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H.B. 409
2nd Sub. (Gray)

Representative Steve Waldrip proposes the following substitute bill:

MUNICIPAL AND COUNTY LAND USE AND DEVELOPMENT REVISIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- defines terms;
- establishes certain annual training requirements for a municipal or county planning commission;
- requires a local land use authority to establish objective standards for conditional uses;
- prohibits a municipality or county from imposing certain land use regulations on specified building permit applicants;
- establishes certain requirements governing municipal and county development agreements;
- prohibits a municipality or county from imposing certain requirements related to the installation of pavement for specified infrastructure improvements involving roadways;

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- requires a municipality or county to establish by ordinance certain standards for infrastructure improvements involving roadways;
- modifies provisions related to property boundary adjustments, subdivision amendments, and public street vacations;
- prohibits a municipal or county land use appeal authority from hearing an appeal from the enactment of a land use regulation; and
- makes technical and conforming 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 2020, Chapter 434

10-9a-302, as last amended by Laws of Utah 2020, Chapter 434

10-9a-507, as last amended by Laws of Utah 2019, Chapter 384

10-9a-509, as last amended by Laws of Utah 2020, Chapter 434

10-9a-523, as enacted by Laws of Utah 2013, Chapter 334

10-9a-524, as enacted by Laws of Utah 2013, Chapter 334

10-9a-529, as enacted by Laws of Utah 2020, Chapter 434

10-9a-601, as last amended by Laws of Utah 2019, Chapter 384

10-9a-608, as last amended by Laws of Utah 2020, Chapter 434

10-9a-609.5, as last amended by Laws of Utah 2020, Chapter 434

10-9a-701, as last amended by Laws of Utah 2020, Chapters 126 and 434

10-9a-801, as last amended by Laws of Utah 2020, Chapter 434

17-27a-103, as last amended by Laws of Utah 2020, Chapter 434

17-27a-302, as last amended by Laws of Utah 2020, Chapter 434

17-27a-506, as last amended by Laws of Utah 2019, Chapter 384

17-27a-508, as last amended by Laws of Utah 2019, Chapter 384 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 384

17-27a-522, as enacted by Laws of Utah 2013, Chapter 334

17-27a-523, as enacted by Laws of Utah 2013, Chapter 334
17-27a-601, as last amended by Laws of Utah 2019, Chapter 384
17-27a-608, as last amended by Laws of Utah 2020, Chapter 434
17-27a-609.5, as last amended by Laws of Utah 2020, Chapter 434
17-27a-701, as last amended by Laws of Utah 2020, Chapter 434
17-27a-801, as last amended by Laws of Utah 2020, Chapter 434
57-1-13, as last amended by Laws of Utah 2019, Chapter 384
57-1-45, as last amended by Laws of Utah 2019, Chapter 384
63I-2-217, as last amended by Laws of Utah 2020, Chapters 47, 114, and 434
ENACTS:
10-9a-530, Utah Code Annotated 1953
10-9a-531, Utah Code Annotated 1953
17-27a-526, Utah Code Annotated 1953
17-27a-527, Utah Code Annotated 1953

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.

(3) "Affected entity" means a county, municipality, local 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 Utah 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(5)(a); 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 [~~has its application approved by~~] 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 [~~its~~] the unique characteristics or 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.

[~~(12)~~] (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.

[~~(13)~~] (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 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 [~~(13)~~] (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 [~~(13)~~] (14)(a)(i); and

(B) used in support of the purposes of a building described in Subsection [~~(13)~~] (14)(a)(i); or

(ii) a therapeutic school.

[~~(14)~~] (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.

[~~(15)~~] (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.

[~~(16)~~] (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.

[~~(17)~~] (18) "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.

[~~(18)~~] (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.

[~~(19)~~] (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.

[~~(20)~~] (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.

[~~(21)~~] (22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

[~~(22)~~] (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 improvement required as a condition precedent to:

(a) recording a subdivision plat; or

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

[~~(23)~~] (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.

[~~(24)~~] (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.

[~~(25)~~] (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.

[~~(26)~~] (27) "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.

[~~(27)~~] (28) "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.

[~~(28)~~] (29) "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.

[~~(29)~~] (30) "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.

[~~(30)~~] (31) "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.

[~~(31)~~] (32) "Land use permit" means a permit issued by a land use authority.

[~~(32)~~] (33) "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.

[~~(33)~~] (34) "Legislative body" means the municipal council.

[~~(34)~~] (35) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

[~~(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[~~, in accordance with Section 10-9a-608~~;]; 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.

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

[~~(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 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 [~~its~~] 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:

(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 [~~created by and shown on a subdivision plat recorded in the office of the county recorder~~].

[~~(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 [~~57-1-45~~] 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is [~~subdivided land~~] 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.

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

[~~(47)~~] (48) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(48)~~] (49) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(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)~~] (50) "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)~~] (51) "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)~~] (52) "Public agency" means:

(a) the federal government;

(b) the state;

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

(d) a charter school.

[~~(52)~~] (53) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[~~(53)~~] (54) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(54)~~] (55) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[~~(55)~~] (56) "Receiving zone" means an area of a municipality that the municipality

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

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

[~~(57)~~] (58) "Residential facility for persons with a disability" means a residence:

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

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

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

[~~(58)~~] (59) "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.

[~~(59)~~] (60) "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.

[~~(60)~~] (61) "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.

[~~(61)~~] (62) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(62)~~] (63) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[~~(63)~~] (64) "State" includes any department, division, or agency of the state.

[~~(64) "Subdivided land" means the land, tract, or lot described in a recorded subdivision plat.~~]

(65) (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 (65)(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) [~~an~~] a boundary line agreement recorded with the county recorder's office between owners of adjoining [~~unsubdivided properties~~] parcels adjusting the mutual boundary [~~by a boundary line agreement~~] in accordance with Section [~~57-1-45 if:~~] 10-9a-524 if no new parcel is created;

[~~(A) no new lot is created; and~~]

[~~(B) the adjustment does not violate applicable land use ordinances;~~]

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

(A) revising the legal [~~description of more than one contiguous parcel of property that is not subdivided land~~] descriptions of multiple parcels into one legal description encompassing all such parcels [~~of property~~]; or

(B) joining a [~~subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances~~] lot to a parcel;

(iv) [~~an~~] a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with [~~Section 10-9a-603~~] 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 [~~or partition~~] of land by deed or other instrument [~~where the land use authority expressly approves~~] if the deed or other instrument states in writing that the division:

(A) [~~in writing the division~~] is in anticipation of [~~further~~] 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; [~~or~~]

(ix) a deed or easement for a road, street, or highway purpose[~~.~~]; or

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

[~~(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (65) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.~~]

(66) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

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

(b) alters the outside boundary of the subdivision;

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

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

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

(67) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

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

[~~(67)~~] (68) "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.

