

**Senator Jerry W. Stevenson** proposes the following substitute bill:

**LAND USE AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jerry W. Stevenson**

House Sponsor: \_\_\_\_\_

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**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;
- ▶ prohibits a municipality or a county from denying a building permit for an incomplete nonessential improvement; and
- ▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **10-9a-103**, as last amended by Laws of Utah 2014, Chapters 136 and 363

31 **10-9a-505**, as last amended by Laws of Utah 2008, Chapter 326

32 **10-9a-603**, as last amended by Laws of Utah 2010, Chapters 269 and 381

33 **10-9a-604.5**, as repealed and reenacted by Laws of Utah 2013, Chapter 309

34 **10-9a-606**, as last amended by Laws of Utah 2010, Chapter 381

35 **10-9a-802**, as renumbered and amended by Laws of Utah 2005, Chapter 254

36 **17-27a-103**, as last amended by Laws of Utah 2014, Chapters 136 and 363

37 **17-27a-505**, as last amended by Laws of Utah 2013, Chapter 476

38 **17-27a-603**, as last amended by Laws of Utah 2011, Chapter 377

39 **17-27a-604.5**, as repealed and reenacted by Laws of Utah 2013, Chapter 309

40 **17-27a-606**, as last amended by Laws of Utah 2010, Chapter 381

41 **17-27a-802**, as renumbered and amended by Laws of Utah 2005, Chapter 254



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

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

45 **10-9a-103. Definitions.**

46 As used in this chapter:

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

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

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

56 (c) the entity has filed with the municipality a request for notice during the same

57 calendar year and before the municipality provides notice to an affected entity in compliance  
58 with a requirement imposed under this chapter.

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

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

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

66 (i) an operating charter school;

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

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

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

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

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

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

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

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

83 (8) "Development activity" means:

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

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

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

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

93 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
94 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
95 802.

96 (10) "Educational facility":

97 (a) means:

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

101 (ii) a structure or facility:

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

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

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

106 (b) does not include:

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

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

110 and

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

112 (ii) a therapeutic school.

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

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

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

118 Management Agency; or

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

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

125 (14) "Geologic hazard" means:

126 (a) a surface fault rupture;

127 (b) shallow groundwater;

128 (c) liquefaction;

129 (d) a landslide;

130 (e) a debris flow;

131 (f) unstable soil;

132 (g) a rock fall; or

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

134 (i) to life;

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

136 (iii) of substantial damage to real property.

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

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

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

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

144 (c) describe a building that:

145 (i) is located on land zoned the same as the land on which the building described in the  
146 previously approved plans is located;

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

149 (iii) has a floor plan identical to the building plan previously submitted to and reviewed

150 and approved by the municipality; and

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

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

154 (18) "Improvement completion assurance" means a surety bond, letter of credit,  
155 financial institution bond, cash, assignment of rights, lien, or other equivalent security required  
156 by a municipality to guaranty the proper completion of landscaping or an infrastructure [~~that~~  
157 ~~the land use authority has~~] improvement required as a condition precedent to:

158 (a) recording a subdivision plat; or

159 (b) [~~beginning~~] development [~~activity~~] of a commercial, industrial, mixed use, or  
160 multifamily project.

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

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

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

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

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

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

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

173 (ii) has substantial evidence, on record:

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

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

177 (21) "Infrastructure improvement" means permanent infrastructure that an applicant  
178 must install:

179 (a) pursuant to published installation and inspection specifications for public  
180 improvements; and

181 (b) as a condition of:  
182 (i) recording a subdivision plat; or  
183 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily  
184 project.

185 ~~[(21)]~~ (22) "Internal lot restriction" means a platted note, platted demarcation, or  
186 platted designation that:

187 (a) runs with the land; and

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

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

192 ~~[(22)]~~ (23) "Land use application" means an application required by a municipality's  
193 land use ordinance.

194 ~~[(23)]~~ (24) "Land use authority" means:

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

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

199 ~~[(24)]~~ (25) "Land use ordinance" means a planning, zoning, development, or  
200 subdivision ordinance of the municipality, but does not include the general plan.

