

HB0243S01 compared with HB0243

~~deleted text~~ shows text that was in HB0243 but was deleted in HB0243S01.

inserted text shows text that was not in HB0243 but was inserted into HB0243S01.

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Representative Gay Lynn Bennion proposes the following substitute bill:

RIPARIAN AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gay Lynn Bennion

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to general plans and riparian areas.

Highlighted Provisions:

This bill:

- ▶ revises definition provisions;
- ▶ requires a riparian area element as part of a municipal or county general plan with exceptions;
- ▶ addresses adoption of zoning or other land use ordinances;
- ▶ provides for how a riparian area element is included into a municipal or county general plan;
- ▶ provides for action related to the general plan by the legislative body of a municipality or county;

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- ▶ provides for technical assistance from the Division of Water Resources;
- ▶ directs the appointment of a state position related to riparian areas;
- ▶ directs the compilation of a riparian map; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-103, as last amended by Laws of Utah 2023, Chapters 16, 327 and 478

10-9a-401, as last amended by Laws of Utah 2023, Chapter 88

10-9a-403, as last amended by Laws of Utah 2023, Chapters 88, 219 and 238

10-9a-404, as last amended by Laws of Utah 2022, Chapters 282, 406

17-27a-103, as last amended by Laws of Utah 2023, Chapters 15, 327 and 478

17-27a-401, as last amended by Laws of Utah 2023, Chapters 34, 88

17-27a-403, as last amended by Laws of Utah 2023, Chapters 88, 238

17-27a-404, as last amended by Laws of Utah 2023, Chapter 435

73-10-36, as last amended by Laws of Utah 2023, Chapter 238

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

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

10-9a-103. Definitions.

As used in this chapter:

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

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

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

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

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

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

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

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

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

(a) a single project;

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

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

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

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

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

(i) an operating charter school;

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

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

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

(8) "Conditional use" means a land use that, because of the unique characteristics or

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potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

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

- (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- (b) Utah Constitution Article I, Section 22.

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

(11) "Development activity" means:

- (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
- (b) any change in use of a building or structure that creates additional demand and need for public facilities; or
- (c) any change in the use of land that creates additional demand and need for public facilities.

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

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

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

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

(14) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including

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kindergarten and a program for children with disabilities;

(ii) a structure or facility:

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

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

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

(b) does not include:

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

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

and

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

(ii) a therapeutic school.

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

(16) "Flood plain" means land that:

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

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

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

(18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

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- (f) unstable soil;
- (g) a rock fall; or
- (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.

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

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

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

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

- (a) are clearly marked as "identical plans";
- (b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and
- (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and
 - (iv) does not require any additional engineering or analysis.

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

(23) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure

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improvement required as a condition precedent to:

- (a) recording a subdivision plat; or
- (b) development of a commercial, industrial, mixed use, or multifamily project.

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

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

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

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

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

unless the municipality:

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

(ii) has substantial evidence, on record:

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

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

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

(a) is required for human occupation; and

(b) an applicant must install:

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

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

(A) recording a subdivision plat;

(B) obtaining a building permit; or

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

(27) "Intermittent" means surface water is present in a river, stream, or creek channel

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for a portion of the year, but excludes flows resulting only from ephemeral rain events, such as in arroyos.

~~[(27)]~~ (28) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

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

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

~~[(28)]~~ (29) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

~~[(29)]~~ (30) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

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

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

~~[(30)]~~ (31) "Land use authority" means:

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

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

~~[(31)]~~ (32) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit; or

(b) a land use application.

~~[(32)]~~ (33) "Land use permit" means a permit issued by a land use authority.

~~[(33)]~~ (34) "Land use regulation":

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

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

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(c) does not include:

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

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

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

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

~~[(34)]~~ (35) "Legislative body" means the municipal council.

~~[(35)]~~ (36) "Local historic district or area" means a geographically definable area that:

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

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

~~[(36)]~~ (37) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

~~[(37)]~~ (38) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

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

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

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

(i) creates an additional lot; or

(ii) constitutes a subdivision or a subdivision amendment.

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

~~[(38)]~~ (39) "Major transit investment corridor" means public transit service that uses or occupies:

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

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

or

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

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municipality or county and:

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

~~[(39)]~~ (40) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

~~[(40)]~~ (41) "Municipal utility easement" means an easement that:

- (a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;
- (b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;
- (c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;
- (d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;
- (e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and
 - (ii) is located in a utility easement granted for public use; or
- (f) is described in Section 10-9a-529 and is used by a specified public utility.