[~~(68)~~] (69) "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.

[~~(69)~~] (70) "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.

[~~(70)~~] (71) "Unincorporated" means the area outside of the incorporated area of a city or town.

[~~(71)~~] (72) "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.

[~~(72)~~] (73) "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-302** is amended to read:

10-9a-302. Planning commission powers and duties -- Training requirements.

(1) The planning commission shall review and make a recommendation to the legislative body for:

(a) a general plan and amendments to the general plan;

(b) land use regulations, including:

(i) ordinances regarding the subdivision of land within the municipality; and

(ii) amendments to existing land use regulations;

(c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

(d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

(e) application processes that:

(i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(ii) shall protect the right of each:

(A) land use applicant and adversely affected party to require formal consideration of any application by a land use authority;

(B) land use applicant or adversely affected party to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section 10-9a-404.

(3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.

(4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.

(5) Nothing in this section limits the right of a municipality to initiate or propose the actions described in this section.

(6) (a) (i) This Subsection (6) applies to:

(A) a city of the first, second, third, or fourth class;

(B) a city of the fifth class with a population of 5,000 or more, if the city is located within in a county of the first, second, or third class; and

(C) a metro township with a population of 5,000 or more.

(ii) The population figures described in Subsections (6)(a)(i) shall be derived from:

(A) the most recent official census or census estimate of the United States Census Bureau; or

(B) if a population figure is not available under Subsection (6)(a)(ii)(A), an estimate of the Utah Population Committee.

(b) A municipality described in Subsection (6)(a)(i) shall ensure that each member of the municipality's planning commission completes four hours of annual land use training as follows:

(i) one hour of annual training on general powers and duties under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; and

(ii) three hours of annual training on land use, which may include:

(A) appeals and variances;

(B) conditional use permits;

(C) exactions;

(D) impact fees;

(E) vested rights;

(F) subdivision regulations and improvement guarantees;

(G) land use referenda;

(H) property rights;

(I) real estate procedures and financing;

(J) zoning, including use-based and form-based; and

(K) drafting ordinances and code that complies with statute.

(c) A newly appointed planning commission member may not participate in a public meeting as an appointed member until the member completes the training described in Subsection (6)(b)(i).

(d) A planning commission member may qualify for one completed hour of training required under Subsection (6)(b)(ii) if the member attends, as an appointed member, 12 public meetings of the planning commission within a calendar year.

(e) A municipality shall provide the training described in Subsection (6)(b) through:

(i) municipal staff;

(ii) the Utah League of Cities and Towns; or

(iii) a list of training courses selected by:

(A) the Utah League of Cities and Towns; or

(B) the Division of Real Estate created in Section 61-2-201.

(f) A municipality shall, for each planning commission member:

(i) monitor compliance with the training requirements in Subsection (6)(b); and

(ii) maintain a record of training completion at the end of each calendar year.

Section 3. Section **10-9a-507** is amended to read:

10-9a-507. Conditional uses.

(1) (a) A municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in an applicable ordinance.

(b) A municipality may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

(2) (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.

(b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

(c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

(3) A land use authority's decision to approve or deny conditional use is an administrative land use decision.

(4) A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

Section 4. Section **10-9a-509** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(d) A subsequent incorporation of a municipality or a petition that proposes the

incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

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

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

(i) this chapter;

(ii) a municipal ordinance; or

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

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

(i) in a land use permit;

(ii) on the subdivision plat;

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

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

(v) in this chapter; or

(vi) in a municipal ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) the relevant land use approval; and

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

Section 5. Section **10-9a-523** is amended to read:

10-9a-523. Property boundary adjustment.

[~~(1) A property owner:~~]

[~~(a) may execute a parcel boundary adjustment by quitclaim deed or by a boundary line agreement as described in Section 57-1-45; and~~]

[~~(b) shall record the quitclaim deed or boundary line agreement in the office of the county recorder.~~]

[~~(2) A parcel boundary adjustment is not subject to the review of a land use authority.~~]

(1) To make a parcel boundary adjustment, a property owner shall:

(a) execute a boundary adjustment through:

(i) a quitclaim deed; or

(ii) a boundary line agreement under Section 10-9a-524; and

(b) record the quitclaim deed or boundary line agreement described in Subsection (1)(a) in the office of the county recorder of the county in which each property is located.

(2) To make a lot line adjustment, a property owner shall:

(a) obtain approval of the boundary adjustment under Section 10-9a-608;

(b) execute a boundary adjustment through:

(i) a quitclaim deed; or

(ii) a boundary line agreement under Section 10-9a-524; and

(c) record the quitclaim deed or boundary line agreement described in Subsection (2)(b) in the office of the county recorder of the county in which each property is located.

(3) A parcel boundary adjustment under Subsection (1) is not subject to review of a land use authority unless:

(a) the parcel includes a dwelling; and

(b) the land use authority's approval is required under Subsection 10-9a-524(5).

(4) The recording of a boundary line agreement or other document used to adjust a mutual boundary line that is not subject to review of a land use authority:

(a) does not constitute a land use approval; and

(b) does not affect the validity of the boundary line agreement or other document used to adjust a mutual boundary line.

(5) A municipality may withhold approval of a land use application for property that is subject to a recorded boundary line agreement or other document used to adjust a mutual boundary line if the municipality determines that the lots or parcels, as adjusted by the

boundary line agreement or other document used to adjust the mutual boundary line, are not in compliance with the municipality's land use regulations in effect on the day on which the boundary line agreement or other document used to adjust the mutual boundary line is recorded.

Section 6. Section **10-9a-524** is amended to read:

10-9a-524. Boundary line agreement.