201 ~~[(25)]~~ (26) "Land use permit" means a permit issued by a land use authority.

202 ~~[(26)]~~ (27) "Legislative body" means the municipal council.

203 ~~[(27)]~~ (28) "Local district" means an entity under Title 17B, Limited Purpose Local  
204 Government Entities - Local Districts, and any other governmental or quasi-governmental  
205 entity that is not a county, municipality, school district, or the state.

206 ~~[(28)]~~ (29) "Lot line adjustment" means the relocation of the property boundary line in  
207 a subdivision between two adjoining lots with the consent of the owners of record.

208 ~~[(29)]~~ (30) "Moderate income housing" means housing occupied or reserved for  
209 occupancy by households with a gross household income equal to or less than 80% of the  
210 median gross income for households of the same size in the county in which the city is located.

211 ~~[(30)]~~ (31) "Nominal fee" means a fee that reasonably reimburses a municipality only

212 for time spent and expenses incurred in:

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

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

216 [~~(31)~~] (32) "Noncomplying structure" means a structure that:

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

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

221 [~~(32)~~] (33) "Nonconforming use" means a use of land that:

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

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

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

227 [~~(33)~~] (34) "Official map" means a map drawn by municipal authorities and recorded in  
228 a county recorder's office that:

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

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

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

235 [~~(34)~~] (35) "Parcel boundary adjustment" means a recorded agreement between owners  
236 of adjoining properties adjusting their mutual boundary if:

237 (a) no additional parcel is created; and

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

240 [~~(35)~~] (36) "Person" means an individual, corporation, partnership, organization,  
241 association, trust, governmental agency, or any other legal entity.

242 [~~(36)~~] (37) "Plan for moderate income housing" means a written document adopted by



243 a city legislative body that includes:

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

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

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

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

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

253 [~~(37)~~] (38) "Plat" means a map or other graphical representation of lands being laid out  
254 and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

255 [~~(38)~~] (39) "Potential geologic hazard area" means an area that:

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

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

262 [~~(39)~~] (40) "Public agency" means:

263 (a) the federal government;

264 (b) the state;

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

267 (d) a charter school.

268 [~~(40)~~] (41) "Public hearing" means a hearing at which members of the public are  
269 provided a reasonable opportunity to comment on the subject of the hearing.

270 [~~(41)~~] (42) "Public meeting" means a meeting that is required to be open to the public  
271 under Title 52, Chapter 4, Open and Public Meetings Act.

272 [~~(42)~~] (43) "Receiving zone" means an area of a municipality that the municipality  
273 designates, by ordinance, as an area in which an owner of land may receive a transferable

274 development right.

275 [~~(43)~~] (44) "Record of survey map" means a map of a survey of land prepared in  
276 accordance with Section 17-23-17.

277 [~~(44)~~] (45) "Residential facility for persons with a disability" means a residence:

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

279 (b) (i) which is licensed or certified by the Department of Human Services under Title  
280 62A, Chapter 2, Licensure of Programs and Facilities; or

281 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter  
282 21, Health Care Facility Licensing and Inspection Act.

283 [~~(45)~~] (46) "Rules of order and procedure" means a set of rules that govern and  
284 prescribe in a public meeting:

285 (a) parliamentary order and procedure;

286 (b) ethical behavior; and

287 (c) civil discourse.

288 [~~(46)~~] (47) "Sanitary sewer authority" means the department, agency, or public entity  
289 with responsibility to review and approve the feasibility of sanitary sewer services or onsite  
290 wastewater systems.

291 [~~(47)~~] (48) "Sending zone" means an area of a municipality that the municipality  
292 designates, by ordinance, as an area from which an owner of land may transfer a transferable  
293 development right.

294 [~~(48)~~] (49) "Specified public agency" means:

295 (a) the state;

296 (b) a school district; or

297 (c) a charter school.

298 [~~(49)~~] (50) "Specified public utility" means an electrical corporation, gas corporation,  
299 or telephone corporation, as those terms are defined in Section 54-2-1.

