

LAND USE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: _____

LONG TITLE

General Description:

This bill amends municipal and county land use provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a municipality or county to make certain exceptions from specific zoning district standards;
- ▶ requires a surveyor to consult with an owner or operator of an existing or proposed underground facility or utility facility for verification of the surveyor's depiction;
- ▶ amends provisions related to the completion of landscaping and infrastructure improvement prior to recording a plat;
- ▶ amends provisions prohibiting certain counties from adopting a land use ordinance that requires an owner to landscape certain single family dwellings; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 **10-9a-103**, as last amended by Laws of Utah 2014, Chapters 136 and 363
- 29 **10-9a-505**, as last amended by Laws of Utah 2008, Chapter 326
- 30 **10-9a-603**, as last amended by Laws of Utah 2010, Chapters 269 and 381
- 31 **10-9a-604.5**, as repealed and reenacted by Laws of Utah 2013, Chapter 309
- 32 **10-9a-606**, as last amended by Laws of Utah 2010, Chapter 381
- 33 **17-27a-103**, as last amended by Laws of Utah 2014, Chapters 136 and 363
- 34 **17-27a-505**, as last amended by Laws of Utah 2013, Chapter 476
- 35 **17-27a-603**, as last amended by Laws of Utah 2011, Chapter 377
- 36 **17-27a-604.5**, as repealed and reenacted by Laws of Utah 2013, Chapter 309
- 37 **17-27a-606**, as last amended by Laws of Utah 2010, Chapter 381

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

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

41 **10-9a-103. Definitions.**

42 As used in this chapter:

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

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

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

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

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

58 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or

59 residential property if the sign is designed or intended to direct attention to a business, product,
60 or service that is not sold, offered, or existing on the property where the sign is located.

61 (4) (a) "Charter school" means:

62 (i) an operating charter school;

63 (ii) a charter school applicant that has its application approved by a charter school
64 authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

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

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

68 (5) "Conditional use" means a land use that, because of its unique characteristics or
69 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be
70 compatible in some areas or may be compatible only if certain conditions are required that
71 mitigate or eliminate the detrimental impacts.

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

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

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

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

79 (8) "Development activity" means:

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

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

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

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

89 (b) "Disability" does not include current illegal use of, or addiction to, any federally

90 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
91 802.

92 (10) "Educational facility":

93 (a) means:

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

97 (ii) a structure or facility:

98 (A) located on the same property as a building described in Subsection (10)(a)(i); and

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

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

102 (b) does not include:

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

105 (A) not located on the same property as a building described in Subsection (10)(a)(i);

106 and

107 (B) used in support of the purposes of a building described in Subsection (10)(a)(i); or

108 (ii) a therapeutic school.

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

112 (12) "Flood plain" means land that:

113 (a) is within the 100-year flood plain designated by the Federal Emergency

114 Management Agency; or

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

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

- 121 (14) "Geologic hazard" means:
- 122 (a) a surface fault rupture;
- 123 (b) shallow groundwater;
- 124 (c) liquefaction;
- 125 (d) a landslide;
- 126 (e) a debris flow;
- 127 (f) unstable soil;
- 128 (g) a rock fall; or
- 129 (h) any other geologic condition that presents a risk:
- 130 (i) to life;
- 131 (ii) of substantial loss of real property; or
- 132 (iii) of substantial damage to real property.
- 133 (15) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 134 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
- 135 utility system.
- 136 (16) "Identical plans" means building plans submitted to a municipality that:
- 137 (a) are clearly marked as "identical plans";
- 138 (b) are substantially identical to building plans that were previously submitted to and
- 139 reviewed and approved by the municipality; and
- 140 (c) describe a building that:
- 141 (i) is located on land zoned the same as the land on which the building described in the
- 142 previously approved plans is located;
- 143 (ii) is subject to the same geological and meteorological conditions and the same law
- 144 as the building described in the previously approved plans;
- 145 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 146 and approved by the municipality; and
- 147 (iv) does not require any additional engineering or analysis.
- 148 (17) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
- 149 Impact Fees Act.
- 150 (18) "Improvement completion assurance" means a surety bond, letter of credit,
- 151 financial institution bond, cash, assignment of rights, lien, or other equivalent security required

152 by a municipality to guaranty the proper completion of landscaping or an infrastructure [~~that~~
153 ~~the land use authority has~~] improvement required as a condition precedent to:

- 154 (a) recording a subdivision plat; or
- 155 (b) [~~beginning~~] development [~~activity~~] of a commercial, industrial, mixed use, or
156 multifamily project.

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

- 159 (a) complies with the municipality's written standards for design, materials, and
160 workmanship; and
- 161 (b) will not fail in any material respect, as a result of poor workmanship or materials,
162 within the improvement warranty period.

163 (20) "Improvement warranty period" means a period:

- 164 (a) no later than one year after a municipality's acceptance of required landscaping; or
- 165 (b) no later than one year after a municipality's acceptance of required infrastructure,
166 unless the municipality:

- 167 (i) determines for good cause that a one-year period would be inadequate to protect the
168 public health, safety, and welfare; and
- 169 (ii) has substantial evidence, on record:

- 170 (A) of prior poor performance by the applicant; or
- 171 (B) that the area upon which the infrastructure will be constructed contains suspect soil
172 and the municipality has not otherwise required the applicant to mitigate the suspect soil.