[~~(1) As used in this section, "boundary line agreement" is an agreement described in Section 57-1-45.~~]

[~~(2) A property owner:~~]

[~~(a) may execute a boundary line agreement; and~~]

[~~(b) shall record a boundary line agreement in the office of the county recorder.~~]

[~~(3) A boundary line agreement is not subject to the review of a land use authority.~~]

(1) If properly executed and acknowledged as required by law, an agreement between owners of adjoining property that designates the boundary line between the adjoining properties acts, upon recording in the office of the recorder of the county in which each property is located, as a quitclaim deed to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement.

(2) Adjoining property owners executing a boundary line agreement described in Subsection (1) shall:

(a) ensure that the agreement includes:

(i) a legal description of the agreed upon boundary line and of each parcel or lot after the boundary line is changed;

(ii) the name and signature of each grantor that is party to the agreement;

(iii) a sufficient acknowledgment for each grantor's signature;

(iv) the address of each grantee for assessment purposes;

(v) a legal description of the parcel or lot each grantor owns before the boundary line is changed; and

(vi) the date of the agreement if the date is not included in the acknowledgment in a form substantially similar to a quitclaim deed as described in Section 57-1-13;

(b) if any of the property subject to the boundary line agreement is a lot, prepare an

amended plat in accordance with Section 10-9a-608 before executing the boundary line agreement; and

(c) if none of the property subject to the boundary line agreement is a lot, ensure that the boundary line agreement includes a statement citing the file number of a record of a survey map in accordance with Section 17-23-17, unless the statement is exempted by the municipality.

(3) A boundary line agreement described in Subsection (1) that complies with Subsection (2) presumptively:

(a) has no detrimental effect on any easement on the property that is recorded before the day on which the agreement is executed unless the owner of the property benefitting from the easement specifically modifies the easement within the boundary line agreement or a separate recorded easement modification or relinquishment document; and

(b) relocates the parties' common boundary line for an exchange of consideration.

(4) Notwithstanding Part 6, Subdivisions, or a municipality's ordinances or policies, a boundary line agreement that only affects parcels is not subject to:

(a) any public notice, public hearing, or preliminary platting requirement;

(b) the review of a land use authority; or

(c) an engineering review or approval of the municipality, except as provided in Subsection (5).

(5) (a) If a parcel that is the subject of a boundary line agreement contains a dwelling unit, the municipality may require a review of the boundary line agreement if the municipality:

(i) adopts an ordinance that:

(A) requires review and approval for a boundary line agreement containing a dwelling unit; and

(B) includes specific criteria for approval; and

(ii) completes the review within 14 days after the day on which the property owner submits the boundary line agreement for review.

(b) (i) If a municipality, upon a review under Subsection (5)(a), determines that the boundary line agreement is deficient or if the municipality requires additional information to approve the boundary line agreement, the municipality shall send, within the time period described in Subsection (5)(a)(ii), written notice to the property owner that:

(A) describes the specific deficiency or additional information that the municipality requires to approve the boundary line agreement; and

(B) states that the municipality shall approve the boundary line agreement upon the property owner's correction of the deficiency or submission of the additional information described in Subsection (5)(b)(i)(A).

(ii) If a municipality, upon a review under Subsection (5)(a), approves the boundary line agreement, the municipality shall send written notice of the boundary line agreement's approval to the property owner within the time period described in Subsection (5)(a)(ii).

(c) If a municipality fails to send a written notice under Subsection (5)(b) within the time period described in Subsection (5)(a)(ii), the property owner may record the boundary line agreement as if no review under this Subsection (5) was required.

Section 7. Section **10-9a-529** is amended to read:

10-9a-529. Specified public utility located in a municipal utility easement.

A specified public utility may exercise each power of a public utility under Section 54-3-27 if the specified public utility uses an easement:

(1) with the consent of a municipality; and

(2) that is located within a municipal utility easement described in [~~Subsection~~] Subsections 10-9a-103[~~(40)~~](41)(a) through (e).

Section 8. Section **10-9a-530** is enacted to read:

10-9a-530. Development agreements.

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

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

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

(A) enact a land use regulation; or

(B) take any action allowed under Section 10-8-84;

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

(iii) contain a term that conflicts with, or is different from, a standard set forth in an existing land use regulation that governs the area subject to the development agreement, unless

the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Section 10-9a-502, including a review and recommendation from the planning commission and a public hearing.

(b) A development agreement that requires the implementation of an existing land use regulation as an administrative act does not require a legislative body's approval under Section 10-9a-502.

(c) A municipality may not require a development agreement as the only option for developing land within the municipality.

(d) To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by:

(i) this chapter; and

(ii) any applicable land use regulations.

Section 9. Section **10-9a-531** is enacted to read:

10-9a-531. Infrastructure improvements involving roadways.

(1) As used in this section:

(a) "Low impact development" means the same as that term is defined in Section 19-5-108.5.

(b) (i) "Pavement" means the bituminous or concrete surface of a roadway.

(ii) "Pavement" does not include a curb or gutter.

(c) "Residential street" means a public or private roadway that:

(i) currently serves or is projected to serve an area designated primarily for single-family residential use;

(ii) requires at least two off-site parking spaces for each single-family residential property abutting the roadway; and

(iii) has or is projected to have, on average, traffic of no more than 1,000 trips per day, based on findings contained in:

(A) a traffic impact study;

(B) the municipality's general plan under Section 10-9a-401;

(C) an adopted phasing plan; or

(D) a written plan or report on current or projected traffic usage.

(2) (a) Except as provided in Subsection (2)(b), a municipality may not, as part of an

infrastructure improvement, require the installation of pavement on a residential street at a width in excess of 32 feet if the municipality requires low impact development for the area in which the residential street is located.

(b) Subsection (2)(a) does not apply if a municipality requires the installation of pavement:

(i) in a vehicle turnaround area; or

(ii) to address specific traffic flow constraints at an intersection or other area.

(3) (a) A municipality shall, by ordinance, establish any standards that the municipality requires, as part of an infrastructure improvement, for fire department vehicle access and turnaround on roadways.

(b) The municipality shall ensure that the standards established under Subsection (3)(a) are consistent with the State Fire Code as defined in Section 15A-1-102.

