- 763 application, subject to Subsection 17-27a-508(1)(a)(ii); or
- 764 (iii) a county specification for public improvements applicable to a subdivision or
- 765 development that is in effect on the date that the applicant submits an application.
- 766 ~~(f)~~ (g) A county may not impose on a holder of an issued land use permit or a final,
- 767 unexpired subdivision plat a requirement that is not expressed:
- 768 (i) in a land use permit;
- 769 (ii) on the subdivision plat;
- 770 (iii) in a document on which the land use permit or subdivision plat is based;
- 771 (iv) in the written record evidencing approval of the land use permit or subdivision
- 772 plat;
- 773 (v) in this chapter;
- 774 (vi) in a county ordinance; or
- 775 (vii) in a county specification for residential roadways in effect at the time a

- 776 residential subdivision was approved.
- 777 [~~(g)~~] (h) Except as provided in Subsection [~~(1)~~](h)] (1)(i), a county may not withhold  
 778 issuance of a certificate of occupancy or acceptance of subdivision improvements  
 779 because of an applicant's failure to comply with a requirement that is not expressed:  
 780 (i) in the building permit or subdivision plat, documents on which the building permit  
 781 or subdivision plat is based, or the written record evidencing approval of the  
 782 building permit or subdivision plat; or  
 783 (ii) in this chapter or the county's ordinances.
- 784 [~~(h)~~] (i) A county may not unreasonably withhold issuance of a certificate of occupancy  
 785 where an applicant has met all requirements essential for the public health, public  
 786 safety, and general welfare of the occupants, in accordance with this chapter, unless:  
 787 (i) the applicant and the county have agreed in a written document to the withholding  
 788 of a certificate of occupancy; or  
 789 (ii) the applicant has not provided a financial assurance for required and uncompleted  
 790 public landscaping improvements or infrastructure improvements in accordance  
 791 with an applicable ordinance that the legislative body adopts under this chapter.
- 792 (2) A county is bound by the terms and standards of applicable land use regulations and  
 793 shall comply with mandatory provisions of those regulations.
- 794 (3) A county may not, as a condition of land use application approval, require a person  
 795 filing a land use application to obtain documentation regarding a school district's  
 796 willingness, capacity, or ability to serve the development proposed in the land use  
 797 application.
- 798 (4) Upon a specified public agency's submission of a development plan and schedule as  
 799 required in Subsection 17-27a-305(8) that complies with the requirements of that  
 800 subsection, the specified public agency vests in the county's applicable land use maps,  
 801 zoning map, hookup fees, impact fees, other applicable development fees, and land use  
 802 regulations in effect on the date of submission.
- 803 (5) (a) If sponsors of a referendum timely challenge a project in accordance with  
 804 Subsection 20A-7-601(6), the project's affected owner may rescind the project's land  
 805 use approval by delivering a written notice:  
 806 (i) to the local clerk as defined in Section 20A-7-101; and  
 807 (ii) no later than seven days after the day on which a petition for a referendum is  
 808 determined sufficient under Subsection 20A-7-607(5).
- 809 (b) Upon delivery of a written notice described in Subsection(5)(a) the following are



- 810 rescinded and are of no further force or effect:
- 811 (i) the relevant land use approval; and
- 812 (ii) any land use regulation enacted specifically in relation to the land use approval.

813 Section 11. Section **17-27a-528** is amended to read:

814 **17-27a-528 (Effective 11/01/24). Development agreements.**

815 (1) Subject to Subsection (2), a county may enter into a development agreement containing

816 any term that the county considers necessary or appropriate to accomplish the purposes

817 of this chapter[-] , including a term relating to:

- 818 (a) a master planned development;
- 819 (b) a planned unit development;
- 820 (c) an annexation;
- 821 (d) affordable or moderate income housing with development incentives;
- 822 (e) a public-private partnership; or
- 823 (f) a density transfer or bonus within a development project or between development
- 824 projects.

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

- 826 (i) limit a county's authority in the future to:
- 827 (A) enact a land use regulation; or
- 828 (B) take any action allowed under Section 17-53-223;
- 829 (ii) require a county to change the zoning designation of an area of land within the
- 830 county in the future; or
- 831 (iii) allow a use or development of land that applicable land use regulations
- 832 governing the area subject to the development agreement would otherwise
- 833 prohibit, unless the legislative body approves the development agreement in
- 834 accordance with the same procedures for enacting a land use regulation under
- 835 Section 17-27a-502, including a review and recommendation from the planning
- 836 commission and a public hearing.