173 (21) "Infrastructure improvement" means permanent infrastructure that an applicant
174 must install:

- 175 (a) pursuant to published installation and inspection specifications for public
176 improvements; and
- 177 (b) as a condition of:

- 178 (i) recording a subdivision plat; or
- 179 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily
180 project.

181 [~~(21)~~] (22) "Internal lot restriction" means a platted note, platted demarcation, or
182 platted designation that:

183 (a) runs with the land; and

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

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

188 ~~[(22)]~~ (23) "Land use application" means an application required by a municipality's
189 land use ordinance.

190 ~~[(23)]~~ (24) "Land use authority" means:

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

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

195 ~~[(24)]~~ (25) "Land use ordinance" means a planning, zoning, development, or
196 subdivision ordinance of the municipality, but does not include the general plan.

197 ~~[(25)]~~ (26) "Land use permit" means a permit issued by a land use authority.

198 ~~[(26)]~~ (27) "Legislative body" means the municipal council.

199 ~~[(27)]~~ (28) "Local district" means an entity under Title 17B, Limited Purpose Local
200 Government Entities - Local Districts, and any other governmental or quasi-governmental
201 entity that is not a county, municipality, school district, or the state.

202 ~~[(28)]~~ (29) "Lot line adjustment" means the relocation of the property boundary line in
203 a subdivision between two adjoining lots with the consent of the owners of record.

204 ~~[(29)]~~ (30) "Moderate income housing" means housing occupied or reserved for
205 occupancy by households with a gross household income equal to or less than 80% of the
206 median gross income for households of the same size in the county in which the city is located.

207 ~~[(30)]~~ (31) "Nominal fee" means a fee that reasonably reimburses a municipality only
208 for time spent and expenses incurred in:

209 (a) verifying that building plans are identical plans; and

210 (b) reviewing and approving those minor aspects of identical plans that differ from the
211 previously reviewed and approved building plans.

212 ~~[(31)]~~ (32) "Noncomplying structure" means a structure that:

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

214 (b) because of one or more subsequent land use ordinance changes, does not conform
215 to the setback, height restrictions, or other regulations, excluding those regulations, which
216 govern the use of land.

217 [~~32~~] (33) "Nonconforming use" means a use of land that:

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

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

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

223 [~~33~~] (34) "Official map" means a map drawn by municipal authorities and recorded in
224 a county recorder's office that:

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

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

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

231 [~~34~~] (35) "Parcel boundary adjustment" means a recorded agreement between owners
232 of adjoining properties adjusting their mutual boundary if:

233 (a) no additional parcel is created; and

234 (b) each property identified in the agreement is unsubdivided land, including a
235 remainder of subdivided land.

236 [~~35~~] (36) "Person" means an individual, corporation, partnership, organization,
237 association, trust, governmental agency, or any other legal entity.

238 [~~36~~] (37) "Plan for moderate income housing" means a written document adopted by
239 a city legislative body that includes:

240 (a) an estimate of the existing supply of moderate income housing located within the
241 city;

242 (b) an estimate of the need for moderate income housing in the city for the next five
243 years as revised biennially;

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

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

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

249 [~~37~~] (38) "Plat" means a map or other graphical representation of lands being laid out
250 and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

251 [~~38~~] (39) "Potential geologic hazard area" means an area that:

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

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

258 [~~39~~] (40) "Public agency" means:

259 (a) the federal government;

260 (b) the state;

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

263 (d) a charter school.

264 [~~40~~] (41) "Public hearing" means a hearing at which members of the public are
265 provided a reasonable opportunity to comment on the subject of the hearing.

266 [~~41~~] (42) "Public meeting" means a meeting that is required to be open to the public
267 under Title 52, Chapter 4, Open and Public Meetings Act.

268 [~~42~~] (43) "Receiving zone" means an area of a municipality that the municipality
269 designates, by ordinance, as an area in which an owner of land may receive a transferable
270 development right.

271 [~~43~~] (44) "Record of survey map" means a map of a survey of land prepared in
272 accordance with Section 17-23-17.

273 [~~44~~] (45) "Residential facility for persons with a disability" means a residence:

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

275 (b) (i) which is licensed or certified by the Department of Human Services under Title

276 62A, Chapter 2, Licensure of Programs and Facilities; or

277 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
278 21, Health Care Facility Licensing and Inspection Act.

279 [~~45~~] (46) "Rules of order and procedure" means a set of rules that govern and
280 prescribe in a public meeting:

281 (a) parliamentary order and procedure;

282 (b) ethical behavior; and

283 (c) civil discourse.

284 [~~46~~] (47) "Sanitary sewer authority" means the department, agency, or public entity
285 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
286 wastewater systems.

287 [~~47~~] (48) "Sending zone" means an area of a municipality that the municipality
288 designates, by ordinance, as an area from which an owner of land may transfer a transferable
289 development right.

290 [~~48~~] (49) "Specified public agency" means:

291 (a) the state;

292 (b) a school district; or

293 (c) a charter school.

294 [~~49~~] (50) "Specified public utility" means an electrical corporation, gas corporation,
295 or telephone corporation, as those terms are defined in Section 54-2-1.

296 [~~50~~] (51) "State" includes any department, division, or agency of the state.

297 [~~51~~] (52) "Street" means a public right-of-way, including a highway, avenue,
298 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
299 or other way.

300 [~~52~~] (53) (a) "Subdivision" means any land that is divided, resubdivided or proposed
301 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
302 purpose, whether immediate or future, for offer, sale, lease, or development either on the
303 installment plan or upon any and all other plans, terms, and conditions.