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

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

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

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

(b) lots may be sold.

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

(3) The joining of a lot or lots to a parcel does not constitute a subdivision as to the parcel or subject the parcel to the municipality's subdivision ordinance.

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

10-9a-608. Subdivision amendments.

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

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

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

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

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

(iv) includes references to the original plat.

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

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

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

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

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

(2) [~~Unless a local ordinance provides otherwise, the~~] The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

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

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

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

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

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

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to [~~adjacent~~] adjoining property owners in accordance with any applicable local ordinance.

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

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

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

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

(5) (a) The owners of record of [~~adjacent parcels that are described by either a metes and bounds description or by a recorded plat~~] adjoining properties where one or more of the properties is a lot may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

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

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

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

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

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

(C) recites the legal descriptions of both the original [~~parcels~~] properties and the [~~parcels created by~~] properties resulting from the exchange of title; and

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

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

title to real property.

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

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

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

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

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

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.

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

Section 12. Section **10-9a-609.5** is amended to read:

10-9a-609.5. Petition to vacate a public street.

(1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 10-9a-603 through 10-9a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.

(2) A petition to vacate some or all of a public street or municipal utility easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street or municipal utility easement between the two nearest public street intersections; or

(ii) accessed exclusively by or within 300 feet of the public street or municipal utility easement;

(b) proof of written notice to operators of utilities and culinary water or sanitary sewer facilities located within the bounds of the public street or municipal utility easement sought to be vacated; and

(c) the signature of each owner under Subsection (2)(a) who consents to the vacation.

(3) If a petition is submitted containing a request to vacate some or all of a public street

or municipal utility easement, the legislative body shall hold a public hearing in accordance with Section 10-9a-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

(4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or municipal utility easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

(5) If the legislative body adopts an ordinance vacating some or all of a public street or municipal utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

(a) a plat reflecting the vacation; or

(b) (i) an ordinance described in Subsection (4); and

(ii) a legal description of the public street to be vacated.

(6) The action of the legislative body vacating some or all of a public street or municipal utility easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the municipality's fee in the vacated public street or municipal utility easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any parcel or lot owner; [~~or~~]

(ii) the rights of any public utility[~~.~~]; or

(iii) the rights of a culinary water authority or sanitary sewer authority.

(7) (a) A municipality may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.

(b) If a municipality submits a petition and initiates a process under Subsection (7)(a):

(i) the legislative body shall hold a public hearing;

(ii) the petition and process may not apply to or affect a public utility easement, except to the extent:

(A) the easement is not a protected utility easement as defined in Section 54-3-27;

(B) the easement is included within the public street; and

(C) the notice to vacate the public street also contains a notice to vacate the easement; and

(iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

(8) A legislative body may not approve a petition to vacate a public street under this section unless the vacation identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the public street.

Section 13. Section **10-9a-701** is amended to read:

10-9a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(1) (a) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities [~~to hear and decide:~~].

(b) An appeal authority described in Subsection (1)(a) shall hear and decide:

[~~(a)~~] (i) requests for variances from the terms of [~~the~~] land use ordinances;

[~~(b)~~] (ii) appeals from land use decisions applying [~~the~~] land use ordinances; and

[~~(c)~~] (iii) appeals from a fee charged in accordance with Section 10-9a-510.

(c) An appeal authority described in Subsection (1)(a) may not hear an appeal from the enactment of a land use regulation.

(2) As a condition precedent to judicial review, each adversely affected party shall timely and specifically challenge a land use authority's land use decision, in accordance with local ordinance.

(3) An appeal authority described in Subsection (1)(a):

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a municipality may:

(a) designate a separate appeal authority to hear requests for variances than the appeal

authority [~~it~~] the municipality designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that [~~it~~] the adversely affected party can raise in district court;

(d) not require a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of an appealing party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of [~~its~~] the members of the board, body, or panel of any meeting or hearing of the board, body, or panel;

(b) provide each of [~~its~~] the members of the board, body, or panel with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of [~~its~~] the members of the board, body, or panel is present; and

(d) act only upon the vote of a majority of [~~its~~] the convened members of the board, body, or panel.

Section 14. Section **10-9a-801** is amended to read:

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

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

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

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

(A) the arbitrator issues a final award; or

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

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

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

(3) (a) A court shall:

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

(ii) determine only whether:

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

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

(b) A court shall:

(i) presume that a final land use decision of a land use authority or an appeal authority is valid; and

(ii) uphold the land use decision unless the land use decision is:

(A) arbitrary and capricious; or

(B) illegal.

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

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

(A) based on an incorrect interpretation of a land use regulation; or

(B) contrary to law.

(d) (i) A court may affirm or reverse [~~the decision of a land use authority~~] a land use

decision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 15. 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, local 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 property owner, property owners association, public utility, or the Utah 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(5)(a); 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 [~~has its application approved by~~] 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 [~~its~~] the unique characteristics or potential impact of the land use on the county, 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.

(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 or development of a specific area of land.

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

[~~(14)~~] (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.

[~~(15)~~] (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 [~~(15)~~] (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 [~~(15)~~] (16)(a)(i); and

(B) used in support of the purposes of a building described in Subsection [~~(15)~~] (16)(a)(i); or

(ii) a therapeutic school.

[~~(16)~~] (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.

[~~(17)~~] (18) "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.

[~~(18)~~] (19) "Gas corporation" has the same meaning as defined in Section 54-2-1.

[~~(19)~~] (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.

[~~(20)~~] (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.

[~~(21)~~] (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.

[~~(22)~~] (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 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.

[~~(23)~~] (24) "Impact fee" means a payment of money imposed under Title 11, Chapter

36a, Impact Fees Act.

[~~(24)~~] (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.

[~~(25)~~] (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.

[~~(26)~~] (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.

[~~(27)~~] (28) "Infrastructure improvement" means permanent infrastructure that is essential for 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.

[~~(28)~~] (29) "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.

[~~(29)~~] (30) "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.

[~~(30)~~] (31) "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.

[~~(31)~~] (32) "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.

[~~(32)~~] (33) "Land use application":

(a) means an application that is:

(i) required by a county; 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.

[~~(33)~~] (34) "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.

[~~(34)~~] (35) "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.