~~[(41)]~~ (42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

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

~~[(42)]~~ (43) "Noncomplying structure" means a structure that:

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

~~[(43)]~~ (44) "Nonconforming use" means a use of land that:

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(a) legally existed before its current land use designation;

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

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

~~[(44)]~~ (45) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

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

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

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

~~[(45)]~~ (46) "Parcel" means any real property that is not a lot.

~~[(46)]~~ (47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

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

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

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

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

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

(48) "Perennial" means surface water is present in a stream, river, or creek channel throughout the year.

~~[(47)]~~ (49) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(48)]~~ (50) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

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

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

(c) a survey of total residential land use;

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

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

~~[(49)]~~ (51) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

~~[(50)]~~ (52) "Potential geologic hazard area" means an area that:

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

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

~~[(51)]~~ (53) "Public agency" means:

(a) the federal government;

(b) the state;

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

(d) a charter school.

~~[(52)]~~ (54) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

~~[(53)]~~ (55) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

~~[(54)]~~ (56) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public

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viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

~~[(55)]~~ (57) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

~~[(56)]~~ (58) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

~~[(57)]~~ (59) "Residential facility for persons with a disability" means a residence:

- (a) in which more than one person with a disability resides; and
- (b) which is licensed or certified by the Department of Health and Human Services

under:

- (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or
- (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

~~[(58)]~~ (60) "Residential roadway" means a public local residential road that:

- (a) will serve primarily to provide access to adjacent primarily residential areas and property;
- (b) is designed to accommodate minimal traffic volumes or vehicular traffic;
- (c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan;
- (d) has a posted speed limit of 25 miles per hour or less;
- (e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network;
- (f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and
- (g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

(61) "Riparian area" means land representing a transition between aquatic and upland habitats with a plant community that:

- (a) is contiguous to and affected by surface and subsurface hydrologic features of perennial or intermittent rivers, streams, or creeks; and

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(b) has one or both of the following characteristics:

(i) distinctly different vegetative species than adjacent areas; or

(ii) species similar to adjacent areas but exhibiting more vigorous or robust growth forms.

~~[(59)]~~ (62) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

~~[(60)]~~ (63) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

~~[(61)]~~ (64) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

~~[(62)]~~ (65) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

~~[(63)]~~ (66) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

~~[(64)]~~ (67) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(65)]~~ (68) "State" includes any department, division, or agency of the state.

~~[(66)]~~ (69) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds

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description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection [(65)(c)] (69)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

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

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

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

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

(B) joining a lot to a parcel;

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

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

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

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

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

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

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

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

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

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

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

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~~[(67)]~~ (70) (a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

- (i) vacates all or a portion of the subdivision;
- (ii) alters the outside boundary of the subdivision;
- (iii) changes the number of lots within the subdivision;
- (iv) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or
- (v) alters a common area or other common amenity within the subdivision.

(b) "Subdivision amendment" does not include a lot line adjustment, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

~~[(68)]~~ (71) "Substantial evidence" means evidence that:

- (a) is beyond a scintilla; and
- (b) a reasonable mind would accept as adequate to support a conclusion.

~~[(69)]~~ (72) "Suspect soil" means soil that has:

- (a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;
- (b) bedrock units with high shrink or swell susceptibility; or
- (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

~~[(70)]~~ (73) "Therapeutic school" means a residential group living facility:

- (a) for four or more individuals who are not related to:
 - (i) the owner of the facility; or
 - (ii) the primary service provider of the facility;
- (b) that serves students who have a history of failing to function:
 - (i) at home;
 - (ii) in a public school; or
 - (iii) in a nonresidential private school; and
- (c) that offers:
 - (i) room and board; and
 - (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or

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

~~[(71)]~~ (74) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

~~[(72)]~~ (75) "Unincorporated" means the area outside of the incorporated area of a city or town.

~~[(73)]~~ (76) "Water interest" means any right to the beneficial use of water, including:

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

~~[(74)]~~ (77) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section **10-9a-401** is amended to read:

10-9a-401. General plan required -- Content.

(1) To accomplish the purposes of this chapter, a municipality shall prepare and adopt a comprehensive, long-range general plan for:

- (a) present and future needs of the municipality; and
- (b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

- (i) food and water; and
- (ii) drainage, sanitary, and other facilities and resources;
- (d) the use of energy conservation and solar and renewable energy resources;
- (e) the protection of urban development;
- (f) if the municipality is a town, the protection or promotion of moderate income

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housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and

(j) an official map.

(3) (a) The general plan of a specified municipality, as defined in Section 10-9a-408, shall include a moderate income housing element that meets the requirements of Subsection 10-9a-403(2)(a)(iii).

(b) (i) This Subsection (3)(b) applies to a municipality that is not a specified municipality as of January 1, 2023.