837 (b) A development agreement that requires the implementation of an existing land use

838 regulation as an administrative act does not require a legislative body's approval

839 under Section 17-27a-502.

840 ~~[(e) (i) If a development agreement restricts an applicant's rights under clearly~~

841 ~~established state law, the county shall disclose in writing to the applicant the rights of~~

842 ~~the applicant the development agreement restricts.]~~

843 ~~[(ii) A county's failure to disclose in accordance with Subsection (2)(c)(i) voids any~~

- 844 provision in the development agreement pertaining to the undisclosed rights.]
- 845 ~~[(d) A county may not require a development agreement as a condition for developing~~
- 846 ~~land if the county's land use regulations establish all applicable standards for~~
- 847 ~~development on the land.]~~
- 848 ~~[(e)]~~ (c) Subject to Subsection (2)(d), a county may require a development agreement for
- 849 developing land within the unincorporated area of the county if the applicant has
- 850 applied for a legislative or discretionary approval, including an approval relating to:
- 851 (i) the height of a structure;
- 852 (ii) a parking or setback exception;
- 853 (iii) a density transfer or bonus;
- 854 (iv) a development incentive;
- 855 (v) a zone change; or
- 856 (vi) an amendment to a prior development agreement.
- 857 (d) A county may not require a development agreement as a condition for developing
- 858 land within the unincorporated area of the county if:
- 859 (i) the development otherwise complies with applicable statute and county ordinances;
- 860 (ii) the development is an allowed or permitted use; or
- 861 (iii) the county's land use regulations otherwise establish all applicable standards for
- 862 development on the land.
- 863 (e) A county may submit to a county recorder's office for recording:
- 864 (i) a fully executed agreement; or
- 865 (ii) a document related to:
- 866 (A) code enforcement;
- 867 (B) a special assessment area;
- 868 (C) a local historic district boundary; or
- 869 (D) the memorializing or enforcement of an agreed upon restriction, incentive, or
- 870 covenant.
- 871 (f) Subject to Subsection (2)(e), a county may not cause to be recorded against private
- 872 real property a document that imposes development requirements, development
- 873 regulations, or development controls on the property.
- 874 (g) To the extent that a development agreement does not specifically address a matter or
- 875 concern related to land use or development, the matter or concern is governed by:
- 876 (i) this chapter; and
- 877 (ii) any applicable land use regulations.

878 Section 12. Section **17-27a-530** is amended to read:

879 **17-27a-530 (Effective 11/01/24). Regulation of building design elements**

880 **prohibited -- Exceptions.**

881 (1) As used in this section, "building design element" means:

882 (a) exterior color;

883 (b) type or style of exterior cladding material;

884 (c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

885 (d) exterior nonstructural architectural ornamentation;

886 (e) location, design, placement, or architectural styling of a window or door;

887 (f) location, design, placement, or architectural styling of a garage door, not including a  
888 rear-loading garage door;

889 (g) number or type of rooms;

890 (h) interior layout of a room;

891 (i) minimum square footage over 1,000 square feet, not including a garage;

892 (j) rear yard landscaping requirements;

893 (k) minimum building dimensions; or

894 (l) a requirement to install front yard fencing.

895 (2) Except as provided in Subsection (3), a county may not impose a requirement for a  
896 building design element on a one- or [~~two-family~~] two-family dwelling.

897 (3) Subsection (2) does not apply to:

898 (a) a dwelling located within an area designated as a historic district in:

899 (i) the National Register of Historic Places;

900 (ii) the state register as defined in Section 9-8a-402; or

901 (iii) a local historic district or area, or a site designated as a local landmark, created  
902 by ordinance before January 1, 2021, except as provided under Subsection (3)(b);

903 (b) an ordinance enacted as a condition for participation in the National Flood Insurance  
904 Program administered by the Federal Emergency Management Agency;

905 (c) an ordinance enacted to implement the requirements of the Utah Wildland Urban  
906 Interface Code adopted under Section 15A-2-103;

907 (d) building design elements agreed to under a development agreement;

908 (e) a dwelling located within an area that:

909 (i) is zoned primarily for residential use; and

910 (ii) was substantially developed before calendar year 1950;

911 (f) an ordinance enacted to implement water efficient landscaping in a rear yard;