300 [~~(50)~~] (51) "State" includes any department, division, or agency of the state.

301 [~~(51)~~] (52) "Street" means a public right-of-way, including a highway, avenue,  
302 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,  
303 or other way.

304 [~~(52)~~] (53) (a) "Subdivision" means any land that is divided, resubdivided or proposed

305 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the  
306 purpose, whether immediate or future, for offer, sale, lease, or development either on the  
307 installment plan or upon any and all other plans, terms, and conditions.

308 (b) "Subdivision" includes:

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

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

314 (c) "Subdivision" does not include:

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

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

321 (A) no new lot is created; and

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

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

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

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

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

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

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

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

335 (vi) a parcel boundary adjustment.

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

340 [~~(53)~~] (54) "Suspect soil" means soil that has:

341 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
342 3% swell potential;

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

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

346 [~~(54)~~] (55) "Therapeutic school" means a residential group living facility:

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

348 (i) the owner of the facility; or

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

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

351 (i) at home;

352 (ii) in a public school; or

353 (iii) in a nonresidential private school; and

354 (c) that offers:

355 (i) room and board; and

356 (ii) an academic education integrated with:

357 (A) specialized structure and supervision; or

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

360 [~~(55)~~] (56) "Transferable development right" means a right to develop and use land that  
361 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer  
362 land use rights from a designated sending zone to a designated receiving zone.

363 [~~(56)~~] (57) "Unincorporated" means the area outside of the incorporated area of a city  
364 or town.

365 [~~(57)~~] (58) "Water interest" means any right to the beneficial use of water, including:

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

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

368 (i) a contract; or

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

370 [~~58~~] (59) "Zoning map" means a map, adopted as part of a land use ordinance, that  
371 depicts land use zones, overlays, or districts.

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

373 **10-9a-505. Zoning districts.**

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

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

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

382 (i) protect life; and

383 (ii) prevent:

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

385 (B) substantial damage to real property.

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

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

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

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

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

397 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**

398 **acknowledgment, surveyor certification, and underground utility facility owner**  
399 **verification of plat -- Recording plat.**

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

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

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

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

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

414 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's  
415 ordinances and this part and has been approved by the culinary water authority ~~[and]~~, the  
416 sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if  
417 the local health department considers its approval necessary, the municipality shall approve the  
418 plat.

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

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

423 (i) is not an employee or agent of the municipality;

424 (ii) does not:

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

426 (B) provide a utility or other service directly to a lot within the subdivision;

427 (C) own an easement or right-of-way adjacent to the proposed subdivision who signs

428 for the purpose of confirming the accuracy of the location of the easement or right-of-way in

429 relation to the plat; or

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

432 or

433 (iii) is not entitled to notice of the subdivision pursuant to Subsection  
434 10-9a-509(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on  
435 the plat.

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

439 (4) (a) A plat may not be submitted to a county recorder for recording unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

467 (IV) any other provision of law.

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

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

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

474 **10-9a-604.5. Subdivision plat recording or development activity before required**  
475 **infrastructure is completed -- Infrastructure completion assurance -- Infrastructure**  
476 **warranty.**

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

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

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

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

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

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

489 (ii) the land use authority has established a system for the partial release of the  
490 improvement completion assurance as portions of required improvements are completed and



491 accepted.

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

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

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

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

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

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

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

503 **10-9a-606. Common or community area parcels on a plat -- No separate**  
504 **ownership -- Ownership interest equally divided among other parcels on plat and**  
505 **included in description of other parcels.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

531 (4) A parcel designated as common or community area on a plat before, on, or after  
532 May 12, 2015, may be modified in size without a subdivision plat amendment approval by the  
533 local government, if the modification:

534 (a) is a lot line adjustment approved by at least 75% of the voting interests in a  
535 homeowners association having an interest in the common or community area, if any;

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

539 (c) does not create a new buildable lot.