304 (b) "Subdivision" includes:

305 (i) the division or development of land whether by deed, metes and bounds description,
306 devise and testacy, map, plat, or other recorded instrument; and

307 (ii) except as provided in Subsection [~~(52)~~] (53)(c), divisions of land for residential and
308 nonresidential uses, including land used or to be used for commercial, agricultural, and
309 industrial purposes.

310 (c) "Subdivision" does not include:

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

315 (ii) a recorded agreement between owners of adjoining unsubdivided properties
316 adjusting their mutual boundary if:

317 (A) no new lot is created; and

318 (B) the adjustment does not violate applicable land use ordinances;

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

320 (A) revising the legal description of more than one contiguous unsubdivided parcel of
321 property into one legal description encompassing all such parcels of property; or

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

324 (iv) a recorded agreement between owners of adjoining subdivided properties adjusting
325 their mutual boundary if:

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

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

328 (v) a bona fide division or partition of land by deed or other instrument where the land
329 use authority expressly approves in writing the division in anticipation of further land use
330 approvals on the parcel or parcels; or

331 (vi) a parcel boundary adjustment.

332 (d) The joining of a subdivided parcel of property to another parcel of property that has
333 not been subdivided does not constitute a subdivision under this Subsection [~~(52)~~] (53) as to
334 the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
335 subdivision ordinance.

336 [~~(53)~~] (54) "Suspect soil" means soil that has:

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

338 3% swell potential;

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

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

341 commonly associated with dissolution and collapse features.

342 [~~54~~] (55) "Therapeutic school" means a residential group living facility:

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

344 (i) the owner of the facility; or

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

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

347 (i) at home;

348 (ii) in a public school; or

349 (iii) in a nonresidential private school; and

350 (c) that offers:

351 (i) room and board; and

352 (ii) an academic education integrated with:

353 (A) specialized structure and supervision; or

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

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

356 [~~55~~] (56) "Transferable development right" means a right to develop and use land that

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

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

359 [~~56~~] (57) "Unincorporated" means the area outside of the incorporated area of a city

360 or town.

361 [~~57~~] (58) "Water interest" means any right to the beneficial use of water, including:

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

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

364 (i) a contract; or

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

366 [~~58~~] (59) "Zoning map" means a map, adopted as part of a land use ordinance, that

367 depicts land use zones, overlays, or districts.

368 Section 2. Section 10-9a-505 is amended to read:

369 **10-9a-505. Zoning districts.**

370 (1) (a) The legislative body may divide the territory over which it has jurisdiction into
371 zoning districts of a number, shape, and area that it considers appropriate to carry out the
372 purposes of this chapter.

373 (b) Within those zoning districts, the legislative body may regulate and restrict the
374 erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and
375 the use of land.

376 (c) A municipality may enact an ordinance regulating land use and development in a
377 flood plain or potential geologic hazard area to:

378 (i) protect life; and

379 (ii) prevent:

380 (A) the substantial loss of real property; or

381 (B) substantial damage to real property.

382 (2) The legislative body shall ensure that the regulations are uniform for each class or
383 kind of buildings throughout each zoning district, but the regulations in one zone may differ
384 from those in other zones.

385 (3) (a) There is no minimum area or diversity of ownership requirement for a zone
386 designation.

387 (b) Neither the size of a zoning district nor the number of landowners within the
388 district may be used as evidence of the illegality of a zoning district or of the invalidity of a
389 municipal decision.

390 (4) A municipality may by ordinance exempt from specific zoning district standards a
391 subdivision of land to accommodate the siting of a public utility infrastructure.

392 Section 3. Section **10-9a-603** is amended to read:

393 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**
394 **acknowledgment, surveyor certification, and underground utility facility owner**
395 **verification of plat -- Recording plat.**

396 (1) Unless exempt under Section **10-9a-605** or excluded from the definition of
397 subdivision under Section **10-9a-103**, whenever any land is laid out and platted, the owner of
398 the land shall provide an accurate plat that describes or specifies:

399 (a) a subdivision name that is distinct from any subdivision name on a plat recorded in

400 the county recorder's office;

401 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
 402 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is
 403 intended to be used as a street or for any other public use, and whether any such area is
 404 reserved or proposed for dedication for a public purpose;

405 (c) the lot or unit reference, block or building reference, street or site address, street
 406 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length
 407 and width of the blocks and lots intended for sale; and

408 (d) every existing right-of-way and easement grant of record for an underground
 409 ~~[facilities]~~ facility, as defined in Section 54-8a-2, and for any other utility ~~[facilities]~~ facility.

410 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's
 411 ordinances and this part and has been approved by the culinary water authority and the sanitary
 412 sewer authority, the municipality shall approve the plat.

413 (b) Municipalities are encouraged to receive a recommendation from the fire authority
 414 before approving a plat.

415 (c) A municipality may not require that a plat be approved or signed by a person or
 416 entity who:

417 (i) is not an employee or agent of the municipality; ~~§~~ → [or] ← ~~§~~

418 (ii) does not:

419 (A) have a legal or equitable interest in the property within the proposed subdivision;

420 ~~§~~ → [or] ← ~~§~~

421 (B) provide a utility or other service directly to a lot within the subdivision ~~§~~ → [] ;

421a **(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for**

421b **the purpose of confirming the accuracy of the location of the easement or right-of-way in**

421c **relation to the plat; or**

421d **(D) provide culinary public water service whose source protection zone designated as**
 421e **provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision;**

421f **or**

421g **(iii) is not entitled to notice of the subdivision pursuant to Subsection**

421h **10-9a-509(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on**

421i **the plat. ~~←~~ ~~§~~**

422 (3) The municipality may withhold an otherwise valid plat approval until the owner of
 423 the land provides the legislative body with a tax clearance indicating that all taxes, interest, and
 424 penalties owing on the land have been paid.