(ii) As of January 1, if a municipality described in Subsection (3)(b)(i) changes from one class to another or grows in population to qualify as a specified municipality as defined in Section 10-9a-408, the municipality shall amend the municipality's general plan to comply with Subsection (3)(a) on or before August 1 of the first calendar year beginning on January 1 in which the municipality qualifies as a specified municipality.

(4) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

(5) Except for a city of the fifth class or a town, on or before December 31, 2025, a municipality that has a general plan that does not include a water use and preservation element that complies with Section 10-9a-403 shall amend the municipality's general plan to comply with Section 10-9a-403.

(6) (a) Except for a city of the fifth class or a town, beginning on or before December 31, 2029, a municipality's general plan shall include a riparian area element that meets the requirements of Subsection 10-9a-403(2)(a)(v) if a riparian area is located within the municipality.

(b) Notwithstanding Subsection (6)(a), a municipality is not required to have a riparian area element in the municipality's general plan if the municipality as of July 1, 2025:

(i) has zoning or other land use ordinances that address the factors in Subsection 10-9a-403(2)(a)(v); and

(ii) refers to the zoning or other land use ordinances described in this Subsection (6)(b)

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in the municipality's general plan.

Section 3. Section **10-9a-403** is amended to read:

10-9a-403. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of the planning commission's intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) except for a city of the fifth class or a town, is coordinated to integrate the land use element with the water use and preservation element; and

(D) except for a city of the fifth class or a town, accounts for the effect of land use categories and land uses on water demand;

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(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the municipality during the next five years;

(B) for a town, may include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii);

(C) for a specified municipality, as defined in Section 10-9a-408, that does not have a fixed guideway public transit station, shall include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii);

(D) for a specified municipality, as defined in Section 10-9a-408, that has a fixed guideway public transit station, shall include a recommendation to implement five or more of the moderate income housing strategies described in Subsection (2)(b)(iii), of which one shall be the moderate income housing strategy described in Subsection (2)(b)(iii)(V), and one shall be a moderate income housing strategy described in Subsection (2)(b)(iii)(G), (H), or (Q); and

(E) for a specified municipality, as defined in Section 10-9a-408, shall include an implementation plan as provided in Subsection (2)(c); [~~and~~]

(iv) except for a city of the fifth class or a town, a water use and preservation element that addresses:

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(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the municipality to modify the municipality's operations to eliminate practices or conditions that waste water[-]; and

(v) if required by Subsection 10-9a-401(6), a riparian area element that addresses the following that are applicable to the municipality's riparian area:

(A) preserving and enhancing natural stream functions for hydrologic conveyance and storage, including flood plains and wetlands;

(B) managing erosion, sedimentation, and flood control;

(C) minimizing flood and fire risk to property through development of buffer zones and removal of dead or diseased vegetation considered to represent excessive fuel loads;

(D) reducing water pollution, including by filtration;

(E) protecting fish and wildlife habitat;

(F) preserving or restoring vegetation while managing invasive plants, noxious weeds, and fuel loads; and

(G) preserving aesthetic and recreational values that are compatible with the items listed in this Subsection (2)(a)(v).

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

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(iii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include a recommendation to implement the required number of any of the following moderate income housing strategies as specified in Subsection (2)(a)(iii):

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the municipality for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or, notwithstanding Section 10-9a-535, establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for

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moderate income housing;

(N) implement a mortgage assistance program for employees of the municipality, an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

(S) create a program to transfer development rights for moderate income housing;

(T) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(U) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(V) develop and adopt a station area plan in accordance with Section 10-9a-403.1;

(W) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

(X) demonstrate implementation of any other program or strategy to address the

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housing needs of residents of the municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing; and

(iv) shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(iii).

(c) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the municipality for implementation.

(ii) The timeline described in Subsection (2)(c)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the municipality, whether one-time or ongoing; and

(B) provide flexibility for the municipality to make adjustments as needed.

(d) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(e) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by the municipality's region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

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(f) In drafting the water use and preservation element, the planning commission:

(i) shall consider:

(A) applicable regional water conservation goals recommended by the Division of Water Resources; and

(B) if Section 73-10-32 requires the municipality to adopt a water conservation plan pursuant to Section 73-10-32, the municipality's water conservation plan;

(ii) shall include a recommendation for:

(A) water conservation policies to be determined by the municipality; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(iii) shall review the municipality's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(iv) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(v) shall consult with the public water system or systems serving the municipality with drinking water regarding how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

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(vi) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and the water use and preservation element may affect the Great Salt Lake;

(vii) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing development such as modification of existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(viii) for a town, may include, and for another municipality, shall include, a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(g) In drafting the riparian area element, the planning commission:

(i) shall establish a vision for the riparian area within the municipality and identify strategies to implement the municipality's vision for the riparian area that shall include:

(A) recommendations to update the municipality's land use ordinances to support the riparian area vision as established in the planning process; and

(B) other strategies as the municipality considers appropriate;

(ii) may consider:

(A) situations identified in Subsection (2)(a)(v) that warrant the implementation of innovative or established zoning and preservation tools to regulate development to achieve riparian area protections;

(B) situations that consider the ecological function and integrity of features that cut

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across a riparian area adjacent to flowing water, including a stream, bank, wetland, flood plain, or upland;

(C) situations calling for the protection of native riparian plants, including identification and management of invasive species in accordance with state and federal law;

(D) situations calling for the protection of culturally significant landforms, historical flood plains, or other important features close to rivers, streams, and wetlands;

(E) what constitutes best practices for the use of herbicides, pesticides, and fertilizer in accordance, where relevant, with applicable state and federal law for management of recognized listed species;

(F) situations calling for specific permits, analysis, or requests for minor exceptions or reasonable use exceptions if no feasible alternative exists;

(G) what circumstances necessitate an applicant with a proposed project in a riparian area to submit a resource inventory and impact analysis for the riparian area;

(H) whether to allow use of heavy equipment for construction of amenities or for removal of debris;

(I) situations calling for the maintenance of trees that pose a safety risk from treefall, fire, or flow conveyance during flooding, or calling for removal of diseased trees;

(J) situations calling for the maintenance or installation of irrigation and flood control devices;

(K) **how to** account for activities approved by the United States Army Corps of Engineers or state engineer;

(L) best practices in allowing public utilities work;

(M) the need to coordinate and cooperate with watershed councils, other governmental agencies, and jurisdictions to facilitate compatible regulation and protection of a riparian area and recognize the riparian and hydrologic functions that are regional in nature and that cross jurisdictional boundaries;

(N) strategies to avoid, minimize, or mitigate negative impacts affecting a riparian area;

(O) tools available for the management of a riparian area, such as tools published by the Division of Water Resources from federal, state, or local government agencies, including interlocal entities, and assistance provided under Section 73-10-36;

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(P) a riparian map created by the Utah Geological Survey pursuant to Section 73-10-36; ~~and~~

(Q) the need for a process through which a landowner may modify riparian requirements to respond to unforeseen circumstances or to allow innovative development techniques that meet or exceed adopted standards; and

(R) property rights and appropriate compensation or benefits for property owners; and

(iii) may provide for management of the riparian area as part of the regulation of environmentally sensitive areas under Subsection (3).

(h) Notwithstanding Subsection (2)(g)(ii)(K), this section may not be interpreted to override, substitute, or modify a water right within the state or the role and authority of the state engineer.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

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(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 4. Section **10-9a-404** is amended to read:

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

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

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

(c) After the public hearing, the planning commission may modify the proposed

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general plan or amendment.

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

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

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

(4) The legislative body shall adopt:

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

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

(c) for a specified municipality as defined in Section 10-9a-408, a moderate income housing element as provided in Subsection 10-9a-403(2)(a)(iii); ~~and~~

(d) except for a city of the fifth class or a town, on or before December 31, 2025, a water use and preservation element as provided in Subsection 10-9a-403(2)(a)(iv)~~[-]; and~~

(e) on or before December 31, 2029, a riparian area element as provided in Subsection 10-9a-403(2)(a)(v) if the riparian area element is required by Subsection 10-9a-401(6).

Section 5. Section **17-27a-103** is amended to read:

17-27a-103. Definitions.

As used in this chapter:

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

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

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

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

(3) "Affected entity" means a county, municipality, special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified

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property owner, property owner's association, public utility, or the Department of Transportation, if:

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

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

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

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

(a) a single project;

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

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

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

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

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

(i) an operating charter school;

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

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

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

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

(9) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses,

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may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

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

- (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- (b) Utah Constitution, Article I, Section 22.

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

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

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

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

(d) (i) either:

(A) no person uses or occupies; or

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

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

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

(13) "Development activity" means:

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

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

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

(14) (a) "Development agreement" means a written agreement or amendment to a written agreement between a county and one or more parties that regulates or controls the use

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or development of a specific area of land.

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

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

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

(16) "Educational facility":

(a) means:

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

(ii) a structure or facility:

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

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

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

(b) does not include:

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

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

and

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

(ii) a therapeutic school.