540 Section 6. Section **10-9a-802** is amended to read:

541 **10-9a-802. Enforcement.**

542 (1) (a) A municipality or any adversely affected owner of real estate within the  
543 municipality in which violations of this chapter or ordinances enacted under the authority of  
544 this chapter occur or are about to occur may, in addition to other remedies provided by law,  
545 institute:

546 (i) injunctions, mandamus, abatement, or any other appropriate actions; or

547 (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

548 (b) A municipality need only establish the violation to obtain the injunction.

549 (2) (a) [~~The~~] A municipality may enforce the municipality's ordinance by withholding a  
550 building [~~permits~~] permit.

551 (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any  
552 building or other structure within a municipality without approval of a building permit.

553 (c) ~~[The]~~ A municipality may not issue a building permit unless the plans of and for the  
554 proposed erection, construction, reconstruction, alteration, or use fully conform to all  
555 regulations then in effect.

556 (d) A municipality may not deny an applicant a building permit because the applicant  
557 has not completed an infrastructure improvement:

558 (i) that is not essential to meet the requirements for the issuance of a building permit  
559 under the building code and fire code; and

560 (ii) for which the municipality has accepted an infrastructure improvement assurance  
561 for infrastructure improvements for the development.

562 Section 7. Section **17-27a-103** is amended to read:

563 **17-27a-103. Definitions.**

564 As used in this chapter:

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

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

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

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

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

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

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

- 584 (i) an operating charter school;
- 585 (ii) a charter school applicant that has its application approved by a charter school  
586 authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or  
587 (iii) an entity that is working on behalf of a charter school or approved charter  
588 applicant to develop or construct a charter school building.
- 589 (b) "Charter school" does not include a therapeutic school.
- 590 (5) "Chief executive officer" means the person or body that exercises the executive  
591 powers of the county.
- 592 (6) "Conditional use" means a land use that, because of its unique characteristics or  
593 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be  
594 compatible in some areas or may be compatible only if certain conditions are required that  
595 mitigate or eliminate the detrimental impacts.
- 596 (7) "Constitutional taking" means a governmental action that results in a taking of  
597 private property so that compensation to the owner of the property is required by the:
- 598 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or  
599 (b) Utah Constitution Article I, Section 22.
- 600 (8) "Culinary water authority" means the department, agency, or public entity with  
601 responsibility to review and approve the feasibility of the culinary water system and sources for  
602 the subject property.
- 603 (9) "Development activity" means:
- 604 (a) any construction or expansion of a building, structure, or use that creates additional  
605 demand and need for public facilities;
- 606 (b) any change in use of a building or structure that creates additional demand and need  
607 for public facilities; or
- 608 (c) any change in the use of land that creates additional demand and need for public  
609 facilities.
- 610 (10) (a) "Disability" means a physical or mental impairment that substantially limits  
611 one or more of a person's major life activities, including a person having a record of such an  
612 impairment or being regarded as having such an impairment.
- 613 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
614 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.

615 802.

616 (11) "Educational facility":

617 (a) means:

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

621 (ii) a structure or facility:

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

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

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

626 (b) does not include:

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

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

631 (B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

632 (ii) a therapeutic school.

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

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

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

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

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

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

646 (16) "Geologic hazard" means:

647 (a) a surface fault rupture;

648 (b) shallow groundwater;

649 (c) liquefaction;

650 (d) a landslide;

651 (e) a debris flow;

652 (f) unstable soil;

653 (g) a rock fall; or

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

655 (i) to life;

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

657 (iii) of substantial damage to real property.

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

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

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

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

665 (c) describe a building that:

666 (i) is located on land zoned the same as the land on which the building described in the  
667 previously approved plans is located;

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

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

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

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

675 (20) "Improvement completion assurance" means a surety bond, letter of credit,  
676 financial institution bond, cash, assignment of rights, lien, or other equivalent security required

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

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

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

- 684 (a) complies with the county's written standards for design, materials, and  
685 workmanship; and
- 686 (b) will not fail in any material respect, as a result of poor workmanship or materials,  
687 within the improvement warranty period.