- 912 (g) an ordinance enacted to regulate type of cladding, in response to findings or evidence  
 913 from the construction industry of:
- 914 (i) defects in the material of existing cladding; or  
 915 (ii) consistent defects in the installation of existing cladding; [~~or~~]
- 916 (h) a land use regulation, including a planned unit development or overlay zone, that a  
 917 property owner requests:
- 918 (i) the county to apply to the owner's property; and  
 919 (ii) in exchange for an increase in density or other benefit not otherwise available as a  
 920 permitted use in the zoning area or district[-] ; or
- 921 (i) an ordinance enacted to mitigate the impacts of an accidental explosion:
- 922 (i) in excess of 20,000 pounds of trinitrotoluene equivalent;  
 923 (ii) that would create overpressure waves greater than .2 pounds per square inch; and  
 924 (iii) that would pose a risk of damage to a window, garage door, or carport of a  
 925 facility located within the vicinity of the regulated area.

926 Section 13. Section **17-27a-532** is amended to read:

927 **17-27a-532 (Effective 11/01/24). Water wise landscaping.**

- 928 (1) As used in this section:
- 929 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed  
 930 grasses.
- 931 (b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose  
 932 and applied to the soil.
- 933 (c) "Overhead spray irrigation" means above ground irrigation heads that spray water  
 934 through a nozzle.
- 935 (d) (i) "Vegetative coverage" means the ground level surface area covered by the  
 936 exposed leaf area of a plant or group of plants at full maturity.  
 937 (ii) "Vegetative coverage" does not mean the ground level surface area covered by  
 938 the exposed leaf area of a tree or trees.
- 939 (e) "Water wise landscaping" means any or all of the following:
- 940 (i) installation of plant materials suited to the microclimate and soil conditions that  
 941 can:  
 942 (A) remain healthy with minimal irrigation once established; or  
 943 (B) be maintained without the use of overhead spray irrigation;
- 944 (ii) use of water for outdoor irrigation through proper and efficient irrigation design  
 945 and water application; or

- 946 (iii) the use of other landscape design features that:
- 947 (A) minimize the need of the landscape for supplemental water from irrigation; or
- 948 (B) reduce the landscape area dedicated to lawn or turf.
- 949 (2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits, or
- 950 has the effect of prohibiting, a property owner from incorporating water wise
- 951 landscaping on the property owner's property.
- 952 (3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a county from
- 953 requiring a property owner to:
- 954 (i) comply with a site plan review or other review process before installing water
- 955 wise landscaping;
- 956 (ii) maintain plant material in a healthy condition; and
- 957 (iii) follow specific water wise landscaping design requirements adopted by the
- 958 county, including a requirement that:
- 959 (A) restricts or clarifies the use of mulches considered detrimental to county
- 960 operations;
- 961 (B) imposes minimum or maximum vegetative coverage standards; or
- 962 (C) restricts or prohibits the use of specific plant materials.
- 963 (b) A county may not require a property owner to install or keep in place lawn or turf in
- 964 an area with a width less than eight feet.
- 965 (4) A county may require a seller of a newly constructed residence within the
- 966 unincorporated area of the county to inform the first buyer of the newly constructed
- 967 residence of a county ordinance requiring water wise landscaping.
- 968 [(4)] (5) A county shall report to the Division of Water Resources the existence, enactment,
- 969 or modification of an ordinance, resolution, or policy that implements regional-based
- 970 water use efficiency standards established by the Division of Water Resources by rule
- 971 under Section 73-10-37.
- 972 Section 14. Section **17-27a-534** is enacted to read:
- 973 **17-27a-534 (Effective 11/01/24). Residential rear setback limitations.**
- 974 (1) As used in this section:
- 975 (a) "Allowable feature" means:
- 976 (i) a landing or walkout porch that:
- 977 (A) is no more than 32 square feet in size; and
- 978 (B) is used for ingress to and egress from the rear of the residential dwelling; or
- 979 (ii) a window well.

980 (b) "Landing" means an uncovered, above-ground platform, with or without stairs,  
 981 connected to the rear of a residential dwelling.

982 (c) "Setback" means the required distance between the property line of a lot or parcel  
 983 and the location where a structure is allowed to be placed under an adopted land use  
 984 regulation.

985 (d) "Walkout porch" means an uncovered platform that is on the ground and connected  
 986 to the rear of a residential dwelling.

987 (e) "Window well" means a recess in the ground around a residential dwelling to allow  
 988 for ingress and egress through a window installed in a basement that is fully or  
 989 partially below ground.