[~~(35)~~] (36) "Land use permit" means a permit issued by a land use authority.

[~~(36)~~] (37) "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.

[~~(37)~~] (38) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

[~~(38)~~] (39) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

[~~(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 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[~~, in accordance with Section 17-27a-608,~~]; 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.

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

[~~(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:

(a) designated by a county legislative body in accordance with Section 17-27a-901; and

(b) that is not otherwise exempt under Section 10-9a-304.

[~~(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 [~~its~~] 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 that govern the use of land.

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

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

(b) has been maintained continuously since the time the land use ordinance 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 [~~created by and shown on a subdivision plat recorded in the office of the county recorder~~].

[~~(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 [~~57-1-45~~] 17-27a-523, if no additional parcel is created and:

(i) none of the property identified in the agreement is [~~subdivided land~~] 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.

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

[~~(50)~~] (51) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(51)~~] (52) "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)~~] (53) "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)~~] (54) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

[~~(54)~~] (55) "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)~~] (56) "Public agency" means:

(a) the federal government;

(b) the state;

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

(d) a charter school.

[~~(56)~~] (57) "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)~~] (58) "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)~~] (59) "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)~~] (60) "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)~~] (61) "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)~~] (62) "Residential facility for persons with a disability" means a residence:

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

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

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

[~~(62)~~] (63) "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.

[~~(63)~~] (64) "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.

[~~(64)~~] (65) "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.

[~~(65)~~] (66) "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.

[~~(66)~~] (67) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(67)~~] (68) "Specified public utility" means an electrical corporation, gas corporation,

or telephone corporation, as those terms are defined in Section 54-2-1.

[~~(68)~~] (69) "State" includes any department, division, or agency of the state.

[~~(69) "Subdivided land" means the land, tract, or lot described in a recorded subdivision plat.~~]

(70) (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), 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) [~~an~~] a boundary line agreement recorded with the county recorder's office between owners of adjoining [~~properties~~] parcels adjusting the mutual boundary [~~by a boundary line agreement~~] in accordance with Section [~~57-1-45 if:~~] 17-27a-523 if no new lot is created;

[~~(A) no new lot is created; and~~]

[~~(B) the adjustment does not violate applicable land use ordinances;~~]

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

(A) revising the legal [~~description of more than one contiguous parcel of property that is not subdivided land~~] descriptions of multiple parcels into one legal description encompassing all such parcels [~~of property~~]; or

(B) joining a [~~subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances~~] 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 utility service regeneration, transformation, retransmission, or amplification facility;

(v) [~~an~~] a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with [~~Section 10-9a-603~~] 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 [~~or partition~~] of land by deed or other instrument [~~where the land use authority expressly approves~~] if the deed or other instrument states in writing that the division:

(A) [~~in writing the division~~] is in anticipation of [~~further~~] 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; [~~or~~]

(x) a deed or easement for a road, street, or highway purpose[~~.~~]; or

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

[~~(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (70) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.~~]

(71) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

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

(b) alters the outside boundary of the subdivision;

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

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

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

(72) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

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

[~~(72)~~] (73) "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.

[~~(73)~~] (74) "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.

[~~(74)~~] (75) "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.

[~~(75)~~] (76) "Unincorporated" means the area outside of the incorporated area of a municipality.

[~~(76)~~] (77) "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.

[~~(77)~~] (78) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 16. Section **17-27a-302** is amended to read:

17-27a-302. Planning commission powers and duties -- Training requirements.

(1) Each countywide, planning advisory area, or mountainous planning district planning commission shall, with respect to the unincorporated area of the county, the planning advisory area, or the mountainous planning district, review and make a recommendation to the county legislative body for:

(a) a general plan and amendments to the general plan;

(b) land use regulations, including:

(i) ordinances regarding the subdivision of land within the county; and

(ii) amendments to existing land use regulations;

(c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

(d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

(e) application processes that:

(i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(ii) shall protect the right of each:

(A) land use applicant and adversely affected party to require formal consideration of any application by a land use authority;

(B) land use applicant or adversely affected party to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance

with Section 17-27a-404.

(3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.

(4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.

(5) Nothing in this section limits the right of a county to initiate or propose the actions described in this section.

(6) (a) (i) This Subsection (6) applies to a county that:

(A) is a county of the first, second, or third class; and

(B) has a population in the county's unincorporated areas of 5,000 or more.

(ii) The population figure described in Subsection (6)(a)(i) shall be derived from:

(A) the most recent official census or census estimate of the United States Census Bureau; or

(B) if a population figure is not available under Subsection (6)(a)(ii)(A), an estimate of the Utah Population Committee.

(b) A county described in Subsection (6)(a)(i) shall ensure that each member of the county's planning commission completes four hours of annual land use training as follows:

(i) one hour of annual training on general powers and duties under Title 17, Chapter 27a, County Land Use, Development, and Management Act; and

(ii) three hours of annual training on land use, which may include:

(A) appeals and variances;

(B) conditional use permits;

(C) exactions;

(D) impact fees;

(E) vested rights;

(F) subdivision regulations and improvement guarantees;

(G) land use referenda;

(H) property rights;

(I) real estate procedures and financing;

(J) zoning, including use-based and form-based; and

(K) drafting ordinances and code that complies with statute.

(c) A newly appointed planning commission member may not participate in a public meeting as an appointed member until the member completes the training described in Subsection (6)(b)(i).

(d) A planning commission member may qualify for one completed hour of training required under Subsection (6)(b)(ii) if the member attends, as an appointed member, 12 public meetings of the planning commission within a calendar year.

(e) A county shall provide the training described in Subsection (6)(b) through:

(i) county staff;

(ii) the Utah Association of Counties; or

(iii) a list of training courses selected by:

(A) the Utah Association of Counties; or

(B) the Division of Real Estate created in Section 61-2-201.

(f) A county shall, for each planning commission member:

(i) monitor compliance with the training requirements in Subsection (6)(b); and

(ii) maintain a record of training completion at the end of each calendar year.

Section 17. Section **17-27a-506** is amended to read:

17-27a-506. Conditional uses.

(1) (a) A county may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in an applicable ordinance.

(b) A county may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

(2) (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.

(b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

(c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

(3) A land use authority's decision to approve or deny a conditional use is an administrative land use decision.