688 (22) "Improvement warranty period" means a period:

- 689 (a) no later than one year after a county's acceptance of required landscaping; or
- 690 (b) no later than one year after a county's acceptance of required infrastructure, unless  
691 the county:

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

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

698 (23) "Infrastructure improvement" means permanent infrastructure that an applicant  
699 must install:

- 700 (a) pursuant to published installation and inspection specifications for public  
701 improvements; and
- 702 (b) as a condition of:
  - 703 (i) recording a subdivision plat; or
  - 704 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily  
705 project.

706 [~~(23)~~] (24) "Internal lot restriction" means a platted note, platted demarcation, or  
707 platted designation that:

708 (a) runs with the land; and

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

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

713 [~~(24)~~] (25) "Interstate pipeline company" means a person or entity engaged in natural  
714 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission  
715 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

716 [~~(25)~~] (26) "Intrastate pipeline company" means a person or entity engaged in natural  
717 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory  
718 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

719 [~~(26)~~] (27) "Land use application" means an application required by a county's land use  
720 ordinance.

721 [~~(27)~~] (28) "Land use authority" means:

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

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

726 [~~(28)~~] (29) "Land use ordinance" means a planning, zoning, development, or  
727 subdivision ordinance of the county, but does not include the general plan.

728 [~~(29)~~] (30) "Land use permit" means a permit issued by a land use authority.

729 [~~(30)~~] (31) "Legislative body" means the county legislative body, or for a county that  
730 has adopted an alternative form of government, the body exercising legislative powers.

731 [~~(31)~~] (32) "Local district" means any entity under Title 17B, Limited Purpose Local  
732 Government Entities - Local Districts, and any other governmental or quasi-governmental  
733 entity that is not a county, municipality, school district, or the state.

734 [~~(32)~~] (33) "Lot line adjustment" means the relocation of the property boundary line in  
735 a subdivision between two adjoining lots with the consent of the owners of record.

736 [~~(33)~~] (34) "Moderate income housing" means housing occupied or reserved for  
737 occupancy by households with a gross household income equal to or less than 80% of the  
738 median gross income for households of the same size in the county in which the housing is



739 located.

740 [~~(34)~~] (35) "Nominal fee" means a fee that reasonably reimburses a county only for  
741 time spent and expenses incurred in:

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

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

745 [~~(35)~~] (36) "Noncomplying structure" means a structure that:

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

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

750 [~~(36)~~] (37) "Nonconforming use" means a use of land that:

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

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

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

756 [~~(37)~~] (38) "Official map" means a map drawn by county authorities and recorded in  
757 the county recorder's office that:

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

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

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

764 [~~(38)~~] (39) "Parcel boundary adjustment" means a recorded agreement between owners  
765 of adjoining properties adjusting their mutual boundary if:

766 (a) no additional parcel is created; and

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

769 [~~(39)~~] (40) "Person" means an individual, corporation, partnership, organization,

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

771 ~~[(40)]~~ (41) "Plan for moderate income housing" means a written document adopted by  
772 a county legislative body that includes:

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

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

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

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

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

782 ~~[(41)]~~ (42) "Plat" means a map or other graphical representation of lands being laid out  
783 and prepared in accordance with Section [17-27a-603](#), [17-23-17](#), or [57-8-13](#).

784 ~~[(42)]~~ (43) "Potential geologic hazard area" means an area that:

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

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

791 ~~[(43)]~~ (44) "Public agency" means:

792 (a) the federal government;

793 (b) the state;

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

796 (d) a charter school.

797 ~~[(44)]~~ (45) "Public hearing" means a hearing at which members of the public are  
798 provided a reasonable opportunity to comment on the subject of the hearing.

799 ~~[(45)]~~ (46) "Public meeting" means a meeting that is required to be open to the public  
800 under Title 52, Chapter 4, Open and Public Meetings Act.

801            [~~(46)~~] (47) "Receiving zone" means an unincorporated area of a county that the county  
802 designates, by ordinance, as an area in which an owner of land may receive a transferable  
803 development right.

804            [~~(47)~~] (48) "Record of survey map" means a map of a survey of land prepared in  
805 accordance with Section [17-23-17](#).