990 (2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits or  
 991 has the effect of prohibiting an allowable feature within the rear setback of a residential  
 992 building lot or parcel.

993 (3) Subsection (2) does not apply to a historic district located within the unincorporated  
 994 area of a county.

995 Section 15. Section **17-27a-604.2** is amended to read:

996 **17-27a-604.2 (Effective 11/01/24). Review of subdivision applications and**  
 997 **subdivision improvement plans.**

998 (1) As used in this section:

999 (a) "Review cycle" means the occurrence of:

- 1000 (i) the applicant's submittal of a complete subdivision~~[-land-use]~~ application;
- 1001 (ii) the county's review of that subdivision~~[-land-use]~~ application;
- 1002 (iii) the county's response to that subdivision~~[-land-use]~~ application, in accordance
- 1003 with this section; and
- 1004 (iv) the applicant's reply to the county's response that addresses each of the county's
- 1005 required modifications or requests for additional information.

1006 (b) "Subdivision application" means a land use application for the subdivision of land  
 1007 located within the unincorporated area of a county.

1008 [~~(b)~~] (c) "Subdivision improvement plans" means the civil engineering plans associated  
 1009 with required infrastructure improvements and county-controlled utilities required for  
 1010 a subdivision.

1011 [~~(c)~~] (d) "Subdivision ordinance review" means review by a county to verify that a  
 1012 subdivision~~[-land-use]~~ application meets the criteria of the county's~~[-subdivision]~~  
 1013 ordinances.

- 1014        ~~[(d)]~~ (e) "Subdivision plan review" means a review of the applicant's subdivision  
 1015            improvement plans and other aspects of the subdivision~~[-land-use]~~ application to  
 1016            verify that the application complies with county ordinances and applicable installation  
 1017            standards and inspection specifications for infrastructure improvements.
- 1018        (2) The review cycle restrictions and requirements of this section do not apply to the review  
 1019            of subdivision applications affecting property within identified geological hazard areas.
- 1020        (3) (a) A county may require a subdivision improvement plan to be submitted with a  
 1021            subdivision application.
- 1022            (b) A county may not require a subdivision improvement plan to be submitted with both  
 1023            a preliminary subdivision application and a final subdivision application.
- 1024        (4) (a) The review cycle requirements of this section apply:
- 1025            (i) to the review of a preliminary subdivision application, if the county requires a  
 1026            subdivision improvement plan to be submitted with a preliminary subdivision  
 1027            application; or
- 1028            (ii) to the review of a final subdivision application, if the county requires a  
 1029            subdivision improvement plan to be submitted with a final subdivision application.
- 1030            (b) A county may not, outside the review cycle, engage in a substantive review of  
 1031            required infrastructure improvements or a county controlled utility.
- 1032        ~~[(3)]~~ (a) ~~No later than 15 business days after the day on which an applicant submits a~~  
 1033            ~~complete preliminary subdivision land use application for a residential subdivision for~~  
 1034            ~~single-family dwellings, two-family dwellings, or townhomes, the county shall complete~~  
 1035            ~~the initial review of the application, including subdivision improvement plans.]~~
- 1036        ~~[(b)]~~ (5) (a) A county shall complete the initial review of a complete subdivision  
 1037            application submitted for ordinance review for a residential subdivision for  
 1038            single-family dwellings, two-family dwellings, or town homes:
- 1039            (i) no later than 15 business days after the complete subdivision application is  
 1040            submitted, if the county has a population over 5,000; or
- 1041            (ii) no later than 30 business days after the complete subdivision application is  
 1042            submitted, if the county has a population of 5,000 or less.
- 1043            (b) A county shall maintain and publish a list of the items comprising the complete~~]~~  
 1044            ~~preliminary]~~ subdivision~~[-land-use]~~ application, including:
- 1045            (i) the application;
- 1046            (ii) the owner's affidavit;
- 1047            (iii) an electronic copy of all plans in PDF format;