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

(18) "Flood plain" means land that:

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

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

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

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

(a) the unincorporated land within the county; or

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

(21) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

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

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

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

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

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

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

(c) describe a building that:

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

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previously approved plans is located;

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

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

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

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

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

(a) recording a subdivision plat; or

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

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

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

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

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

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

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

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

(ii) has substantial evidence, on record:

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

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

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

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the public health and safety or that:

- (a) is required for human consumption; and
- (b) an applicant must install:
 - (i) in accordance with published installation and inspection specifications for public improvements; and
 - (ii) as a condition of:
 - (A) recording a subdivision plat;
 - (B) obtaining a building permit; or
 - (C) developing a commercial, industrial, mixed use, condominium, or multifamily

project.

(29) "Intermittent" means surface water is present in a river, stream, or creek channel for a portion of the year, but excludes flows resulting only from ephemeral rain events, such as in arroyos.

~~[(29)]~~ (30) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

- (a) runs with the land; and
- (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
- (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

~~[(30)]~~ (31) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~[(31)]~~ (32) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~[(32)]~~ (33) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

~~[(33)]~~ (34) "Land use application":

- (a) means an application that is:
 - (i) required by a county; and

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- (ii) submitted by a land use applicant to obtain a land use decision; and
- (b) does not mean an application to enact, amend, or repeal a land use regulation.

~~[(34)]~~ (35) "Land use authority" means:

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

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

~~[(35)]~~ (36) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

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

~~[(36)]~~ (37) "Land use permit" means a permit issued by a land use authority.

~~[(37)]~~ (38) "Land use regulation":

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

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

(c) does not include:

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

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

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

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

~~[(38)]~~ (39) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

~~[(39)]~~ (40) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

~~[(40)]~~ (41) (a) "Lot line adjustment" means a relocation of a lot line boundary between

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adjoining lots or between a lot and adjoining parcels in accordance with Section 17-27a-608:

- (i) whether or not the lots are located in the same subdivision; and
- (ii) with the consent of the owners of record.
- (b) "Lot line adjustment" does not mean a new boundary line that:
 - (i) creates an additional lot; or
 - (ii) constitutes a subdivision or a subdivision amendment.
- (c) "Lot line adjustment" does not include a boundary line adjustment made by the

Department of Transportation.

~~[(41)]~~ (42) "Major transit investment corridor" means public transit service that uses or occupies:

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

or

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

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

~~[(42)]~~ (43) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

~~[(43)]~~ (44) "Mountainous planning district" means an area designated by a county legislative body in accordance with Section 17-27a-901.

~~[(44)]~~ (45) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

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

~~[(45)]~~ (46) "Noncomplying structure" means a structure that:

- (a) legally existed before the structure's current land use designation; and
- (b) because of one or more subsequent land use ordinance changes, does not conform

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to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

~~[(46)]~~ (47) "Nonconforming use" means a use of land that:

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

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

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

~~[(47)]~~ (48) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

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

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

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

~~[(48)]~~ (49) "Parcel" means any real property that is not a lot.

~~[(49)]~~ (50) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 17-27a-523, if no additional parcel is created and:

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

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

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

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

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

(51) "Perennial" means surface water is present in a stream, river, or creek channel throughout the year.

~~[(50)]~~ (52) "Person" means an individual, corporation, partnership, organization,

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association, trust, governmental agency, or any other legal entity.

~~[(51)]~~ (53) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

- (a) an estimate of the existing supply of moderate income housing located within the county;
- (b) an estimate of the need for moderate income housing in the county for the next five years;
- (c) a survey of total residential land use;
- (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
- (e) a description of the county's program to encourage an adequate supply of moderate income housing.

~~[(52)]~~ (54) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

~~[(53)]~~ (55) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

~~[(54)]~~ (56) "Potential geologic hazard area" means an area that:

- (a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or
- (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

~~[(55)]~~ (57) "Public agency" means:

- (a) the federal government;
- (b) the state;
- (c) a county, municipality, school district, special district, special service district, or

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other political subdivision of the state; or

(d) a charter school.

~~[(56)]~~ (58) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

~~[(57)]~~ (59) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

~~[(58)]~~ (60) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

~~[(59)]~~ (61) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

~~[(60)]~~ (62) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

~~[(61)]~~ (63) "Residential facility for persons with a disability" means a residence:

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

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

~~[(62)]~~ (64) "Residential roadway" means a public local residential road that:

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

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

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

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

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

(f) cannot have a primary access, but can have a secondary access, and does not abut

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lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and

(g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

(65) "Riparian area" means land representing a transition between aquatic and upland habitats with a plant community that:

(a) is contiguous to and affected by surface and subsurface hydrologic features of perennial or intermittent rivers, streams, or creeks; and

(b) has one or both of the following characteristics:

(i) distinctly different vegetative species than adjacent areas; or

(ii) species similar to adjacent areas but exhibiting more vigorous or robust growth forms.