- 425 (4) (a) A plat may not be submitted to a county recorder for recording unless:
- 426 (i) prior to recordation, each owner of record of land described on the plat has signed
- 427 the owner's dedication as shown on the plat; and
- 428 (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as
- 429 provided by law.
- 430 (b) The surveyor making the plat shall certify that the surveyor:

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

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

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

436 (c) (i) ~~[As applicable]~~ To the extent possible, the surveyor shall consult with the owner
437 or operator of [the] an existing or proposed underground [and] facility or utility [facilities shall
438 approve] facility within the proposed subdivision, or a representative designated by the owner
439 or operator, to verify the accuracy of the surveyor's depiction of the:

440 (A) boundary, course, dimensions, and intended use of the ~~[right-of-way and]~~ public
441 rights-of-way, a public or private easement, or grants of record;

442 (B) location of an existing underground facility and utility [facilities] facility; and

443 (C) ~~[conditions or]~~ physical restrictions governing the location of the ~~[facilities within~~
444 ~~the right-of-way, and easement grants of records,]~~ underground facility and utility [facilities]
445 facility within the subdivision.

446 (ii) The ~~[approval]~~ cooperation of an owner or operator under Subsection (4)(c)(i):

447 (A) indicates only that the plat approximates the location of the existing underground
448 and utility facilities but does not warrant or verify their precise location; and

449 (B) does not affect a right that the owner or operator has under:

450 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

451 (II) a recorded easement or right-of-way;

452 (III) the law applicable to prescriptive rights; or

453 (IV) any other provision of law.

454 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the
455 land shall, within the time period designated by ordinance, record the plat in the county
456 recorder's office in the county in which the lands platted and laid out are situated.

457 (b) An owner's failure to record a plat within the time period designated by ordinance
458 renders the plat voidable.

459 Section 4. Section **10-9a-604.5** is amended to read:

460 **10-9a-604.5. Subdivision plat recording or development activity before required**
461 **infrastructure is completed -- Infrastructure completion assurance -- Infrastructure**

462 **warranty.**

463 (1) A land use authority shall establish objective inspection standards for acceptance of
 464 a required landscaping or infrastructure improvement [~~required by the land use authority as a~~
 465 ~~condition of~~].

466 [~~(a) subdivision; or~~]

467 [~~(b) development activity~~].

468 (2) (a) A land use authority shall require an applicant to complete a required
 469 landscaping or infrastructure improvement prior to any plat recordation or development
 470 activity.

471 (b) Subsection (2)(a) does not apply if:

472 (i) upon the applicant's request, the land use authority has authorized the applicant to
 473 post an improvement completion assurance in a manner that is consistent with local ordinance;
 474 and

475 (ii) the land use authority has established a system for the partial release of the
 476 improvement completion assurance as portions of required improvements are completed and
 477 accepted.

478 (3) At any time up to the land use authority's acceptance of a landscaping or
 479 infrastructure improvement, and for the duration of each improvement warranty period, the
 480 land use authority may require the developer to:

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

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

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

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

486 (4) The provisions of this section may not be interpreted to supersede the terms of a
 487 valid development agreement, an adopted phasing plan, or the state construction code.

488 Section 5. Section **10-9a-606** is amended to read:

489 **10-9a-606. Common or community area parcels on a plat -- No separate**
 490 **ownership -- Ownership interest equally divided among other parcels on plat and**
 491 **included in description of other parcels.**

492 (1) (a) A parcel designated as a common or community area on a plat recorded in

493 compliance with this part may not be separately owned or conveyed independent of the other
494 lots, units, or parcels created by the plat unless:

495 (i) the parcel is being acquired by a municipality for a governmental purpose; and

496 (ii) the conveyance is approved by the owners of at least 75% of the lots, units, or
497 parcels on the plat, after the municipality gives its approval.

498 (b) A notice of the owner approval described in Subsection (1)(a)(ii) shall be:

499 (i) attached as an exhibit to the document of conveyance; or

500 (ii) recorded concurrently with the conveyance as a separate document.

501 (2) The ownership interest in a parcel described in Subsection (1) shall:

502 (a) for purposes of assessment, be divided equally among all parcels created by the
503 plat, unless a different division of interest for assessment purposes is indicated on the plat or an
504 accompanying recorded document; and

505 (b) be considered to be included in the description of each instrument describing a
506 parcel on the plat by its identifying plat number, even if the common or community area
507 interest is not explicitly stated in the instrument.

508 (3) A parcel designated as common or community area on a plat before, on, or after
509 May 12, 2015, may be modified in size and location if the modification:

510 (a) is approved as part of a subdivision plat amendment by the local government;

511 (b) is approved by at least 75% of the voting interests in a homeowners association
512 having an interest in the common or community area, if any;

513 (c) is approved by at least 75% of the owners of lots, units, or parcels on the plat if
514 there is no homeowners association having an interest in the common or community area, if
515 any; and

516 (d) does not create a new buildable lot.