- 1048 (iv) the preliminary subdivision plat drawings; and
- 1049 (v) a breakdown of fees due upon approval of the application.
- 1050 ~~[(4)] (6)~~ ~~[(a)]~~ A county shall publish a list of the items that comprise a complete~~[final]~~
- 1051 subdivision land use application.
- 1052 ~~[(b) No later than 20 business days after the day on which an applicant submits a plat,~~
- 1053 ~~the county shall complete a review of the applicant's final subdivision land use~~
- 1054 ~~application for single-family dwellings, two-family dwellings, or townhomes,~~
- 1055 ~~including all subdivision plan reviews.]~~
- 1056 (7) A county shall complete a subdivision plan review of a subdivision improvement plan
- 1057 that is submitted with a complete subdivision application for a residential subdivision for
- 1058 single-family dwellings, two-family dwellings, or town homes:
- 1059 (a) within 20 business days after the complete subdivision application is submitted, if the
- 1060 county has a population over 5,000; or
- 1061 (b) within 40 business days after the complete subdivision application is submitted, if
- 1062 the county has a population of 5,000 or less.
- 1063 ~~[(5)] (8)~~ (a) In reviewing a subdivision~~[land use]~~ application, a county may require:
- 1064 (i) additional information relating to an applicant's plans to ensure compliance with
- 1065 county ordinances and approved standards and specifications for construction of
- 1066 public improvements; and
- 1067 (ii) modifications to plans that do not meet current ordinances, applicable standards,
- 1068 or specifications or do not contain complete information.
- 1069 (b) A county's request for additional information or modifications to plans under [~~Subsections (5)(a)(i)]~~ Subsection (8)(a)(i) or (ii) shall be specific and include citations
- 1070 to ordinances, standards, or specifications that require the modifications to
- 1071 subdivision improvement plans, and shall be logged in an index of requested
- 1072 modifications or additions.
- 1073
- 1074 (c) A county may not require more than four review cycles for a subdivision
- 1075 improvement plan review.
- 1076 (d) (i) Subject to Subsection ~~[(5)(d)(i)]~~ (8)(d)(ii), unless the change or correction is
- 1077 necessitated by the applicant's adjustment to a subdivision improvement plan~~[set]~~
- 1078 or an update to a phasing plan that adjusts the infrastructure needed for the
- 1079 specific development, a change or correction not addressed or referenced in a
- 1080 county's subdivision improvement plan review is waived.
- 1081 (ii) A modification or correction necessary to protect public health and safety or to



- 1082 enforce state or federal law may not be waived.
- 1083 (iii) If an applicant makes a material change to a subdivision improvement plan[-set],  
1084 the county has the discretion to restart the review process at the first review of the [  
1085 ~~final application~~] subdivision improvement plan review, but only with respect to  
1086 the portion of the subdivision improvement plan[-set] that the material change  
1087 substantively [~~effects~~] affects.
- 1088 (e) (i) [~~H~~] This Subsection (8) applies if an applicant does not submit a revised  
1089 subdivision improvement plan within[-] :
- 1090 (A) 20 business days after the county requires a modification or correction, [~~the~~  
1091 county shall have an additional 20 business days to respond to the plans] if the  
1092 county has a population over 5,000; or
- 1093 (B) 40 business days after the county requires a modification or correction, if the  
1094 county has a population of 5,000 or less.
- 1095 (ii) If an applicant does not submit a revised subdivision improvement plan within the  
1096 time specified in Subsection (8)(e)(i), a county has an additional 20 business days  
1097 after the time specified in Subsection (7) to respond to a revised subdivision  
1098 improvement plan.
- 1099 [~~6~~] (9) After the applicant has responded to the final review cycle, and the applicant has  
1100 complied with each modification requested in the county's previous review cycle, the  
1101 county may not require additional revisions if the applicant has not materially changed  
1102 the plan, other than changes that were in response to requested modifications or  
1103 corrections.
- 1104 [~~7~~] (10) (a) In addition to revised plans, an applicant shall provide a written explanation  
1105 in response to the county's review comments, identifying and explaining the  
1106 applicant's revisions and reasons for declining to make revisions, if any.
- 1107 (b) The applicant's written explanation shall be comprehensive and specific, including  
1108 citations to applicable standards and ordinances for the design and an index of  
1109 requested revisions or additions for each required correction.
- 1110 (c) If an applicant fails to address a review comment in the response, the review cycle is  
1111 not complete and the subsequent review cycle may not begin until all comments are  
1112 addressed.
- 1113 [~~8~~] (11) (a) If, on the fourth or final review, a county fails to respond within 20 business  
1114 days, the county shall, upon request of the property owner, and within 10 business  
1115 days after the day on which the request is received:

- 1116 (i) for a dispute arising from the subdivision improvement plans, assemble an appeal  
 1117 panel in accordance with Subsection 17-27a-507(5)(d) to review and approve or  
 1118 deny the final revised set of plans; or
- 1119 (ii) for a dispute arising from the subdivision ordinance review, advise the applicant,  
 1120 in writing, of the deficiency in the application and of the right to appeal the  
 1121 determination to a designated appeal authority.