~~[(63)]~~ (66) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

~~[(64)]~~ (67) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

~~[(65)]~~ (68) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

~~[(66)]~~ (69) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

~~[(67)]~~ (70) (a) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(b) "Special district" includes a governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

~~[(68)]~~ (71) "Specified public agency" means:

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

~~[(69)]~~ (72) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(70)]~~ (73) "State" includes any department, division, or agency of the state.

~~[(71)]~~ (74) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

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

(ii) except as provided in Subsection ~~[(70)(c)]~~, (74)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

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

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

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

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

(B) joining a lot to a parcel;

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

(A) an electrical transmission line or a substation;

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

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

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

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

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

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

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

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

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

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

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

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

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

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

~~[(72)]~~ (75) (a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

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

(ii) alters the outside boundary of the subdivision;

(iii) changes the number of lots within the subdivision;

(iv) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

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

(b) "Subdivision amendment" does not include a lot line adjustment, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

~~[(73)]~~ (76) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

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

~~[(74)]~~ (77) "Suspect soil" means soil that has:

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

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3% swell potential;

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

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

commonly associated with dissolution and collapse features.

~~(75)~~ (78) "Therapeutic school" means a residential group living facility:

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

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

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

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

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

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

~~(76)~~ (79) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

~~(77)~~ (80) "Unincorporated" means the area outside of the incorporated area of a municipality.

~~(78)~~ (81) "Water interest" means any right to the beneficial use of water, including:

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

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

(i) a contract; or

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

~~(79)~~ (82) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 6. Section **17-27a-401** is amended to read:

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17-27a-401. General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

(1) To accomplish the purposes of this chapter, a county shall prepare and adopt a comprehensive, long-range general plan:

(a) for present and future needs of the county;

(b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county; or

(ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and

(c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) To promote health, safety, and welfare, the general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) the protection and promotion of air quality;

(g) historic preservation;

(h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and

(i) an official map.

(3) (a) (i) The general plan of a specified county, as defined in Section 17-27a-408, shall include a moderate income housing element that meets the requirements of Subsection 17-27a-403(2)(a)(iii).

(ii) (A) This Subsection (3)(a)(ii) applies to a county that does not qualify as a specified county as of January 1, 2023.

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(B) As of January 1, if a county described in Subsection (3)(a)(ii)(A) changes from one class to another or grows in population to qualify as a specified county as defined in Section 17-27a-408, the county shall amend the county's general plan to comply with Subsection (3)(a)(i) on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county.

(iii) A county described in Subsection (3)(a)(ii)(B) shall send a copy of the county's amended general plan to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member.

(b) The general plan shall contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(c) The resource management plan described in Subsection (3)(b) shall address:

- (i) mining;
- (ii) land use;
- (iii) livestock and grazing;
- (iv) irrigation;
- (v) agriculture;
- (vi) fire management;
- (vii) noxious weeds;
- (viii) forest management;
- (ix) water rights;
- (x) ditches and canals;
- (xi) water quality and hydrology;
- (xii) flood plains and river terraces;
- (xiii) wetlands;
- (xiv) riparian areas;
- (xv) predator control;
- (xvi) wildlife;
- (xvii) fisheries;
- (xviii) recreation and tourism;
- (xix) energy resources;

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- (xx) mineral resources;
- (xxi) cultural, historical, geological, and paleontological resources;
- (xxii) wilderness;
- (xxiii) wild and scenic rivers;
- (xxiv) threatened, endangered, and sensitive species;
- (xxv) land access;
- (xxvi) law enforcement;
- (xxvii) economic considerations; and
- (xxviii) air.

(d) For each item listed under Subsection (3)(c), a county's resource management plan shall:

- (i) establish findings pertaining to the item;
- (ii) establish defined objectives; and
- (iii) outline general policies and guidelines on how the objectives described in Subsection (3)(d)(ii) are to be accomplished.

(4) (a) (i) The general plan shall include specific provisions related to an area within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303.

(ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

(A) the information identified in Section 19-3-305;

(B) information supported by credible studies that demonstrates that Subsection 19-3-307(2) has been satisfied; and

(C) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

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(c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

(d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

(i) comply with Subsection (4)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan.

(8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23A, Wildlife Resources Act.

(9) On or before December 31, 2025, a county that has a general plan that does not include a water use and preservation element that complies with Section 17-27a-403 shall amend the county's general plan to comply with Section 17-27a-403.

(10) (a) Beginning on or before December 31, 2029, a county's general plan shall include a riparian area element that meets the requirements of Subsection 17-27a-403(2)(a)(vi) if a riparian area is located within the county.

(b) Notwithstanding Subsection (10)(a), a county is not required to have a riparian area element in the county's general plan if the county as of July 1, 2025:

(i) has zoning or other land use ordinances that address the factors in Subsection 17-27a-403(2)(a)(vi); and

(ii) refers to the zoning or other land use ordinances described in this Subsection (10)(b) in the county's general plan.