517 Section 6. Section **17-27a-103** is amended to read:

518 **17-27a-103. Definitions.**

519 As used in this chapter:

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

524 Transportation, if:

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

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

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

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

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

538 (4) (a) "Charter school" means:

539 (i) an operating charter school;

540 (ii) a charter school applicant that has its application approved by a charter school
541 authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

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

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

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

547 (6) "Conditional use" means a land use that, because of its unique characteristics or
548 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
549 compatible in some areas or may be compatible only if certain conditions are required that
550 mitigate or eliminate the detrimental impacts.

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

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

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

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

558 (9) "Development activity" means:

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

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

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

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

568 (b) "Disability" does not include current illegal use of, or addiction to, any federally
569 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
570 802.

571 (11) "Educational facility":

572 (a) means:

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

576 (ii) a structure or facility:

577 (A) located on the same property as a building described in Subsection (11)(a)(i); and

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

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

581 (b) does not include:

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

584 (A) not located on the same property as a building described in Subsection (11)(a)(i);

585 and

586 (B) used in support of the purposes of a building described in Subsection (11)(a)(i); or
587 (ii) a therapeutic school.

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

591 (13) "Flood plain" means land that:

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

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

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

599 (15) "General plan" means a document that a county adopts that sets forth general
600 guidelines for proposed future development of the unincorporated land within the county.

601 (16) "Geologic hazard" means:

602 (a) a surface fault rupture;

603 (b) shallow groundwater;

604 (c) liquefaction;

605 (d) a landslide;

606 (e) a debris flow;

607 (f) unstable soil;

608 (g) a rock fall; or

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

610 (i) to life;

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

612 (iii) of substantial damage to real property.

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

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

- 617 (a) are clearly marked as "identical plans";
- 618 (b) are substantially identical building plans that were previously submitted to and
619 reviewed and approved by the county; and
- 620 (c) describe a building that:
 - 621 (i) is located on land zoned the same as the land on which the building described in the
622 previously approved plans is located;
 - 623 (ii) is subject to the same geological and meteorological conditions and the same law
624 as the building described in the previously approved plans;
 - 625 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
626 and approved by the county; and
 - 627 (iv) does not require any additional engineering or analysis.
- 628 (19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
629 Impact Fees Act.
- 630 (20) "Improvement completion assurance" means a surety bond, letter of credit,
631 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
632 by a county to guaranty the proper completion of landscaping or an infrastructure [~~that the land~~
633 ~~use authority has~~] improvement required as a condition precedent to:
 - 634 (a) recording a subdivision plat; or
 - 635 (b) [~~beginning~~] development [~~activity~~] of a commercial, industrial, mixed use, or
636 multifamily project.
- 637 (21) "Improvement warranty" means an applicant's unconditional warranty that the
638 applicant's installed and accepted landscaping or infrastructure improvement:
 - 639 (a) complies with the county's written standards for design, materials, and
640 workmanship; and
 - 641 (b) will not fail in any material respect, as a result of poor workmanship or materials,
642 within the improvement warranty period.
- 643 (22) "Improvement warranty period" means a period:
 - 644 (a) no later than one year after a county's acceptance of required landscaping; or
 - 645 (b) no later than one year after a county's acceptance of required infrastructure, unless
646 the county:
 - 647 (i) determines for good cause that a one-year period would be inadequate to protect the

648 public health, safety, and welfare; and

649 (ii) has substantial evidence, on record:

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

651 (B) that the area upon which the infrastructure will be constructed contains suspect soil

652 and the county has not otherwise required the applicant to mitigate the suspect soil.

653 (23) "Infrastructure improvement" means permanent infrastructure that an applicant
654 must install:

655 (a) pursuant to published installation and inspection specifications for public
656 improvements; and

657 (b) as a condition of:

658 (i) recording a subdivision plat; or

659 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily
660 project.

661 [~~23~~] (24) "Internal lot restriction" means a platted note, platted demarcation, or
662 platted designation that:

663 (a) runs with the land; and

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

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

668 [~~24~~] (25) "Interstate pipeline company" means a person or entity engaged in natural
669 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
670 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

671 [~~25~~] (26) "Intrastate pipeline company" means a person or entity engaged in natural
672 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
673 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

674 [~~26~~] (27) "Land use application" means an application required by a county's land use
675 ordinance.

676 [~~27~~] (28) "Land use authority" means:

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

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

681 [~~(28)~~] (29) "Land use ordinance" means a planning, zoning, development, or
682 subdivision ordinance of the county, but does not include the general plan.

683 [~~(29)~~] (30) "Land use permit" means a permit issued by a land use authority.

684 [~~(30)~~] (31) "Legislative body" means the county legislative body, or for a county that
685 has adopted an alternative form of government, the body exercising legislative powers.

686 [~~(31)~~] (32) "Local district" means any entity under Title 17B, Limited Purpose Local
687 Government Entities - Local Districts, and any other governmental or quasi-governmental
688 entity that is not a county, municipality, school district, or the state.

689 [~~(32)~~] (33) "Lot line adjustment" means the relocation of the property boundary line in
690 a subdivision between two adjoining lots with the consent of the owners of record.

691 [~~(33)~~] (34) "Moderate income housing" means housing occupied or reserved for
692 occupancy by households with a gross household income equal to or less than 80% of the
693 median gross income for households of the same size in the county in which the housing is
694 located.

695 [~~(34)~~] (35) "Nominal fee" means a fee that reasonably reimburses a county only for
696 time spent and expenses incurred in:

697 (a) verifying that building plans are identical plans; and

698 (b) reviewing and approving those minor aspects of identical plans that differ from the
699 previously reviewed and approved building plans.