1122 Section 16. Section **17-27a-604.5** is amended to read:

1123 **17-27a-604.5 (Effective 11/01/24). Subdivision plat recording or development**  
 1124 **activity before required infrastructure is completed -- Improvement**  
 1125 **completion assurance -- Improvement warranty.**

- 1126 (1) As used in this section, "public landscaping improvement" means landscaping that an  
 1127 applicant is required to install to comply with published installation and inspection  
 1128 specifications for public improvements that:
- 1129 (a) will be dedicated to and maintained by the county; or  
 1130 (b) are associated with and proximate to trail improvements that connect to planned or  
 1131 existing public infrastructure.
- 1132 (2) A land use authority shall establish objective inspection standards for acceptance of a  
 1133 required public landscaping improvement or infrastructure improvement.
- 1134 (3) (a) Before an applicant conducts any development activity or records a plat, the  
 1135 applicant shall:
- 1136 (i) complete any required public landscaping improvements or infrastructure  
 1137 improvements; or  
 1138 (ii) post an improvement completion assurance for any required public landscaping  
 1139 improvements or infrastructure improvements.
- 1140 (b) If an applicant elects to post an improvement completion assurance, the applicant  
 1141 shall provide completion assurance for:
- 1142 (i) completion of 100% of the required public landscaping improvements or  
 1143 infrastructure improvements; or  
 1144 (ii) if the county has inspected and accepted a portion of the public landscaping  
 1145 improvements or infrastructure improvements, 100% of the incomplete or  
 1146 unaccepted public landscaping improvements or infrastructure improvements.
- 1147 (c) A county shall:
- 1148 (i) establish a minimum of two acceptable forms of completion assurance;  
 1149 (ii) if an applicant elects to post an improvement completion assurance, allow the

- 1150 applicant to post an assurance that meets the conditions of this title, and any local  
1151 ordinances;
- 1152 (iii) establish a system for the partial release of an improvement completion  
1153 assurance as portions of required public landscaping improvements or  
1154 infrastructure improvements are completed and accepted in accordance with local  
1155 ordinance; and
- 1156 (iv) issue or deny a building permit in accordance with Section 17-27a-802 based on  
1157 the installation of public landscaping improvements or infrastructure  
1158 improvements.
- 1159 (d) A county may not require an applicant to post an improvement completion assurance  
1160 for:
- 1161 (i) public landscaping improvements or infrastructure improvements that the county  
1162 has previously inspected and accepted;
- 1163 (ii) infrastructure improvements that are private and not essential or required to meet  
1164 the building code, fire code, flood or storm water management provisions, street  
1165 and access requirements, or other essential necessary public safety improvements  
1166 adopted in a land use regulation;~~[-or]~~
- 1167 (iii) in a county where ordinances require all infrastructure improvements within the  
1168 area to be private, infrastructure improvements within a development that the  
1169 county requires to be private; or
- 1170 (iv) landscaping improvements that are not public landscaping improvements~~[-as~~  
1171 ~~defined in Section 17-27a-103]~~, unless the landscaping improvements and  
1172 completion assurance are required under the terms of a development agreement.
- 1173 (4) (a) Except as provided in Subsection (4)(c), as a condition for increased density or  
1174 other entitlement benefit not currently available under the existing zone, a county  
1175 may require a completion assurance bond for landscaped amenities and common area  
1176 that are dedicated to and maintained by a homeowners association.
- 1177 (b) Any agreement regarding a completion assurance bond under Subsection (4)(a)  
1178 between the applicant and the county shall be memorialized in a development  
1179 agreement.
- 1180 (c) A county may not require a completion assurance bond for or dictate who installs or  
1181 is responsible for the cost of the landscaping of residential lots or the equivalent open  
1182 space surrounding single-family attached homes, whether platted as lots or common  
1183 area.