(4) A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) in this chapter;

(ii) in a county ordinance; or

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

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

(i) in a land use permit;

(ii) on the subdivision plat;

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

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

(v) in this chapter; or

(vi) in a county ordinance.

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

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

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

(h) A county may not unreasonably withhold issuance of a certificate of occupancy

where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

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

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

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

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

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

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

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

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

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

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

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

(i) the relevant land use approval; and

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

Section 19. Section **17-27a-522** is amended to read:

17-27a-522. Parcel boundary adjustment.

[~~(1) A property owner:~~]

[~~(a) may execute a parcel boundary adjustment by quitclaim deed or by a boundary line agreement as described in Section 57-1-45; and~~]

[~~(b) shall record the quitclaim deed or boundary line agreement in the office of the county recorder.~~]

[~~(2) A parcel boundary adjustment is not subject to the review of a land use authority.~~]

(1) To make a parcel line adjustment, a property owner shall:

(a) execute a boundary adjustment through:

(i) a quitclaim deed; or

(ii) a boundary line agreement under Section 17-27a-523; and

(b) record the quitclaim deed or boundary line agreement described in Subsection (1)(a) in the office of the county recorder of the county in which each property is located.

(2) To make a lot line adjustment, a property owner shall:

(a) obtain approval of the boundary adjustment under Section 17-27a-608;

(b) execute a boundary adjustment through:

(i) a quitclaim deed; or

(ii) a boundary line agreement under Section 17-27a-523; and

(c) record the quitclaim deed or boundary line agreement described in Subsection (2)(b) in the office of the county recorder of the county in which each property is located.

(3) A parcel boundary adjustment under Subsection (1) is not subject to review of a land use authority unless:

(a) the parcel includes a dwelling; and

(b) the land use authority's approval is required under Subsection 17-27a-523(5).

(4) The recording of a boundary line agreement or other document used to adjust a mutual boundary line that is not subject to review of a land use authority:

(a) does not constitute a land use approval; and

(b) does not affect the validity of the boundary line agreement or other document used

to adjust a mutual boundary line.

(5) A county may withhold approval of a land use application for property that is subject to a recorded boundary line agreement or other document used to adjust a mutual boundary line if the municipality determines that the lots or parcels, as adjusted by the boundary line agreement or other document used to adjust the mutual boundary line, are not in compliance with the county's land use regulations in effect on the day on which the boundary line agreement or other document used to adjust the mutual boundary line is recorded.

Section 20. Section **17-27a-523** is amended to read:

17-27a-523. Boundary line agreement.

[~~(1) As used in this section, "boundary line agreement" is an agreement described in Section 57-1-45.~~]

[~~(2) A property owner:~~]

[~~(a) may execute a boundary line agreement; and~~]

[~~(b) shall record a boundary line agreement in the office of the county recorder.~~]

[~~(3) A boundary line agreement is not subject to the review of a land use authority.~~]

(1) If properly executed and acknowledged as required by law, an agreement between owners of adjoining property that designates the boundary line between the adjoining properties acts, upon recording in the office of the recorder of the county in which each property is located, as a quitclaim deed to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement.

(2) Adjoining property owners executing a boundary line agreement described in Subsection (1) shall:

(a) ensure that the agreement includes:

(i) a legal description of the agreed upon boundary line and of each parcel or lot after the boundary line is changed;

(ii) the name and signature of each grantor that is party to the agreement;

(iii) a sufficient acknowledgment for each grantor's signature;

(iv) the address of each grantee for assessment purposes;

(v) a legal description of the parcel or lot each grantor owns before the boundary line is changed; and

(vi) the date of the agreement if the date is not included in the acknowledgment in a form substantially similar to a quitclaim deed as described in Section 57-1-13;

(b) if any of the property subject to the boundary line agreement is a lot, prepare an amended plat in accordance with Section 17-27a-608 before executing the boundary line agreement; and

(c) if none of the property subject to the boundary line agreement is a lot, ensure that the boundary line agreement includes a statement citing the file number of a record of a survey map in accordance with Section 17-23-17, unless the statement is exempted by the county.

(3) A boundary line agreement described in Subsection (1) that complies with Subsection (2) presumptively:

(a) has no detrimental effect on any easement on the property that is recorded before the day on which the agreement is executed unless the owner of the property benefitting from the easement specifically modifies the easement within the boundary line agreement or a separate recorded easement modification or relinquishment document; and

(b) relocates the parties' common boundary line for an exchange of consideration.

(4) Notwithstanding Part 6, Subdivisions, or a county's ordinances or policies, a boundary line agreement that only affects parcels is not subject to:

(a) any public notice, public hearing, or preliminary platting requirement;

(b) the review of a land use authority; or

(c) an engineering review or approval of the municipality, except as provided in Subsection (5).

(5) (a) If a parcel that is the subject of a boundary line agreement contains a dwelling unit, the municipality may require a review of the boundary line agreement if the county:

(i) adopts an ordinance that:

(A) requires review and approval for a boundary line agreement containing a dwelling unit; and

(B) includes specific criteria for approval; and

(ii) completes the review within 14 days after the day on which the property owner submits the boundary line agreement for review.

(b) (i) If a county, upon a review under Subsection (5)(a), determines that the boundary line agreement is deficient or if the county requires additional information to approve the

boundary line agreement, the county shall send, within the time period described in Subsection (5)(a)(ii), written notice to the property owner that:

(A) describes the specific deficiency or additional information that the county requires to approve the boundary line agreement; and

(B) states that the county shall approve the boundary line agreement upon the property owner's correction of the deficiency or submission of the additional information described in Subsection (5)(b)(i)(A).

(ii) If a county, upon a review under Subsection (5)(a), approves the boundary line agreement, the county shall send written notice of the boundary line agreement's approval to the property owner within the time period described in Subsection (5)(a)(ii).

(c) If a county fails to send a written notice under Subsection (5)(b) within the time period described in Subsection (5)(a)(ii), the property owner may record the boundary line agreement as if no review under this Subsection (5) was required.

Section 21. Section **17-27a-526** is enacted to read:

17-27a-526. Development agreements.