806            [~~(48)~~] (49) "Residential facility for persons with a disability" means a residence:

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

808            (b) (i) which is licensed or certified by the Department of Human Services under Title  
809 62A, Chapter 2, Licensure of Programs and Facilities; or

810            (ii) which is licensed or certified by the Department of Health under Title 26, Chapter  
811 21, Health Care Facility Licensing and Inspection Act.

812            [~~(49)~~] (50) "Rules of order and procedure" means a set of rules that govern and  
813 prescribe in a public meeting:

814            (a) parliamentary order and procedure;

815            (b) ethical behavior; and

816            (c) civil discourse.

817            [~~(50)~~] (51) "Sanitary sewer authority" means the department, agency, or public entity  
818 with responsibility to review and approve the feasibility of sanitary sewer services or onsite  
819 wastewater systems.

820            [~~(51)~~] (52) "Sending zone" means an unincorporated area of a county that the county  
821 designates, by ordinance, as an area from which an owner of land may transfer a transferable  
822 development right.

823            [~~(52)~~] (53) "Site plan" means a document or map that may be required by a county  
824 during a preliminary review preceding the issuance of a building permit to demonstrate that an  
825 owner's or developer's proposed development activity meets a land use requirement.

826            [~~(53)~~] (54) "Specified public agency" means:

827            (a) the state;

828            (b) a school district; or

829            (c) a charter school.

830            [~~(54)~~] (55) "Specified public utility" means an electrical corporation, gas corporation,  
831 or telephone corporation, as those terms are defined in Section [54-2-1](#).

832           ~~[(55)]~~ (56) "State" includes any department, division, or agency of the state.

833           ~~[(56)]~~ (57) "Street" means a public right-of-way, including a highway, avenue,  
834 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,  
835 or other way.

836           ~~[(57)]~~ (58) (a) "Subdivision" means any land that is divided, resubdivided or proposed  
837 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the  
838 purpose, whether immediate or future, for offer, sale, lease, or development either on the  
839 installment plan or upon any and all other plans, terms, and conditions.

840           (b) "Subdivision" includes:

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

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

846           (c) "Subdivision" does not include:

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

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

850           (A) no new lot is created; and

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

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

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

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

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

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

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

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

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

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

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

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

870 (vii) a parcel boundary adjustment.

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

875 [~~(58)~~] (59) "Suspect soil" means soil that has:

876 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
877 3% swell potential;

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

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

881 [~~(59)~~] (60) "Therapeutic school" means a residential group living facility:

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

883 (i) the owner of the facility; or

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

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

886 (i) at home;

887 (ii) in a public school; or

888 (iii) in a nonresidential private school; and

889 (c) that offers:

890 (i) room and board; and

891 (ii) an academic education integrated with:

892 (A) specialized structure and supervision; or

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

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

895 ~~[(60)]~~ (61) "Township" means a contiguous, geographically defined portion of the  
896 unincorporated area of a county, established under this part or reconstituted or reinstated under  
897 Section 17-27a-306, with planning and zoning functions as exercised through the township  
898 planning commission, as provided in this chapter, but with no legal or political identity  
899 separate from the county and no taxing authority, except that "township" means a former  
900 township under Laws of Utah 1996, Chapter 308, where the context so indicates.

901 ~~[(61)]~~ (62) "Transferable development right" means a right to develop and use land that  
902 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer  
903 land use rights from a designated sending zone to a designated receiving zone.

904 ~~[(62)]~~ (63) "Unincorporated" means the area outside of the incorporated area of a  
905 municipality.

906 ~~[(63)]~~ (64) "Water interest" means any right to the beneficial use of water, including:

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

911 ~~[(64)]~~ (65) "Zoning map" means a map, adopted as part of a land use ordinance, that  
912 depicts land use zones, overlays, or districts.

913 Section 8. Section 17-27a-505 is amended to read:

914 **17-27a-505. Zoning districts.**

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

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

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

- 923 (i) protect life; and  
924 (ii) prevent:

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

926 (B) substantial damage to real property.