- 1184 (5) The sum of the improvement completion assurance required under Subsections (3) and  
 1185 (4) may not exceed the sum of:
- 1186 (a) 100% of the estimated cost of the public landscaping improvements or infrastructure  
 1187 improvements, as evidenced by an engineer's estimate or licensed contractor's bid;  
 1188 and
- 1189 (b) 10% of the amount of the bond to cover administrative costs incurred by the county  
 1190 to complete the improvements, if necessary.
- 1191 (6) At any time before a county accepts a public landscaping improvement or infrastructure  
 1192 improvement, and for the duration of each improvement warranty period, the land use  
 1193 authority may require the applicant to:
- 1194 (a) execute an improvement warranty for the improvement warranty period; and  
 1195 (b) post a cash deposit, surety bond, letter of credit, or other similar security, as required  
 1196 by the county, in the amount of up to 10% of the lesser of the:
- 1197 (i) county engineer's original estimated cost of completion; or  
 1198 (ii) applicant's reasonable proven cost of completion.
- 1199 (7) When a county accepts an improvement completion assurance for public landscaping  
 1200 improvements or infrastructure improvements for a development in accordance with  
 1201 Subsection (3)(c)(ii), the county may not deny an applicant a building permit if the  
 1202 development meets the requirements for the issuance of a building permit under the  
 1203 building code and fire code.
- 1204 (8) The provisions of this section do not supersede the terms of a valid development  
 1205 agreement, an adopted phasing plan, or the state construction code.
- 1206 Section 17. Section **17-27a-802** is amended to read:
- 1207 **17-27a-802 (Effective 11/01/24). Enforcement.**
- 1208 (1) (a) A county or an adversely affected party may, in addition to other remedies  
 1209 provided by law, institute:
- 1210 (i) injunctions, mandamus, abatement, or any other appropriate actions; or  
 1211 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 1212 (b) A county need only establish the violation to obtain the injunction.
- 1213 (2) (a) [A] Except as provided in Subsections (3) and (4), a county may enforce the  
 1214 county's ordinance by withholding a building permit.
- 1215 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building  
 1216 or other structure within a county without approval of a building permit.
- 1217 (c) The county may not issue a building permit unless the plans of and for the proposed

- 1218 erection, construction, reconstruction, alteration, or use fully conform to all  
1219 regulations then in effect.
- 1220 (d) A county may not deny an applicant a building permit or certificate of occupancy  
1221 because the applicant has not completed an infrastructure improvement:  
1222 (i) that is not essential to meet the requirements for the issuance of a building permit  
1223 or certificate of occupancy under the building code and fire code; and  
1224 (ii) for which the county has accepted an improvement completion assurance for a  
1225 public landscaping improvement, as defined in Section 17-27a-604.5, or an  
1226 infrastructure [improvements] improvement for the development.
- 1227 (3) A county may not deny an applicant a building permit or certificate of occupancy based  
1228 on the lack of completion of a landscaping improvement that is not a public landscaping  
1229 improvement, as defined in Section 17-27a-604.5.
- 1230 (4) A county may not withhold a building permit based on the lack of completion of a  
1231 portion of a public sidewalk to be constructed within a public right-of-way serving a lot  
1232 where a single-family or two-family residence or town home is proposed in a building  
1233 permit application if an improvement completion assurance has been posted for the  
1234 incomplete portion of the public sidewalk.
- 1235 (5) A county may not prohibit the construction of a single-family or two-family residence  
1236 or town home, withhold recording a plat, or withhold acceptance of a public landscaping  
1237 improvement, as defined in Section 17-27a-604.5, or an infrastructure improvement  
1238 based on the lack of installation of a public sidewalk if an improvement completion  
1239 assurance has been posted for the public sidewalk.
- 1240 (6) A county may not redeem an improvement completion assurance securing the  
1241 installation of a public sidewalk sooner than 18 months after the date the improvement  
1242 completion assurance is posted.
- 1243 (7) A county shall allow an applicant to post an improvement completion assurance for a  
1244 public sidewalk separate from an improvement completion assurance for:  
1245 (a) another infrastructure improvement; or  
1246 (b) a public landscaping improvement, as defined in Section 17-27a-604.5.
- 1247 (8) A county may withhold a certificate of occupancy for a single-family or two-family  
1248 residence or town home until the portion of the public sidewalk to be constructed within  
1249 a public right-of-way and located immediately adjacent to the single-family or  
1250 two-family residence or town home is completed and accepted by the county.