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

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

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

(A) enact a land use regulation; or

(B) take any action allowed under Section 17-53-223;

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

(iii) contain a term that conflicts with, or is different from, a standard set forth in an existing land use regulation that governs the area subject to the development agreement, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Section 17-27a-502, including a review and recommendation from the planning commission and a public hearing.

(b) A development agreement that requires the implementation of an existing land use regulation as an administrative act does not require a legislative body's approval under Section

17-27a-502.

(c) A county may not require a development agreement as the only option for developing land within the county.

(d) To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by:

(i) this chapter; and

(ii) any applicable land use regulations.

Section 22. Section **17-27a-527** is enacted to read:

17-27a-527. Infrastructure improvements involving roadways.

(1) As used in this section:

(a) "Low impact development" means the same as that term is defined in Section 19-5-108.5.

(b) (i) "Pavement" means the bituminous or concrete surface of a roadway.

(ii) "Pavement" does not include a curb or gutter.

(c) "Residential street" means a public or private roadway that:

(i) currently serves or is projected to serve an area designated primarily for single-family residential use;

(ii) requires at least two off-site parking spaces for each single-family residential property abutting the roadway; and

(iii) has or is projected to have, on average, traffic of no more than 1,000 trips per day, based on findings contained in:

(A) a traffic impact study;

(B) the county's general plan under Section 17-27a-401;

(C) an adopted phasing plan; or

(D) a written plan or report on current or projected traffic usage.

(2) (a) Except as provided in Subsection (2)(b), a county may not, as part of an infrastructure improvement, require the installation of pavement on a residential street at a width in excess of 32 feet if the county requires low impact development for the area in which the residential street is located.

(b) Subsection (2)(a) does not apply if a county requires the installation of pavement:

(i) in a vehicle turnaround area; or

(ii) to address specific traffic flow constraints at an intersection or other area.

(3) (a) A county shall, by ordinance, establish any standards that the county requires, as part of an infrastructure improvement, for fire department vehicle access and turnaround on roadways.

(b) The county shall ensure that the standards established under Subsection (3)(a) are consistent with the State Fire Code as defined in Section 15A-1-102.

Section 23. Section **17-27a-601** is amended to read:

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

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

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

(b) lots may be sold.

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

(3) The joining of a lot or lots to a parcel does not constitute a subdivision as to the parcel or subject the parcel to the county's subdivision ordinance.

Section 24. Section **17-27a-608** is amended to read:

17-27a-608. Subdivision amendments.

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

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

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

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

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

(iv) includes references to the original plat.

(c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being amended at least

10 calendar days before the land use authority may approve the petition for a subdivision amendment.

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

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

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

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

(2) [~~Unless a local ordinance provides otherwise, the~~] The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

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

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

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

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

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

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to [~~adjacent~~] adjoining property owners in accordance with any applicable local ordinance.

(3) A petition under Subsection (1)(a) that contains a request to amend a public street or

county utility easement is also subject to Section 17-27a-609.5.

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

(a) the name and address of each owner of record of the land contained in:

(i) the entire plat; or

(ii) that portion of the plan described in the petition; and

(b) the signature of each owner who consents to the petition.

(5) (a) The owners of record of [~~adjacent parcels that are described by either a metes and bounds description or by a recorded plat~~] adjoining properties where one or more of the properties is a lot may exchange title to portions of those [~~parcels~~] properties if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

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

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

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

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

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

(C) recites the legal descriptions of both the [~~original~~] properties parcels and the [~~parcels created by~~] properties resulting from the exchange of title; and

(ii) a document of conveyance of title reflecting the approved change shall be recorded in the office of the county recorder with an amended plat.

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

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

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

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

(ii) has completed a survey of the property described on the plat in accordance with

Section 17-23-17 and has verified all measurements; and

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

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.

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

Section 25. Section **17-27a-609.5** is amended to read:

17-27a-609.5. Petition to vacate a public street.

(1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 17-27a-603 through 17-27a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.

(2) A petition to vacate some or all of a public street or county utility easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street or county utility easement between the two nearest public street intersections; or

(ii) accessed exclusively by or within 300 feet of the public street or county utility easement;

(b) proof of written notice to operators of utilities and culinary water or sanitary sewer facilities located within the bounds of the public street or county utility easement sought to be vacated; and

(c) the signature of each owner under Subsection (2)(a) who consents to the vacation.

(3) If a petition is submitted containing a request to vacate some or all of a public street or county utility easement, the legislative body shall hold a public hearing in accordance with Section 17-27a-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

(4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or county utility easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

(5) If the legislative body adopts an ordinance vacating some or all of a public street or county utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

(a) a plat reflecting the vacation; or

(b) (i) an ordinance described in Subsection (4); and

(ii) a legal description of the public street to be vacated.

(6) The action of the legislative body vacating some or all of a public street or county utility easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the county's fee in the vacated street, right-of-way, or easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any parcel or lot owner; [~~or~~]

(ii) the rights of any public utility[~~.~~]; or

(iii) the rights of a culinary water authority or sanitary sewer authority.

(7) (a) A county may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.

(b) If a county submits a petition and initiates a process under Subsection (7)(a):

(i) the legislative body shall hold a public hearing;

(ii) the petition and process may not apply to or affect a public utility easement, except to the extent:

(A) the easement is not a protected utility easement as defined in Section 54-3-27;

(B) the easement is included within the public street; and

(C) the notice to vacate the public street also contains a notice to vacate the easement; and

(iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

(8) A legislative body may not approve a petition to vacate a public street under this section unless the vacation identifies and preserves any easements owned by a culinary water

authority and sanitary sewer authority for existing facilities located within the public street.

Section 26. Section **17-27a-701** is amended to read:

17-27a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(1) (a) Each county adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities [~~to hear and decide:~~].

(b) An appeal authority shall hear and decide:

[~~(a)~~] (i) requests for variances from the terms of [~~the~~] land use ordinances;

[~~(b)~~] (ii) appeals from land use decisions applying [~~the~~] land use ordinances; and

[~~(c)~~] (iii) appeals from a fee charged in accordance with Section 17-27a-509.

(c) An appeal authority may not hear an appeal from the enactment of a land use regulation.

(2) As a condition precedent to judicial review, each adversely affected party shall timely and specifically challenge a land use authority's land use decision, in accordance with local ordinance.