Section 7. Section **17-27a-403** is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section

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17-27a-203, of the planning commission's intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless the county plan is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) is coordinated to integrate the land use element with the water use and preservation element; and

(D) accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of

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transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) for a specified county as defined in Section 17-27a-408, a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;

(B) selects three or more moderate income housing strategies described in Subsection (2)(b)(ii) for implementation; and

(C) includes an implementation plan as provided in Subsection (2)(e);

(iv) a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3); ~~and~~

(v) a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the county to modify the county's operations to eliminate practices or conditions that waste water~~[-]~~; and

(vi) if required by Subsection 17-27a-401(10), a riparian area element that addresses the following that are applicable to the county's riparian area:

(A) preserving and enhancing natural stream functions for hydrologic conveyance and storage, including flood plains and wetlands;

(B) managing erosion, sedimentation, and flood control;

(C) minimizing flood and fire risk to property through development of buffer zones and removal of dead or diseased vegetation considered to represent excessive fuel loads;

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(D) reducing water pollution, including by filtration;

(E) protecting fish and wildlife habitat;

(F) preserving or restoring vegetation while managing invasive plants, noxious weeds, and fuel loads; and

(G) preserving aesthetic and recreational values that are compatible with the other items listed in this Subsection (2)(a)(vi).

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, including a recommendation to implement three or more of the following moderate income housing strategies:

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income

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residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the county, an employer that provides contracted services for the county, or any other public employer that operates within the county;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

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(S) create a program to transfer development rights for moderate income housing;

(T) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(U) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(V) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

(W) demonstrate implementation of any other program or strategy to address the housing needs of residents of the county who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing.

(iii) If a specified county, as defined in Section 17-27a-408, has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified county shall include as part of the specified county's recommended strategies under Subsection (2)(b)(ii) a recommendation to implement the strategy described in Subsection (2)(b)(ii)(Q).

(iv) The planning commission shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(ii).

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by the county's region's metropolitan planning organization, if the relevant areas of the county are

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within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

(e) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the county for implementation.

(ii) The timeline described in Subsection (2)(e)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and

(B) provide flexibility for the county to make adjustments as needed.

(f) In drafting the water use and preservation element, the planning commission:

(i) shall consider applicable regional water conservation goals recommended by the Division of Water Resources;

(ii) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and water use and preservation element may affect the Great Salt Lake;

(iii) shall notify the community water systems serving drinking water within the unincorporated portion of the county and request feedback from the community water systems about how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(iv) shall consider the potential opportunities and benefits of planning for regionalization of public water systems;

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(v) shall consult with the Department of Agriculture and Food for information and technical resources regarding the potential benefits of agriculture conservation easements and potential implementation of agriculture water optimization projects that would support regional water conservation goals;

(vi) shall notify an irrigation or canal company located in the county so that the irrigation or canal company can be involved in the protection and integrity of the irrigation or canal company's delivery systems;

(vii) shall include a recommendation for:

(A) water conservation policies to be determined by the county; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(viii) shall review the county's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(ix) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(x) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

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(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(xi) shall include a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(g) In drafting the riparian area element, the planning commission:

(i) shall establish a vision for the riparian areas within the county and identify strategies to implement the county's vision for the riparian areas that shall include:

(A) recommendations to update the county's land use ordinances to support the riparian area vision as established in the planning process; and

(B) other strategies as the county considers appropriate;

(ii) may consider:

(A) situations identified in Subsection (2)(a)(vi) that warrant the implementation of innovative or established zoning and preservation tools to regulate development to achieve riparian area protections;

(B) situations that consider the ecological function and integrity of features that cut across a riparian area adjacent to flowing water, including a stream, bank, wetland, flood plain, or upland;

(C) situations calling for the protection of native riparian plants, including identification and management of invasive species in accordance with state and federal law;

(D) situations calling for the protection of culturally significant landforms, historical flood plains, or other important features close to rivers, streams, and wetlands;

(E) what constitutes best practices for the use of herbicides, pesticides, and fertilizer in accordance, where relevant, with applicable state and federal law for management of recognized listed species;

(F) situations calling for specific permits, analysis, or requests for minor exceptions or reasonable use exceptions if no feasible alternative exists;

(G) what circumstances necessitate an applicant with a proposed project in a riparian

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area to submit a resource inventory and impact analysis for the riparian area;

(H) whether to allow use of heavy equipment for construction of amenities or for removal of debris;

(I) situations calling for the maintenance of trees that pose a safety risk from treefall, fire, or flow conveyance during flooding, or calling for removal of diseased trees;