700 [~~(35)~~] (36) "Noncomplying structure" means a structure that:

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

702 (b) because of one or more subsequent land use ordinance changes, does not conform
703 to the setback, height restrictions, or other regulations, excluding those regulations that govern
704 the use of land.

705 [~~(36)~~] (37) "Nonconforming use" means a use of land that:

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

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

709 (c) because of one or more subsequent land use ordinance changes, does not conform

710 to the regulations that now govern the use of the land.

711 [~~37~~] (38) "Official map" means a map drawn by county authorities and recorded in
712 the county recorder's office that:

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

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

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

719 [~~38~~] (39) "Parcel boundary adjustment" means a recorded agreement between owners
720 of adjoining properties adjusting their mutual boundary if:

721 (a) no additional parcel is created; and

722 (b) each property identified in the agreement is unsubdivided land, including a
723 remainder of subdivided land.

724 [~~39~~] (40) "Person" means an individual, corporation, partnership, organization,
725 association, trust, governmental agency, or any other legal entity.

726 [~~40~~] (41) "Plan for moderate income housing" means a written document adopted by
727 a county legislative body that includes:

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

730 (b) an estimate of the need for moderate income housing in the county for the next five
731 years as revised biennially;

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

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

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

737 [~~41~~] (42) "Plat" means a map or other graphical representation of lands being laid out
738 and prepared in accordance with Section [17-27a-603](#), [17-23-17](#), or [57-8-13](#).

739 [~~42~~] (43) "Potential geologic hazard area" means an area that:

740 (a) is designated by a Utah Geological Survey map, county geologist map, or other

741 relevant map or report as needing further study to determine the area's potential for geologic
742 hazard; or

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

746 [~~(43)~~] (44) "Public agency" means:

747 (a) the federal government;

748 (b) the state;

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

751 (d) a charter school.

752 [~~(44)~~] (45) "Public hearing" means a hearing at which members of the public are
753 provided a reasonable opportunity to comment on the subject of the hearing.

754 [~~(45)~~] (46) "Public meeting" means a meeting that is required to be open to the public
755 under Title 52, Chapter 4, Open and Public Meetings Act.

756 [~~(46)~~] (47) "Receiving zone" means an unincorporated area of a county that the county
757 designates, by ordinance, as an area in which an owner of land may receive a transferable
758 development right.

759 [~~(47)~~] (48) "Record of survey map" means a map of a survey of land prepared in
760 accordance with Section [17-23-17](#).

761 [~~(48)~~] (49) "Residential facility for persons with a disability" means a residence:

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

763 (b) (i) which is licensed or certified by the Department of Human Services under Title
764 62A, Chapter 2, Licensure of Programs and Facilities; or

765 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
766 21, Health Care Facility Licensing and Inspection Act.

767 [~~(49)~~] (50) "Rules of order and procedure" means a set of rules that govern and
768 prescribe in a public meeting:

769 (a) parliamentary order and procedure;

770 (b) ethical behavior; and

771 (c) civil discourse.

772 ~~[(50)]~~ (51) "Sanitary sewer authority" means the department, agency, or public entity
773 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
774 wastewater systems.

775 ~~[(51)]~~ (52) "Sending zone" means an unincorporated area of a county that the county
776 designates, by ordinance, as an area from which an owner of land may transfer a transferable
777 development right.

778 ~~[(52)]~~ (53) "Site plan" means a document or map that may be required by a county
779 during a preliminary review preceding the issuance of a building permit to demonstrate that an
780 owner's or developer's proposed development activity meets a land use requirement.

781 ~~[(53)]~~ (54) "Specified public agency" means:

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

785 ~~[(54)]~~ (55) "Specified public utility" means an electrical corporation, gas corporation,
786 or telephone corporation, as those terms are defined in Section [54-2-1](#).

787 ~~[(55)]~~ (56) "State" includes any department, division, or agency of the state.

788 ~~[(56)]~~ (57) "Street" means a public right-of-way, including a highway, avenue,
789 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
790 or other way.

791 ~~[(57)]~~ (58) (a) "Subdivision" means any land that is divided, resubdivided or proposed
792 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
793 purpose, whether immediate or future, for offer, sale, lease, or development either on the
794 installment plan or upon any and all other plans, terms, and conditions.

795 (b) "Subdivision" includes:

796 (i) the division or development of land whether by deed, metes and bounds description,
797 devise and testacy, map, plat, or other recorded instrument; and

798 (ii) except as provided in Subsection ~~[(57)]~~ (58)(c), divisions of land for residential and
799 nonresidential uses, including land used or to be used for commercial, agricultural, and
800 industrial purposes.

801 (c) "Subdivision" does not include:

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

803 (ii) a recorded agreement between owners of adjoining properties adjusting their
804 mutual boundary if:

805 (A) no new lot is created; and

806 (B) the adjustment does not violate applicable land use ordinances;

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

808 (A) revising the legal description of more than one contiguous unsubdivided parcel of
809 property into one legal description encompassing all such parcels of property; or

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

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

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

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

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

818 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
819 their mutual boundary if:

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

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

822 (vi) a bona fide division or partition of land by deed or other instrument where the land
823 use authority expressly approves in writing the division in anticipation of further land use
824 approvals on the parcel or parcels; or

825 (vii) a parcel boundary adjustment.