1251 Section 18. Section **38-9-102** is amended to read:

1252           **38-9-102 (Effective 05/01/24). Definitions.**

1253           As used in this chapter:

1254       (1) "Affected person" means:

1255           (a) a person who is a record interest holder of the real property that is the subject of a  
1256               recorded nonconsensual common law document; or1257           (b) the person against whom a recorded nonconsensual common law document purports  
1258               to reflect or establish a claim or obligation.1259       (2) "Document sponsor" means a person who, personally or through a designee, signs or  
1260           submits for recording a document that is, or is alleged to be, a nonconsensual common  
1261           law document.1262       (3) "Interest holder" means a person who holds or possesses a present, lawful property  
1263           interest in certain real property, including an owner, title holder, mortgagee, trustee, or  
1264           beneficial owner.1265       (4) "Lien claimant" means a person claiming an interest in real property who offers a  
1266           document for recording or filing with any county recorder in the state asserting a lien, or  
1267           notice of interest, or other claim of interest in certain real property.1268       (5) "Nonconsensual common law document" means a document that is submitted to a  
1269           county recorder's office for recording against public official property that:

1270           (a) purports to create a lien or encumbrance on or a notice of interest in the real property;

1271           (b) at the time the document is recorded, is not:

1272               (i) expressly authorized by this chapter or a state or federal statute;

1273               (ii) authorized by or contained in an order or judgment of a court of competent  
1274               jurisdiction; or1275               (iii) signed by or expressly authorized by a document signed by the owner of the real  
1276               property; and

1277           (c) is submitted in relation to the public official's status or capacity as a public official.

1278       (6) "Owner" means a person who has a vested ownership interest in real property.

1279       (7) "Political subdivision" means a county, city, town, school district, special improvement  
1280           or taxing district, special district, special service district, or other governmental  
1281           subdivision or public corporation.

1282       (8) "Public official" means:

1283           (a) a current or former:

1284               (i) member of the Legislature;

1285               (ii) member of Congress;

- 1286 (iii) judge;
- 1287 (iv) member of law enforcement;
- 1288 (v) corrections officer;
- 1289 (vi) active member of the Utah State Bar; or
- 1290 (vii) member of the Board of Pardons and Parole;
- 1291 (b) an individual currently or previously appointed or elected to an elected position in:
- 1292 (i) the executive branch of state or federal government; or
- 1293 (ii) a political subdivision;
- 1294 (c) an individual currently or previously appointed to or employed in a position in a
- 1295 political subdivision, or state or federal government that:
- 1296 (i) is a policymaking position; or
- 1297 (ii) involves:
- 1298 (A) purchasing or contracting decisions;
- 1299 (B) drafting legislation or making rules;
- 1300 (C) determining rates or fees; or
- 1301 (D) making adjudicative decisions; or
- 1302 (d) an immediate family member of a person described in Subsections (8)(a) through (c).
- 1303 (9) "Public official property" means real property that has at least one record interest holder
- 1304 who is a public official.
- 1305 (10) (a) "Record interest holder" means a person who holds or possesses a present,
- 1306 lawful property interest in real property, including an owner, titleholder, mortgagee,
- 1307 trustee, or beneficial owner, and whose name and interest in that real property
- 1308 appears in the county recorder's records for the county in which the property is
- 1309 located.
- 1310 (b) "Record interest holder" includes any grantor in the chain of the title in real property.
- 1311 (11) "Record owner" means an owner whose name and ownership interest in certain real
- 1312 property is recorded or filed in the county recorder's records for the county in which the
- 1313 property is located.
- 1314 (12) (a) "Wrongful lien" means any document that purports to create a lien, notice of
- 1315 interest, or encumbrance on an owner's interest in certain real property and at the time
- 1316 it is recorded is not:
- 1317 [~~(a)~~] (i) expressly authorized by this chapter or another state or federal statute;
- 1318 [~~(b)~~] (ii) authorized by or contained in an order or judgment of a court of competent
- 1319 jurisdiction in the state; or

1320            [e)] (iii) signed by or authorized pursuant to a document signed by the owner of the  
1321            real property.

1322            (b) "Wrongful lien" includes a document recorded in violation of Subsection 10-9a-532  
1323            (2)(d).

1324            Section 19. **Effective date.**

1325            (1) Except as provided in Subsection (2), this bill takes effect on November 1, 2024.

1326            (2) (a) Except as provided in Subsection (2)(b), the actions affecting Sections 10-9a-532  
1327            and 38-9-102 take effect on May 1, 2024.

1328            (b) If this bill is approved by two-thirds of all the members elected to each house, the  
1329            actions affecting Sections 10-9a-532 and 38-9-102 take effect upon approval by the  
1330            governor, or the day following the constitutional time limit of Utah Constitution,  
1331            Article VII, Section 8, without the governor's signature, or in the case of a veto, the  
1332            date of veto override.