(J) situations calling for the maintenance or installation of irrigation and flood control devices;

(K) **how to** account for activities approved by the United States Army Corps of Engineers or state engineer;

(L) best practices in allowing public utilities work;

(M) the need to coordinate and cooperate with watershed councils, other governmental agencies, and jurisdictions to facilitate compatible regulation and protection of a riparian area and recognize the riparian and hydrologic functions that are regional in nature and that cross jurisdictional boundaries;

(N) strategies to avoid, minimize, or mitigate negative impacts affecting a riparian area;

(O) tools available for the management of a riparian area, such as tools published by the Division of Water Resources from federal, state, or local government agencies, including interlocal entities, and assistance provided under Section 73-10-36;

(P) a riparian map created by the Utah Geological Survey pursuant to Section 73-10-36; ~~and~~

(Q) the need for a process through which a landowner may modify riparian requirements to respond to unforeseen circumstances or to allow innovative development techniques that meet or exceed adopted standards; and

(R) property rights and appropriate compensation or benefits for property owners; and

(iii) may provide for management of the riparian area as part of the regulation of environmentally sensitive areas under Subsection (3).

(h) Notwithstanding Subsection (2)(g)(ii)(K), this section may not be interpreted to override, substitute, or modify a water right within the state or the role and authority of the state engineer.

(3) The proposed general plan may include:

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(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an

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economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 8. Section **17-27a-404** is amended to read:

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

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

(b) The planning commission shall provide notice of the public hearing for the county, as a class A notice under Section 63G-30-102, for at least 10 calendar days before the day of the public hearing.

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

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

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

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

(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the

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legislative body for not fewer than 90 days after the date of the public hearing.

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

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

(iii) Public notice shall be given for the county, as a class A notice under Section 63G-30-102, for at least 180 days.

(iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding Subsection 17-27a-401(4), including publication described in Subsection (3)(c)(iii) for 180 days before the date of the hearing to be held under this Subsection (3).

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

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

(c) If the county legislative body rejects the proposed general plan or amendment, the legislative body may provide suggestions to the planning commission for the planning commission's review and recommendation.

(5) The legislative body shall adopt:

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

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

(c) for a specified county as defined in Section 17-27a-408, a moderate income housing element as provided in Subsection 17-27a-403(2)(a)(iii);

(d) a resource management plan as provided by Subsection 17-27a-403(2)(a)(iv); ~~and~~

(e) on or before December 31, 2025, a water use and preservation element as provided in Subsection 17-27a-403(2)(a)(v)~~[-]~~; and

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(f) on or before December 31, 2029, a riparian area element as provided in Subsection 17-27a-403(2)(a)(vi) if the riparian area element is required by Subsection 17-27a-401(10).

Section 9. Section **73-10-36** is amended to read:

73-10-36. Division to provide technical assistance in local government planning -- Other divisions to provide expertise and knowledge -- Riparian map.

(1) As used in this section:

(a) "Division" means the Division of Water Resources.

(b) "General plan":

(i) for a municipality, means the same as that term is defined in Section 10-9a-103; and

(ii) for a county, means the same as that term is defined in Section 17-27a-103.

(c) "Local government" means a county or a municipality, as defined in Section 10-1-104.

(d) "Watershed council" means a council created under Chapter 10g, Part 3, Watershed Councils Act.

(2) (a) The division shall provide technical assistance to a local government to support the local government's adoption of a water use and preservation element or riparian area element in a general plan.

~~(3)~~ (b) When consulted by a local government for information and technical resources regarding regional water conservation goals under Subsection 10-9a-403(2)(f)(vi) or 17-27a-403(2)(f)(ii), the division may seek input from the appropriate watershed council or councils.

(c) The division shall publish on a public website tools described in Subsection 10-9a-403(2)(g)(ii)(O) or 17-27a-403(2)(g)(ii)(O).

(3) (a) The Department of Natural Resources shall create a position that:

(i) works with the Division of Forestry, Fire, and State Lands and the Utah Geological Survey to provide expertise and specialized knowledge to municipalities and counties with regard to the management and improvement of riparian areas; and

(ii) coordinates with the division in providing technical assistance to a local government related to a riparian area element in a general plan.

(b) By no later than July 1, 2025, the Utah Geological Survey shall compile a map of riparian areas within the state.

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(4) A city of the fifth class or a town exempt under Subsection 10-9a-401(6) from the requirement to have a riparian area element in a general plan:

(a) shall have access to the resources provided in accordance with this section as if the city or town were required to have a riparian area element; and

(b) may establish a vision for a riparian area within the city or town and identify strategies to implement the vision for the riparian area.

Section 10. **Effective date.**

This bill takes effect on May 1, 2024.