826 (d) The joining of a subdivided parcel of property to another parcel of property that has
827 not been subdivided does not constitute a subdivision under this Subsection [~~(57)~~] (58) as to
828 the unsubdivided parcel of property or subject the unsubdivided parcel to the county's
829 subdivision ordinance.

830 [~~(58)~~] (59) "Suspect soil" means soil that has:

831 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
832 3% swell potential;

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

834 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
835 commonly associated with dissolution and collapse features.

836 [~~(59)~~] (60) "Therapeutic school" means a residential group living facility:

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

838 (i) the owner of the facility; or

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

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

841 (i) at home;

842 (ii) in a public school; or

843 (iii) in a nonresidential private school; and

844 (c) that offers:

845 (i) room and board; and

846 (ii) an academic education integrated with:

847 (A) specialized structure and supervision; or

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

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

850 [~~(60)~~] (61) "Township" means a contiguous, geographically defined portion of the
851 unincorporated area of a county, established under this part or reconstituted or reinstated under
852 Section 17-27a-306, with planning and zoning functions as exercised through the township
853 planning commission, as provided in this chapter, but with no legal or political identity
854 separate from the county and no taxing authority, except that "township" means a former
855 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

856 [~~(61)~~] (62) "Transferable development right" means a right to develop and use land that
857 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
858 land use rights from a designated sending zone to a designated receiving zone.

859 [~~(62)~~] (63) "Unincorporated" means the area outside of the incorporated area of a
860 municipality.

861 [~~(63)~~] (64) "Water interest" means any right to the beneficial use of water, including:

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

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

864 (i) a contract; or

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

866 [~~64~~] (65) "Zoning map" means a map, adopted as part of a land use ordinance, that
867 depicts land use zones, overlays, or districts.

868 Section 7. Section **17-27a-505** is amended to read:

869 **17-27a-505. Zoning districts.**

870 (1) (a) The legislative body may divide the territory over which it has jurisdiction into
871 zoning districts of a number, shape, and area that it considers appropriate to carry out the
872 purposes of this chapter.

873 (b) Within those zoning districts, the legislative body may regulate and restrict the
874 erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and
875 the use of land.

876 (c) A county may enact an ordinance regulating land use and development in a flood
877 plain or potential geologic hazard area to:

878 (i) protect life; and

879 (ii) prevent:

880 (A) the substantial loss of real property; or

881 (B) substantial damage to real property.

882 (d) A county of the second, third, fourth, fifth, or sixth class may not adopt a land use
883 ordinance requiring a property owner to revegetate or landscape a single family dwelling
884 disturbance area unless the property is located in a flood zone or geologic hazard except as
885 required in Title 19, Chapter 5, Water Quality Act, to comply with federal law related to water
886 pollution.

887 (2) The legislative body shall ensure that the regulations are uniform for each class or
888 kind of buildings throughout each zone, but the regulations in one zone may differ from those
889 in other zones.

890 (3) (a) There is no minimum area or diversity of ownership requirement for a zone
891 designation.

892 (b) Neither the size of a zoning district nor the number of landowners within the
893 district may be used as evidence of the illegality of a zoning district or of the invalidity of a
894 county decision.

895 (4) A county may by ordinance exempt from specific zoning district standards a

896 subdivision of land to accommodate the siting of a public utility infrastructure.

897 Section 8. Section 17-27a-603 is amended to read:

898 **17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner**
 899 **acknowledgment, surveyor certification, and underground utility facility owner**
 900 **verification of plat -- Recording plat.**

901 (1) Unless exempt under Section 17-27a-605 or excluded from the definition of
 902 subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of
 903 the land shall provide an accurate plat that describes or specifies:

904 (a) a subdivision name that is distinct from any subdivision name on a plat recorded in
 905 the county recorder's office;

906 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
 907 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is
 908 intended to be used as a street or for any other public use, and whether any such area is
 909 reserved or proposed for dedication for a public purpose;

910 (c) the lot or unit reference, block or building reference, street or site address, street
 911 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length
 912 and width of the blocks and lots intended for sale; and

913 (d) every existing right-of-way and easement grant of record for an underground
 914 ~~[facilities]~~ facility, as defined in Section 54-8a-2, and for any other utility ~~[facilities]~~ facility.

915 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's
 916 ordinances and this part and has been approved by the culinary water authority and the sanitary
 917 sewer authority, the county shall approve the plat.

918 (b) Counties are encouraged to receive a recommendation from the fire authority before
 919 approving a plat.

920 (c) A county may not require that a plat be approved or signed by a person or entity
 921 who:

922 (i) is not an employee or agent of the county; ~~§→ [or] ←§~~

923 (ii) does not:

924 (A) have a legal or equitable interest in the property within the proposed subdivision;

925 ~~§→ [or] ←§~~

926 (B) provide a utility or other service directly to a lot within the subdivision ~~§→ [;]~~ ;

926a (C) own an easement or right-of-way adjacent to the proposed subdivision who signs for
 926b the purpose of confirming the accuracy of the location of the easement or right-of-way in
 926c relation to the plat; or ☺

926d ☛ (D) provide culinary public water service whose source protection zone designated as
926e provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision;
926f or
926g (iii) is not entitled to notice of the subdivision pursuant to Subsection
926h 17-27a-508(1)(b)(iv) for the purpose of determining the accuracy of the information depicted
926i on the plat. ←Ŝ

927 (3) The county may withhold an otherwise valid plat approval until the owner of the
 928 land provides the legislative body with a tax clearance indicating that all taxes, interest, and
 929 penalties owing on the land have been paid.