(3) An appeal authority described in Subsection (1)(a):

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a county may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority [~~it~~] the county designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that [~~it~~] the adversely affected party can raise in district court;

(d) not require a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of an appealing

party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the county establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of [~~its~~] the members of the board, body, or panel of any meeting or hearing of the board, body, or panel;

(b) provide each of [~~its~~] the members of the board, body, or panel with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of [~~its~~] the members of the board, body, or panel is present; and

(d) act only upon the vote of a majority of [~~its~~] the convened members of the board, body, or panel.

Section 27. Section **17-27a-801** is amended to read:

17-27a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

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

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

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

(A) the arbitrator issues a final award; or

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

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional

taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

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

(3) (a) A court shall:

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

(ii) determine only whether:

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

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

(b) A court shall:

(i) presume that a final land use decision of a land use authority or an appeal authority is valid; and

(ii) uphold the land use decision unless the land use decision is:

(A) arbitrary and capricious; or

(B) illegal.

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

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

(A) based on an incorrect interpretation of a land use regulation; or

(B) contrary to law.

(d) (i) A court may affirm or reverse [~~the decision of a land use authority~~] a land use decision.

(ii) If the court reverses a [~~denial of a land use application~~] land use decision, the court shall remand the matter to the land use authority with instructions to issue [~~an approval~~] a land use decision consistent with the court's decision.

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 28. Section **57-1-13** is amended to read:

57-1-13. Form of quitclaim deed -- Effect.

(1) A conveyance of land may also be substantially in the following form:

"QUITCLAIM DEED

____ (here insert name), grantor, of ____ (insert place of residence), hereby quitclaims to ____ (insert name), grantee, of ____ (here insert place of residence), for the sum of ____ dollars, the following described tract ____ of land in ____ County, Utah, to wit: (here describe the premises).

Witness the hand of said grantor this _____(month\day\year).

A quitclaim deed when executed as required by law shall have the effect of a conveyance of all right, title, interest, and estate of the grantor in and to the premises therein described and all rights, privileges, and appurtenances thereunto belonging, at the date of the conveyance."

(2) A boundary line agreement operating as a quitclaim deed shall meet the requirements described in Section [~~57-1-45~~] 10-9a-524 or 17-27a-523, as applicable.

Section 29. Section **57-1-45** is amended to read:

57-1-45. Boundary line agreements.

[~~(1) If properly executed and acknowledged as required under this chapter, and when recorded in the office of the recorder of the county in which the property is located, an agreement between adjoining property owners of land that designates the boundary line between the adjoining properties acts as a quitclaim deed to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement.~~]

[~~(2) Adjoining property owners executing a boundary line agreement described in Subsection (1) shall:~~]

[~~(a) ensure that the agreement includes:~~]

[~~(i) a legal description of the agreed upon boundary line;~~]

[~~(ii) the name and signature of each grantor that is party to the agreement;~~]

[~~(iii) a sufficient acknowledgment for each grantor's signature;~~]

[~~(iv) the address of each grantee for assessment purposes;~~]

[~~(v) the parcel or lot each grantor owns before the boundary line is changed;~~]

[~~(vi) a statement citing the file number of a record of a survey map, as defined in Sections 10-9a-103 and 17-27a-103, that the parties prepare and file, in accordance with Section 17-23-17, in conjunction with the boundary line agreement; and~~]

[~~(vii) the date of the agreement if the date is not included in the acknowledgment in a form substantially similar to a quitclaim deed as described in Section 57-1-13; and~~]

[~~(b) prepare an amended plat in accordance with Title 10, Chapter 9a, Part 6, Subdivisions, or Title 17, Chapter 27a, Part 6, Subdivisions.~~]

[~~(3) A boundary line agreement described in Subsection (1) that complies with Subsection (2) presumptively:~~]

[~~(a) has no detrimental effect on any easement on the property that is recorded before the date on which the agreement is executed unless the owner of the property benefitting from the easement specifically modifies the easement within the boundary line agreement or a separate recorded easement modification or relinquishment document; and~~]

[~~(b) relocates the parties' common boundary line for an exchange of consideration.~~]

[~~(4) Notwithstanding Title 10, Chapter 9a, Part 6, Subdivisions, Title 17, Chapter 27a, Part 6, Subdivisions, or the local entity's ordinances or policies, a boundary line agreement is not subject to:~~]

[~~(a) any public notice, public hearing, or preliminary platting requirement;~~]

[~~(b) the local entity's planning commission review or recommendation; or~~]

[~~(c) an engineering review or approval of the local entity.~~]

A boundary line agreement to adjust the boundaries of adjoining properties shall comply with Section 10-9a-524 or 17-27a-523, as applicable.

Section 30. Section **63I-2-217** is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.

(2) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study Council, is repealed January 1, 2021.

(3) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2021.

(4) (a) Subsection 17-27a-103[~~(18)~~](20)(b), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-103[~~(42)~~](44), regarding a mountainous planning district, is repealed June 1, 2021.

(5) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2021.

(6) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-301(3)(a), the language that states " or (c)" is repealed June 1, 2021.

(7) Section 17-27a-302, the language that states ", or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2021.

(8) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and ", as applicable" is repealed June 1, 2021.

(9) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-401(7), regarding a mountainous planning district, is repealed June 1, 2021.

(10) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-403(2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2021.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, 2021.

(11) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(12) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(13) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a

mountainous planning district, the mountainous planning district" is repealed June 1, 2021.

(14) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(15) Subsection 17-27a-605(1)(a), the language that states "or mountainous planning district land" is repealed June 1, 2021.

(16) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2021.

(17) On June 1, 2021, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3):

(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's understanding of the Legislature's intent; and

(ii) make necessary changes to subsection numbering and cross references; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

(18) Subsection 17-34-1(5)(d), regarding county funding of certain municipal services in a designated recreation area, is repealed June 1, 2021.

(19) Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed January 1, 2022.

(20) On June 1, 2022:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(1)(b) or (2)(b)," is repealed; and

(c) Subsection 17-52a-301(3)(a)(iv), regarding the first initiated process, is repealed.

(21) On January 1, 2028, Subsection 17-52a-103(3), requiring certain counties to initiate a change of form of government process by July 1, 2018, is repealed.