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

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

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

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

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

942 Section 9. Section **17-27a-603** is amended to read:

943 **17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner**  
944 **acknowledgment, surveyor certification, and underground utility facility owner**  
945 **verification of plat -- Recording plat.**

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

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

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

955 (c) the lot or unit reference, block or building reference, street or site address, street

956 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length  
957 and width of the blocks and lots intended for sale; and

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

960 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's  
961 ordinances and this part and has been approved by the culinary water authority ~~[and]~~, the  
962 sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if  
963 the local health department considers its approval necessary, the county shall approve the plat.

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

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

968 (i) is not an employee or agent of the county;

969 (ii) does not:

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

971 (B) provide a utility or other service directly to a lot within the subdivision;

972 (C) own an easement or right-of-way adjacent to the proposed subdivision who signs  
973 for the purpose of confirming the accuracy of the location of the easement or right-of-way in  
974 relation to the plat; or

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

978 (iii) is not entitled to notice of the subdivision pursuant to Subsection  
979 17-27a-508(1)(b)(iv) for the purpose of determining the accuracy of the information depicted  
980 on the plat.

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

984 (4) (a) A plat may not be submitted to a county recorder for recording unless, subject to  
985 Subsection 17-27a-604(2):

986 (i) prior to recordation, each owner of record of land described on the plat has signed



987 the owner's dedication as shown on the plat; and

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

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

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

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

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

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

1000 (A) boundary, course, dimensions, and intended use of the ~~[right-of-way and]~~ public  
1001 rights-of-way, a public or private easement, or grants of record;

1002 (B) location of an existing facility underground and utility ~~[facilities]~~ facility; and

1003 (C) ~~[conditions or]~~ physical restrictions governing the location of the ~~[facilities within~~  
1004 ~~the right-of-way, and easement grants of records,]~~ underground facility and utility ~~[facilities]~~  
1005 facility within the subdivision.

1006 (ii) The ~~[approval]~~ cooperation of an owner or operator under Subsection (4)(c)(i):

1007 (A) indicates only that the plat approximates the location of the existing underground  
1008 and utility facilities but does not warrant or verify their precise location; and

1009 (B) does not affect a right that the owner or operator has under:

1010 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

1011 (II) a recorded easement or right-of-way;

1012 (III) the law applicable to prescriptive rights; or

1013 (IV) any other provision of law.

1014 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the  
1015 land shall, within the time period designated by ordinance, record the plat in the county  
1016 recorder's office in the county in which the lands platted and laid out are situated.

1017 (b) An owner's failure to record a plat within the time period designated by ordinance

1018 renders the plat voidable.

1019 Section 10. Section **17-27a-604.5** is amended to read:

1020 **17-27a-604.5. Subdivision plat recording or development activity before required**  
1021 **infrastructure is completed -- Infrastructure completion assurance -- Infrastructure**  
1022 **warranty.**

1023 (1) A land use authority shall establish objective inspection standards for acceptance of  
1024 a required landscaping or infrastructure improvement [~~required by the land use authority as a~~  
1025 ~~condition of:~~].

1026 [~~(a) subdivision; or~~]

1027 [~~(b) development activity:~~]

1028 (2) (a) A land use authority shall require an applicant to complete a required  
1029 landscaping or infrastructure improvement prior to any plat recordation or development  
1030 activity.

1031 (b) Subsection (2)(a) does not apply if:

1032 (i) upon the applicant's request, the land use authority has authorized the applicant to  
1033 post an improvement completion assurance in a manner that is consistent with local ordinance;  
1034 and

1035 (ii) the land use authority has established a system for the partial release of the  
1036 improvement completion assurance as portions of required improvements are completed and  
1037 accepted.

1038 (3) At any time up to the land use authority's acceptance of a landscaping or  
1039 infrastructure improvement, and for the duration of each improvement warranty period, the  
1040 land use authority may require the developer to:

1041 (a) execute an improvement warranty for the improvement warranty period; and

1042 (b) post a cash deposit, surety bond, letter of credit, or other similar security, as  
1043 required by the county, in the amount of up to 10% of the lesser of the:

1044 (i) county engineer's original estimated cost of completion; or

1045 (ii) applicant's reasonable proven cost of completion.