930 (4) (a) A plat may not be submitted to a county recorder for recording unless, subject to
 931 Subsection [17-27a-604\(2\)](#):

932 (i) prior to recordation, each owner of record of land described on the plat has signed
 933 the owner's dedication as shown on the plat; and

934 (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as
 935 provided by law.

936 (b) The surveyor making the plat shall certify that the surveyor:

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

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

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

942 (c) (i) ~~[As applicable]~~ To the extent possible, the surveyor shall consult with the owner
 943 or operator of [the] an existing or proposed underground [and] facility or utility [facilities shall
 944 approve] facility within the proposed subdivision, or a representative designated by the owner
 945 or operator, to verify the accuracy of the surveyor's depiction of the:

946 (A) boundary, course, dimensions, and intended use of the ~~[right-of-way and]~~ public
 947 rights-of-way, a public or private easement, or grants of record;

948 (B) location of an existing facility underground and utility ~~[facilities]~~ facility; and

949 (C) ~~[conditions or]~~ physical restrictions governing the location of the ~~[facilities within~~
 950 ~~the right-of-way, and easement grants of records,]~~ underground facility and utility ~~[facilities]~~
 951 facility within the subdivision.

952 (ii) The ~~[approval]~~ cooperation of an owner or operator under Subsection (4)(c)(i):

953 (A) indicates only that the plat approximates the location of the existing underground
 954 and utility facilities but does not warrant or verify their precise location; and

955 (B) does not affect a right that the owner or operator has under:

956 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

957 (II) a recorded easement or right-of-way;

958 (III) the law applicable to prescriptive rights; or
959 (IV) any other provision of law.

960 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the
961 land shall, within the time period designated by ordinance, record the plat in the county
962 recorder's office in the county in which the lands platted and laid out are situated.

963 (b) An owner's failure to record a plat within the time period designated by ordinance
964 renders the plat voidable.

965 Section 9. Section 17-27a-604.5 is amended to read:

966 **17-27a-604.5. Subdivision plat recording or development activity before required**
967 **infrastructure is completed -- Infrastructure completion assurance -- Infrastructure**
968 **warranty.**

969 (1) A land use authority shall establish objective inspection standards for acceptance of
970 a required landscaping or infrastructure improvement [~~required by the land use authority as a~~
971 ~~condition of:~~].

972 [~~(a) subdivision; or~~]

973 [~~(b) development activity.~~]

974 (2) (a) A land use authority shall require an applicant to complete a required
975 landscaping or infrastructure improvement prior to any plat recordation or development
976 activity.

977 (b) Subsection (2)(a) does not apply if:

978 (i) upon the applicant's request, the land use authority has authorized the applicant to
979 post an improvement completion assurance in a manner that is consistent with local ordinance;
980 and

981 (ii) the land use authority has established a system for the partial release of the
982 improvement completion assurance as portions of required improvements are completed and
983 accepted.

984 (3) At any time up to the land use authority's acceptance of a landscaping or
985 infrastructure improvement, and for the duration of each improvement warranty period, the
986 land use authority may require the developer to:

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

988 (b) post a cash deposit, surety bond, letter of credit, or other similar security, as

989 required by the county, in the amount of up to 10% of the lesser of the:

990 (i) county engineer's original estimated cost of completion; or

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

992 (4) The provisions of this section may not be interpreted to supersede the terms of a

993 valid development agreement, an adopted phasing plan, or the state construction code.

994 Section 10. Section 17-27a-606 is amended to read:

995 **17-27a-606. Common or community area parcels on a plat -- No separate**

996 **ownership -- Ownership interest equally divided among other parcels on plat and**

997 **included in description of other parcels.**

998 (1) (a) A parcel designated as a common or community area on a plat recorded in
999 compliance with this part may not be separately owned or conveyed independent of the other
1000 lots, units, or parcels created by the plat unless:

1001 (i) the parcel is being acquired by a county for a governmental purpose; and

1002 (ii) the conveyance is approved by the owners of at least 75% of the lots, units, or
1003 parcels on the plat, after the county gives its approval.

1004 (b) A notice of the approval required in Subsection (1)(a)(ii) shall be:

1005 (i) attached as an exhibit to the document of conveyance; or

1006 (ii) recorded concurrently with the conveyance as a separate document.

1007 (2) The ownership interest in a parcel described in Subsection (1) shall:

1008 (a) for purposes of assessment, be divided equally among all parcels created by the
1009 plat, unless a different division of interest for assessment purposes is indicated on the plat or an
1010 accompanying recorded document; and

1011 (b) be considered to be included in the description of each instrument describing a
1012 parcel on the plat by its identifying plat number, even if the common or community area
1013 interest is not explicitly stated in the instrument.

1014 (3) A parcel designated as common or community area on a plat before, on, or after
1015 May 12, 2015, may be modified in size and location if the modification:

1016 (a) is approved as part of a subdivision plat amendment by the local government;

1017 (b) is approved by at least 75% of the voting interests in a homeowners association
1018 having an interest in the common or community area, if any;

1019 (c) is approved by at least 75% of the owners of lots, units, or parcels on the plat if

1020 there is no homeowners association having an interest in the common or community area, if
1021 any; and
1022 (d) does not create a new buildable lot.

Legislative Review Note
as of 1-28-15 3:25 PM

Office of Legislative Research and General Counsel