1046 (4) The provisions of this section may not be interpreted to supersede the terms of a  
1047 valid development agreement, an adopted phasing plan, or the state construction code.

1048 Section 11. Section **17-27a-606** is amended to read:

1049           **17-27a-606. Common or community area parcels on a plat -- No separate**  
1050 **ownership -- Ownership interest equally divided among other parcels on plat and**  
1051 **included in description of other parcels.**

1052           (1) (a) A parcel designated as a common or community area on a plat recorded in  
1053 compliance with this part may not be separately owned or conveyed independent of the other  
1054 lots, units, or parcels created by the plat unless:

1055               (i) the parcel is being acquired by a county for a governmental purpose; and  
1056               (ii) the conveyance is approved by the owners of at least 75% of the lots, units, or  
1057 parcels on the plat, after the county gives its approval.

1058           (b) A notice of the approval required in Subsection (1)(a)(ii) shall be:

1059               (i) attached as an exhibit to the document of conveyance; or  
1060               (ii) recorded concurrently with the conveyance as a separate document.

1061           (2) The ownership interest in a parcel described in Subsection (1) shall:

1062               (a) for purposes of assessment, be divided equally among all parcels created by the  
1063 plat, unless a different division of interest for assessment purposes is indicated on the plat or an  
1064 accompanying recorded document; and

1065               (b) be considered to be included in the description of each instrument describing a  
1066 parcel on the plat by its identifying plat number, even if the common or community area  
1067 interest is not explicitly stated in the instrument.

1068           (3) A parcel designated as common or community area on a plat before, on, or after  
1069 May 12, 2015, may be modified in size and location if the modification:

1070               (a) is approved as part of a subdivision plat amendment by the local government;

1071               (b) is approved by at least 75% of the voting interests in a homeowners association  
1072 having an interest in the common or community area, if any;

1073               (c) is approved by at least 75% of the owners of lots, units, or parcels on the plat if  
1074 there is no homeowners association having an interest in the common or community area, if  
1075 any; and

1076               (d) does not create a new buildable lot.

1077           (4) A parcel designated as common or community area on a plat before, on, or after  
1078 May 12, 2015, may be modified in size without a subdivision plat amendment approval by the  
1079 local government, if the modification:

- 1080           (a) is a lot line adjustment approved by at least 75% of the voting interests in a
- 1081 homeowners association having an interest in the common or community area, if any;
- 1082           (b) is approved by at least 75% of the owners of lots, units, or parcels on the plat if
- 1083 there is no homeowners association having an interest in the common or community area, if
- 1084 any; and
- 1085           (c) does not create a new buildable lot.

1086           Section 12. Section **17-27a-802** is amended to read:

1087           **17-27a-802. Enforcement.**

1088           (1) (a) A county or any adversely affected owner of real estate within the county in

1089 which violations of this chapter or ordinances enacted under the authority of this chapter occur

1090 or are about to occur may, in addition to other remedies provided by law, institute:

- 1091           (i) injunctions, mandamus, abatement, or any other appropriate actions; or
- 1092           (ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.
- 1093           (b) A county need only establish the violation to obtain the injunction.

1094           (2) (a) [~~The~~] A county may enforce the county's ordinance by withholding a building

1095 [permits] permit.

1096           (b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any

1097 building or other structure within a county without approval of a building permit.

1098           (c) The county may not issue a building permit unless the plans of and for the proposed

1099 erection, construction, reconstruction, alteration, or use fully conform to all regulations then in

1100 effect.

1101           (d) A county may not deny an applicant a building permit because the applicant has not

1102 completed an infrastructure improvement:

- 1103           (i) that is not essential to meet the requirements for the issuance of a building permit
- 1104 under the building code and fire code; and
- 1105           (ii) for which the county has accepted an infrastructure improvement assurance for
- 1106 infrastructure improvements for the development.